AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Federal Register

10–11–01 Thursday
Vol. 66 No. 197 Oct. 11, 2001
Pages 51819–52014

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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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 2106–00]

RIN 1115–AG01

Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service's (Service) regulations by establishing the procedure under which the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG), or a BBG grantee organization, may file special fourth preference immigrant petitions for foreign language alien broadcasters. This rule explains the requirements that alien broadcasters must meet in order to be the beneficiary of an immigrant visa petition. This regulatory change is necessary so that the BBG can fulfill its statutory obligation to broadcast internationally on behalf of the United States Government.

DATES: *Effective date:* This interim rule is effective November 13, 2001.

Comment date: Written comments must be submitted on or before December 10, 2001.

ADDRESSES: Written comments must be submitted, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference the INS number 2106–00 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Craig Howie, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3040, Washington, DC 20536, telephone (202) 353–8177.

SUPPLEMENTARY INFORMATION:

Background

Section 203 of the Immigration and Nationality Act (the Act) provides for the allocation of preference visas for both family and employment-based immigrants. The fourth preference employment-based category (EB–4) allows for the immigration of a variety of aliens who possess various specialized job skills or abilities. See section 203(b)(4) of the Act. The Act at section 101(a)(27) also offers definitions of the various jobs or professions that aliens must hold or possess in order to qualify for the EB–4 category.

Legislative Authority

On November 22, 2000, the President approved enactment of the Special Immigrant Status For Certain United States International Broadcasting Employees Act (IBE Act), Public Law 106–536. Section 1 of the IBE Act amends section 101(a)(27) of the Act by adding a new subparagraph (M). The amendment establishes a special fourth preference employment-based immigrant category for immigrants seeking to enter the United States to work as a broadcaster in the United States for the BBG or a BBG grantee. (Currently, BBG grantees are Radio Free Asia, Inc., and Radio Free Europe/Radio Liberty, Inc.) This interim rule is necessary to codify the provisions of the IBE Act and to put into place procedures for the BBG, its grantees and Service officers to follow.

Why Does the BBG Need Alien Broadcasters?

The BBG and its grantees are charged by Congress to broadcast internationally on behalf of the United States Government. This requires that the BBG attract and retain a large number of foreign language broadcasters. These broadcasters must have the unique combination of native fluency in the broadcast language combined with an in-depth knowledge of the people, history, and culture of the broadcast area. Historically, the BBG has experienced difficulty in finding and employing members of the domestic workforce possessing this unusual combination of skills to meet the United States Government's international broadcasting needs.

By creating a new special EB–4 category, the IBE Act allows the BBG to directly petition for alien broadcasters. Being able to offer immigrant status to an alien broadcaster and his or her spouse and children may assist the BBG in fulfilling its obligation as the international broadcasting conduit for the United States Government.

Is There a Limit to the Number of Visas That May Be Issued to Alien Broadcasters Petitioned for by the BBG or Its Grantees?

Yes, the IBE Act plainly stipulates a yearly limit of 100 visas available to the BBG and its grantees for alien broadcasters. The accompanying spouse and children of alien broadcasters are not counted towards this yearly limit. See section 203(b)(4) of the Act.

How Does the Service Define the Term ''Broadcaster?''

In order for the BBG and its grantees to meet their Congressional charge of broadcasting internationally on behalf of the United States Government, the Service consulted with the BBG to identify what positions within the BBG or its grantees fall under the term ''broadcaster.'' To that end, this rule describes the term ''broadcaster'' as encompassing: reporters, writers, translators, editors, producers or announcers for news broadcasts; hosts for news broadcasts, news analysis, editorial and other broadcast features; or news analysis specialists. Technicians and other support personnel are not included in the definition since such positions do not call for the skills that prompted the new special immigrant category to be created. See 8 CFR 204.13(a).

What Form Should the BBG or a BBG Grantee Use To Petition for Qualified Alien Broadcasters and What Evidence Should Be Submitted?

Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant has been designated as the appropriate petition for other fourth preference employment-based immigrant

categories. The BBG and its grantees shall also use Form I–360 to petition for EB–4 alien broadcasters. See 8 CFR 204.13(c).

In addition to the information required on Form I–360, the interim rule at 8 CFR 204.13(d) requires the BBG or its grantee to submit an attestation that reflects the job title and a full description of the job to be performed and the experience held by the alien broadcaster, including the number of years, if any, the alien has been performing the duties that relate to the prospective position.

Request for Comments

The Service is seeking public comments regarding all aspects of this interim rule. The Service welcomes suggestions concerning the information contained within this interim rule.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for immediate implementation of this interim rule without prior notice and comment is that the new legislation became effective retroactive to enactment (October 1, 2000), and thus immediately requires the Service to establish a petitioning procedure for this new category of fourth preference employment-based immigrants. Issuing an interim rule allows the regulatory provisions to become effective and allows the BBG and its grantees to begin taking advantage of the new provisions without delay.

The Service notes that the BBG has been consulted and has been provided draft versions of this interim rule for review and comment. Comments and suggestions from this Government entity have been included in this rulemaking. The Service also notes that the amendment is clear that the BBG and its grantees are the only organizations that are eligible to take advantage of this new category of special employment-based immigrants. They are the only organizations that will be able to petition for this category of broadcasters.

The Commissioner has determined that because this rule establishes an immigrant preference category that only the BBG (an independent and autonomous Federal entity) can use, that public comment is unnecessary. Further, because the BBG broadcasts internationally on behalf of the United States, it would be contrary to the public interest to delay allowing the BBG to use this new congressionally-established preference category to more effectively carry out its public mission. Therefore, there is good cause for dispensing with the requirements of prior notice. However, the Service welcomes public comment on this interim rule and will address those comments prior to issuance of the final rule.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This interim rule provides a special process that benefits individuals who will be coming to the United States to work as broadcasters. It does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 13132

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

Executive Order 12988 Civil Justice Reform

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

Paperwork Reduction Act of 1995

The supplemental evidence requirements contained in § 204.13(d) that must be submitted with the Form I–360 are considered information collections. Since this interim rule is effective 30 days from the date of publication in the **Federal Register**, the Service is using emergency review procedures for review and clearance by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (PRA) of 1995.

The OMB approval has been requested by October 26, 2001. If granted, the emergency approval is only valid for 180 days. Comments concerning the information collection should be directed to: Office of Information and Regulatory Affairs, OMB Desk Officer for the Immigration and Naturalization Service, Office of Management and Budget, Room 10235, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information will also be undertaken. Written comments are encouraged and will be accepted until December 10, 2001. Your comments should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Service, in calculating the overall burden this requirement will place upon the public, notes that a maximum of 100 broadcasters may petition for these EB–4 visas annually. The Service also estimates that it will take broadcasters approximately 2 hours to comply with the new requirements as noted in this interim rule. This amounts to 200 total burden hours.

Organizations and individuals interested in submitting comments regarding this burden estimate or any aspect of this information collection requirement, including suggestions for reducing the burden, should direct them to: Immigration and Naturalization Service, Director, Policy Directives and Instructions Branch, 425 I Street NW., Room 4034, Washington, DC 20536.

List of Subjects in 8 CFR Part 204

Administrative practice and procedures, Aliens, Employment, Immigration, Petitions.

Accordingly, part 204 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 204—IMMIGRANT PETITIONS

1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.

2. Section 204.13 is added to read as follows:

§ 204.13 How can the International Broadcasting Bureau of the United States Broadcasting Board of Governors petition for a fourth preference special immigrant broadcaster?

(a) *Which broadcasters qualify?* Under section 203(b)(4) of the Act, the International Broadcasting Bureau of the United States Broadcasting Board of Governors (BBG), or a grantee of the BBG, may petition for an alien (and the alien's accompanying spouse and children) to work as a broadcaster for the BBG or a grantee of the BBG in the United States. For the purposes of this section, the terms:

BBG grantee means Radio Free Asia, Inc (RFA) or Radio Free Europe/Radio Liberty, Inc. (RFE/RL); and

Broadcaster means a reporter, writer, translator, editor, producer or announcer for news broadcasts; hosts for news broadcasts, news analysis, editorial and other broadcast features; or a news analysis specialist. The term broadcaster does not include individuals performing purely technical or support services for the BBG or a BBG grantee.

(b) *Is there a yearly limit on the number of visas available for alien broadcasters petitioned by the BBG or a BBG grantee?*

(1) Under the provisions of section 203(b)(4) of the Act, a yearly limit of 100 fourth preference special immigrant visas are available to aliens intending to work as broadcasters in the United States for the BBG or a BBG grantee. These 100 visas are available in any fiscal year beginning on or after October 1, 2000.

(2) The alien broadcaster's accompanying spouse and children are not counted towards the 100 special broadcaster visa limit.

(c) *What form should the BBG use to petition for these special alien broadcasters?* The BBG or a BBG grantee shall use Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant, to petition for an alien broadcaster. The petition must be submitted with the correct fee noted on the form. All BBG petitions for alien broadcasters shall be submitted to the Vermont Service Center for processing.

(d) *Will the BBG need to submit supplemental evidence with Form I–360 for alien broadcasters?*

(1) All Form I–360 petitions submitted by the BBG or a BBG grantee on behalf of an alien for a broadcaster position with the BBG or BBG grantee must be accompanied by a signed and dated supplemental attestation that contains the following information about the prospective alien broadcaster:

(i) The job title and a full description of the job to be performed; and

(ii) The broadcasting expertise held by the alien, including how long the alien has been performing duties that relate to the prospective position or a statement as to how the alien possesses the necessary skills that make him or her qualified for the broadcasting-related position within the BBG or BBG grantee.

Dated: October 4, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–25478 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 2099–00]

RIN 1115–AF95

Removing Burma From the Guam Visa Waiver Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adopts without change the interim rule published by the Immigration and Naturalization Service (Service) in the **Federal Register** on January 3, 2001, that removed Burma (internationally recognized as the Union of Myanmar) from the list of countries authorized to participate in the Guam Visa Waiver Program (GVWP). The GVWP waives the nonimmigrant visa requirement for nationals of certain countries, applying for admission as nonimmigrant visitors for business or pleasure for the sole purpose of visiting Guam for a period not to exceed 15 days.

DATES: This final rule is effective November 13, 2001.

FOR FURTHER INFORMATION CONTACT: Marty Newingham,Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW, Room 4064, Washington, DC 20536, telephone (202) 616–7992.

SUPPLEMENTARY INFORMATION:

What Is the GVWP?

The GVWP waives the nonimmigrant visa requirement for certain aliens who apply for admission as a nonimmigrant visitor for business or pleasure for the sole purpose of visiting Guam for a period not exceeding 15 days.

The Omnibus Territories Act of 1986, Public Law 99–396, provided statutory authority to implement the GVWP. On December 18, 1987, the Service published a final rule in the **Federal Register** at 52 FR 48082, implementing the provisions of Public Law 99–396. The final rule also designated several countries including Burma to the list of countries authorized to participate in the GVWP.

What Are the Requirements for Initial GVWP Participation?

For a country to participate in the GVWP:

- The Attorney General, Secretary of State, and Secretary of Interior, acting jointly, after consultation with the

Governor of Guam, must designate the country for the GVWP;

- The country must have a nonimmigrant visa refusal rate of 16.9 percent or less or have an established pre-inspection or pre-clearance program pursuant to a bilateral agreement with the United States;
- The country must be in geographical proximity to Guam, unless the country has a substantial volume of nonimmigrant travel to Guam and extends reciprocal privileges to citizens of the United States;
- The Department of State must not have designated the country as being of special humanitarian concern; and
- The waiver of a nonimmigrant visa must pose no threat to the welfare, safety, or security of the United States, its territories, or commonwealths.

What Are the Requirements for Removing a Country From Participation in the GVWP?

The Commissioner shall immediately remove a country from the GVWP if he or she determines that the program country poses a potential threat to the welfare, safety, or security of the United States (including enforcement of the immigration laws of the United States).

Why Did the Service Remove Burma From the List of Authorized GVWP Countries With the Interim Rule?

- The Service consulted with the Department of Justice, the Department of State, the Department of Interior, and the Governor of Guam and determined that Burma no longer met the eligibility requirements for participating in the GVWP;
- Although Congress intended to limit the GVWP to short-term visitors to Guam, in the first quarter of fiscal year 2001, the Agana Port-of-Entry experienced an increasing number of Burmese GVWP applicants for admission who require administrative proceedings. Consequently, the Service expended disproportionate resources in order to process Burmese travelers to Guam. These expenditures created significant obstacles for the orderly enforcement of the U.S. immigration laws in Guam, including extended wait times for arriving travelers seeking to enter Guam;
- The refusal rate for Burmese applicants for visitor's visas exceeded 40 percent during the 4-year period between 1996 and 1999;
- The United States has not established a pre-inspection or pre-clearance program in Burma;
- Burma is a country in economic and political turmoil;
- Despite multiparty elections in 1990 that resulted in a decisive victory for the main opposition party, the military junta ruling Burma has refused to relinquish power; and
- Burma lacks the will and ability to effectively participate in the anti-drug effort.

On January 3, 2001, the Service published an interim rule in the **Federal Register** at 66 FR 235. This interim rule amended the Service's regulations by removing Burma (internationally recognized as the Union of Myanmar) from the list of countries authorized to participate in the Guam Visa Waiver Program (GVWP). The Service provided the public with a 60-day comment period that ended March 5, 2001. The Service has not received any comments from the public. Accordingly, the Service is adopting the interim rule as a final rule without change.

Regulatory Flexibility Act

The Acting Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Burmese nationals who wish to travel to Guam temporarily for legitimate business or pleasure purposes will still be permitted to visit Guam, if, prior to their journey, they acquire a nonimmigrant visa at a U.S. Embassy or consulate. This rule furthers the law enforcement and national security interests of the United States without significantly restricting legitimate travel to Guam. It does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 13132

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

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1-year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12988 Civil Justice Reform

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

List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 8 CFR part 212, which was published in the **Federal Register** at 66 FR 235, on January 3, 2001, is adopted as a final rule without change.

Dated: October 4, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–25477 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–10–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 70, 72, and 150

[Docket No. PRM–72–2]

RIN 3150–AG33

Interim Storage for Greater Than Class C Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to allow licensing for the interim storage of Greater than Class C (GTCC) waste in a manner that is consistent with current licensing for the interim storage of spent fuel and will maintain Federal jurisdiction for storage of reactor-related GTCC waste. The final rule will only apply to the interim storage of GTCC waste generated or used by commercial nuclear power plants. These amendments will also simplify and clarify the licensing process.

EFFECTIVE DATE: November 13, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Haisfield [telephone (301) 415–6196, e-mail *MFH@nrc.gov*] of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

The Petition for Rulemaking

The Nuclear Regulatory Commission received a petition for rulemaking dated November 2, 1995, submitted by Portland General Electric Company. The petition was docketed as PRM–72–2 and published in the **Federal Register**, with a 75-day comment period, on February 1, 1996 (61 FR 3619).

The petitioner requested that the NRC amend 10 CFR part 72 to add the authority to store radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55.[1] This radioactive material is commonly referred to as ''Greater than Class C'' waste or GTCC waste. GTCC waste is generally unsuitable for near-surface disposal as low-level waste (LLW), even though it is considered as LLW. Section 61.55(a)(2)(iv) requires that this type of waste be disposed of in a geologic repository unless approved for an alternative disposal method on a case-specific basis by the NRC.

The petitioner is an NRC-licensed utility responsible for the Trojan Nuclear Plant (Trojan). In the petition, the petitioner anticipated that it would need to dispose of GTCC waste during decommissioning. The decommissioning plan discussed the transfer of spent reactor fuel being stored in the spent fuel pool, to an onsite Independent Spent Fuel Storage Installation (ISFSI) licensed under 10 CFR part 72. The petitioner requested that 10 CFR part 72 be revised to permit GTCC waste to be stored at the ISFSI pending transfer to a permanent disposal facility. The petitioner suggested that because the need to provide interim storage for GTCC waste is not specific to Trojan, but is generic, the regulations in 10 CFR part 72 should be amended to explicitly provide for storage of GTCC waste in a licensed ISFSI.[2]

The petitioner stated that storage of GTCC waste under 10 CFR part 72 would ensure safe interim storage. This storage would provide for public health and safety and environmental protection as required for spent fuel located at an ISFSI or spent fuel and high-level waste stored at a Monitored Retrievable Storage Installation (MRS).

The specific changes proposed in the petition would explicitly include interim storage of GTCC waste within the Purpose, Scope, and Definitions sections of 10 CFR part 72, thereby enabling licensees to manage GTCC waste generated or used by commercial nuclear power plants in a manner similar to that for spent nuclear fuel. The revised definitions would only apply to the interim storage of GTCC waste under the authority of 10 CFR part 72.

With this final rule, the petition is granted in part and denied in part. This rule will grant the petitioner's request to authorize GTCC waste storage under a 10 CFR part 72 license, but as discussed later, uses a different approach.

Public Comments on the Petition

The notice of receipt of the petition for rulemaking invited interested persons to submit written comments concerning the petition. The NRC received six comment letters. Five comment letters were received from nuclear facilities and one from the Nuclear Energy Institute (NEI). NEI provided another letter on this subject directly to the NRC Chairman on February 2, 1999, and the NRC responded on March 25, 1999. The comments were reviewed and considered in the development of NRC's decision on this petition. These comments are available in the NRC Public Document Room.

All six commenters supported the petition. Two of the commenters (Sacramento Municipal Utility District and Yankee Atomic Electric Company) are currently decommissioning their reactors.

Draft Rulemaking Plan

As a result of the petition and the comment letters, the NRC developed a draft rulemaking plan to further consider the development of a rule that would meet the intent of the petition. In SECY–97–056, dated March 5, 1997, the NRC staff provided a draft rulemaking plan to the Commission outlining a rule that would modify 10 CFR part 72 to allow storage of material, which when disposed of would be classified as GTCC waste, under the authority of 10 CFR part 72 using the performance criteria of this part. As discussed in this draft rulemaking plan, licensees are currently authorized to store GTCC waste under the regulations in 10 CFR part 30 and/or part 70. Therefore, the draft rulemaking plan discussed adding an option to store GTCC waste under 10 CFR part 72 while maintaining the existing option to store this waste using the authority of 10 CFR parts 30 and 70. This plan was sent to the Agreement States for their comments on April 18, 1997. Five States provided comments—Illinois, Maine, New York, Texas, and Utah.

The draft rulemaking plan described how an ISFSI or an MRS might be regulated by both the NRC and an Agreement State (this is discussed in more detail in the Discussion section). The draft rulemaking plan did not require that the licensing jurisdiction for GTCC waste remain with NRC, but did suggest that Agreement States could voluntarily relinquish their licensing authority for GTCC waste stored at an ISFSI. The draft rulemaking plan specifically requested Agreement State input relative to their likelihood of voluntarily relinquishing their authority for licensing when an ISFSI or an MRS is used for storing GTCC waste.

One State supported the concept. Three States indicated that they were opposed to voluntarily relinquishing

[1] In 10 CFR 61.55, ''Waste Classification,'' the NRC codifies disposal requirements for three classes of low-level waste which are considered generally suitable for near-surface disposal. These are Class A, B, and C. Class C waste is required to meet the most rigorous disposal requirements.

[2] Granting the petition in this rulemaking is no longer needed for Trojan since its reactor vessel with internals (package) was shipped to the Hanford LLW site after the State of Washington defined this package as Class C waste. The NRC has concluded that this rulemaking will be useful for other reactor operators that need to store their GTCC waste.

their authority and preferred to maintain their licensing authority for GTCC waste. One doubted that inefficiencies would result from Agreement State jurisdiction over GTCC waste at a reactor site concurrent with NRC regulation of spent fuel remaining at the site. The commenter noted that similar situations already exist when LLW is stored at the site. A second noted that there ''* * * have been many instances where an agreement state and NRC have effectively collaborated in the regulation of a single facility.'' A third noted that the NRC recently informed the States that they could voluntarily relinquish their authority for sealed sources and devices and that it was ''* * * vehemently opposed to any rule that automatically usurps a State's licensing authority without the State's consent.''

Proposed Rule

The NRC published the proposed rule, ''Interim Storage for Greater than Class C Waste'' in the **Federal Register** on June 16, 2000 (65 FR 37712). The NRC received 18 comment letters on the proposed rule. These comments and responses are discussed in the ''Comments on the Proposed Rule'' section.

Discussion

Current NRC regulations are silent on the acceptability of storing reactor-related GTCC waste co-located at an ISFSI or an MRS. Co-location is the storage of spent fuel with other radioactive material in their respective separate containers. This situation has created confusion and uncertainty on the part of decommissioning reactor licensees and may create inefficiency and inconsistency in the way the NRC handles GTCC waste licensing matters.

The NRC believes that decommissioning activities at commercial nuclear power plants will generate small volumes of GTCC waste relative to the amount of spent fuel that exists at these sites. GTCC waste exceeds the concentration limits of radionuclides established for Class C in §§ 61.55(a)(3)(ii), 61.55(a)(4)(iii), or § 61.55(a)(5)(ii). GTCC waste is not generally acceptable for near-surface disposal at licensed low-level radioactive waste disposal facilities. Currently there are no routine disposal options for GTCC waste.

In general, reactor-related GTCC wastes can be grouped into two categories. The first, which is the more typical form, is activated metals components from nuclear reactors such as core shrouds, support plates, nozzles, core barrels, and in-core instrumentation. The second is process wastes such as filters and resins resulting from the operation and decommissioning of reactors. In addition, there may be a small amount of GTCC waste generated from other activities associated with the reactor's operation (e.g., reactor start-up sources). GTCC waste may consist of either byproduct material or special nuclear material.

The Low-Level Radioactive Waste Policy Amendments Act of 1985 gave the Federal Government (U.S. Department of Energy (DOE)) the primary responsibility for developing a national strategy for disposal of GTCC waste. The Act also gave the NRC the licensing responsibility for a disposal facility for GTCC waste. Until a disposal facility is licensed, there is a need for interim storage of GTCC waste.

Currently, 10 CFR part 50 licensees (Domestic Licensing of Production and Utilization Facilities) are authorized to store all types of reactor-related radioactive materials, including material that, when disposed of, would be classified as GTCC waste. The GTCC waste portion is currently being stored either within the reactor vessel, in the spent fuel pool, or in a radioactive material storage area, pending development of a suitable permanent disposal facility.

The authority to license the possession and storage of GTCC waste is contained within 10 CFR part 30 for byproduct material and in 10 CFR part 70 for special nuclear material. Under 10 CFR 50.52, the Commission may combine multiple licensable activities of an applicant that would otherwise be licensed individually in single licenses. Thus, the 10 CFR part 50 license authorizing operation of production and utilization facilities currently includes, within it, the authorization to possess byproduct and special nuclear material that would otherwise need to be separately licensed under 10 CFR parts 30 or 70.

Under the current regulations, before the 10 CFR part 50 licensee can terminate its 10 CFR part 50 license, the licensee must transfer all of its spent fuel to another licensed facility; typically an ISFSI for storage or to a geologic repository for disposal. The ISFSI can be either at the reactor site under a specific 10 CFR part 72 license, or at an away-from-reactor site. The general license issued under 10 CFR 72.210 would terminate when the 10 CFR part 50 license is terminated. Because the 10 CFR part 72 general license would be terminated coincident with the termination of the 10 CFR part 50 reactor license, the licensee must have a 10 CFR part 72 specific license in order to continue to store spent fuel in an ISFSI located at the reactor site. Under a 10 CFR part 50 license, a reactor licensee undergoing decommissioning can store GTCC waste at its site based on the authority of the 10 CFR parts 30 and 70 license conferred to reactor licensees. However, the 10 CFR parts 30 and 70 licenses incorporated within the 10 CFR part 50 license are also terminated when the 10 CFR part 50 license is terminated. Consequently, termination of the 10 CFR part 50 license would require the licensee to either obtain a 10 CFR part 30 or 70 license to store any reactor-related GTCC waste, or transfer the GTCC waste to a geologic repository for disposal.

The NRC's current understanding of industry's approach to reactor decommissioning indicates that many reactor licensees currently undergoing decommissioning, as well as those considering future plans for decommissioning, may or may not pursue early termination of their 10 CFR part 50 license, for a variety of reasons. Consequently, with retention of the 10 CFR part 50 license, licensees also will retain the 10 CFR part 72 general license and their incorporated 10 CFR parts 30 and 70 licenses (i.e., the authority to store reactor-related GTCC waste under the 10 CFR part 50 license). However, the NRC believes that some licensees may wish to have the option of early termination of their 10 CFR part 50 license (and thus the 10 CFR part 72 general license). In that case, the issue of storage of reactor-related GTCC waste under a 10 CFR part 72 specific license which was identified in the proposed rule is still valid. The NRC continues to believe that storing reactor related GTCC waste either under a 10 CFR part 50 license or under a 10 CFR part 72 specific license provides an adequate level of protection of public health and safety. Accordingly, the NRC is issuing this final rule to provide reactor licensees with flexibility in selecting a regulatory approach to storing reactor-related GTCC waste. This final rule maintains Federal jurisdiction over reactor-related GTCC waste under either approach.

The changes in this rulemaking will allow 10 CFR part 72 specific licensees to co-locate reactor-related GTCC waste within an ISFSI or an MRS. Applicants for a specific license to store reactor-related GTCC waste will be required to provide a Safety Analysis Report (SAR) describing their programs that will (1) ensure that adequate protective measures are in place to ensure safe storage within the ISFSI or MRS, and (2)

ensure that the co-location of this radioactive material will not have an adverse effect on the safe storage of spent fuel and the operation of the ISFSI or MRS. Safe storage of GTCC waste will be governed by the provisions of 10 CFR parts 20 and 72 and applicable guidance that is being developed in conjunction with this rule. Based on an acceptable review of the SAR, the NRC would issue a 10 CFR part 72 specific license. Current 10 CFR part 72 specific license holders would be required to submit a similar application to amend their 10 CFR part 72 licenses if they desire to store GTCC waste at their ISFSIs.

In developing the rule, the NRC was cognizant of both potential DOE disposal criteria for GTCC waste (to preclude allowing a storage option that is unacceptable for disposal) and potential adverse interactions between spent fuel and various types of GTCC waste. The NRC believes that properly addressing potential adverse conditions from commingling spent fuel with certain types of GTCC waste presents significant safety and technical issues. In addition, because the DOE has not yet identified criteria for a disposal package, the NRC is concerned that storage of GTCC waste and spent fuel in the same container may be unacceptable for placement in the geologic repository. Therefore, the rule precludes the commingling of GTCC waste and spent fuel, except on a case-by-case basis, because the NRC desires to formulate regulations that both reduce radiological exposure and costs associated with repackaging the spent fuel and GTCC waste into two separate containers for disposal. Note that this in no way changes the current NRC and industry practice of allowing the commingling of spent fuel and certain specific components associated with, and integral to, spent fuel (e.g., burnable poison rod assemblies, control rod elements, and thimble plugs). See the responses to comments 3 and 10 in the Comments on the Proposed Rule section for more specific information. In support of this rulemaking, the NRC is developing Interim Staff Guidance for NRC staff and licensee use in utilizing 10 CFR part 72 storage criteria for various GTCC waste types.

This rule also precludes storage of liquid GTCC waste under 10 CFR part 72. However, there are alternatives for a 10 CFR part 50 licensee that desires to terminate its license yet still possesses liquid GTCC waste. These alternatives include the licensee's submission of an application for a 10 CFR part 30 or 70 license, with the appropriate conditions for storage of liquid GTCC waste.

Request for Public Input on Specific Issues

The Commission sought input from stakeholders on various technical topics associated with the storage of GTCC waste. The stakeholders input and NRC's responses are contained in the Comments on the Proposed Rule section. The Commission considered these comments in the development of the final rule.

Regulatory Action

The NRC is amending 10 CFR parts 30, 70, 72, and 150. The changes to these parts are necessary to allow the interim storage of NRC-licensed reactor-related GTCC waste within an ISFSI or an MRS and to require that the licensing responsibility for this waste remain under Federal jurisdiction. This action addresses only GTCC waste used or generated by a commercial power reactor licensed under 10 CFR part 50 (i.e., not a research reactor) and does not include any other sources of GTCC waste, nor does it include other forms of LLW generated under a 10 CFR part 50 license. Because reactor-related GTCC waste is initially under Federal jurisdiction while the reactor facility is operated and the ultimate disposal of GTCC waste also is under Federal jurisdiction, the NRC believes that the interim period between termination of a reactor license and ultimate disposal also should remain under Federal jurisdiction. GTCC waste could become eligible for disposal in a geologic repository in the future. Spent fuel can be stored in an ISFSI or an MRS pending ultimate disposal. This Federal jurisdiction is unlike the Federal or Agreement State jurisdiction for the storage of Class A, B, and C reactor-related LLW that are currently being disposed in LLW disposal sites regulated by Agreement States. In addition, the storage time for Class A, B, and C LLW is expected to be short in comparison to the relatively long-term interim storage of GTCC waste. Therefore, for efficiency and consistency of licensing, the NRC concludes that 10 CFR part 72 should also be modified to allow the storage of GTCC waste within these facilities under exclusive NRC jurisdiction. A regulatory scheme which would allow for Federal jurisdiction over the generation of the GTCC waste, followed by State jurisdiction for interim storage, followed again by Federal jurisdiction over the disposal of GTCC waste, is an inefficient approach, that could lead to inconsistent regulation. Moreover, it is inefficient for NRC to spend scarce resources to license and inspect an ISFSI that stores spent fuel and for a State to spend scarce resources to license and inspect the same ISFSI for co-located GTCC waste. The NRC requested Agreement State input on ways in which Agreement States, if permitted to take jurisdiction over reactor-related GTCC waste, would ensure consistency with a national regulatory scheme. Only two States responded to this request. Though both States asserted that their programs would be compatible with Federal regulations, neither said that their programs would be identical. Indeed, one State argued that each State program should be evaluated on its own. The States have rightly pointed out that States have already developed regulatory programs for Class A, B, C, and non-reactor GTCC waste that adequately protect health and safety. The issue, however, is whether a regulatory scheme that would call for back and forth federal jurisdiction over reactor-related GTCC waste, and multiple States' jurisdiction over the same waste in between, promotes a reasonably predictable and stable regulatory environment. In NRC's view, the better reading of the applicable statutes is that reactor-related GTCC waste deserves special treatment, especially because of Federal responsibility for disposal of such waste, and it should be set apart from other waste and be subject to exclusive Federal jurisdiction over the storage of reactor-related GTCC waste. 10 CFR parts 30, 70, and 150 require conforming changes.

In the section, ''NRC to Maintain Authority for Reactor-Related GTCC Waste,'' the Commission provides the regulatory basis upon which the NRC has determined that jurisdiction for storage of reactor-related GTCC waste will remain with the NRC. (Also see comment number 15.)

This final rule will allow storage of reactor-related GTCC waste under a 10 CFR part 72 specific license. The changes will modify 10 CFR part 72 to allow storage of GTCC waste under this part using the appropriate criteria of 10 CFR part 72. This will provide a more efficient means of implementing what is essentially already permitted by the regulations (storage of GTCC waste co-located at an ISFSI or an MRS). When storing GTCC waste within an ISFSI or MRS, the licensee or applicant must provide a description of its program that ensures the storage of the GTCC waste will not have an adverse effect on the ISFSI or MRS or on public health and safety and the environment.

The rule will not eliminate the current availability of storing GTCC

waste under the authority of a 10 CFR part 30 or 70 license. However, neither 10 CFR parts 30 nor 70 include explicit criteria for storage of GTCC waste. Therefore, a licensing process conducted under 10 CFR parts 30 or 70 regulations would be more resource intensive because the licensee would need to develop new proposed storage criteria. If the licensee decides to obtain a 10 CFR part 30 or 70 license, the NRC will still maintain Federal jurisdiction over the reactor-related GTCC waste stored under 10 CFR parts 30 and 70.

Comparing these two approaches, the NRC recognizes that the licensing process will be simpler with less regulatory burden if all the radioactive waste to be stored at an ISFSI or MRS is stored under the authority of one 10 CFR part 72 license. The regulations in 10 CFR part 72 were developed specifically for storage of spent fuel at an ISFSI and spent fuel and high-level waste at an MRS. Appropriate 10 CFR part 72 criteria will be applied to GTCC waste storage. Under 10 CFR parts 30 and 70, GTCC waste criteria would need to be developed on a case-by-case basis to support licensing under these parts. Also, using 10 CFR part 72 to store reactor-related GTCC waste would eliminate the need for multiple licenses for the storage of spent fuel and GTCC waste.

The NRC has evaluated the technical issues arising from the commingling of spent fuel and reactor-related GTCC waste in the same storage container, and issues arising from the storage of reactor-related liquid GTCC waste, under a 10 CFR part 72 specific license. This final rule will permit the co-locating of spent fuel and solid reactor-related GTCC waste in different casks and containers within an ISFSI or MRS. However, the rule will not permit the commingling of spent fuel and GTCC waste in the same storage cask except on a case by case basis. The rule does not change the current practice of storing specific components associated with, and integral to, the spent fuel with spent fuel. Additionally, the rule will not permit the storage of liquid reactor-related GTCC waste.

Without this change, prior to termination of the 10 CFR part 50 license, a licensee would need to obtain multiple licenses to continue to store spent fuel and GTCC waste—10 CFR part 72 for spent fuel and 10 CFR part 30 or 70 (or both) for GTCC waste. Having one license for the ISFSI (or MRS) under 10 CFR part 72 will be simpler for both licensees and the NRC.

The NRC believes that the concept proposed in the petition of storing GTCC waste under the provisions of 10 CFR part 72 is valid. However, the NRC also concludes that the method proposed by the petitioner, that is modifying the definition of spent fuel to include GTCC waste, could lead to confusion and inefficiency. If GTCC waste is defined as spent fuel, DOE would be required to dispose of this waste in a deep geologic repository and would not have the flexibility to explore potentially more efficient disposal plans. The proposal could also require that GTCC waste use limited disposal space meant for wastes that require more stringent confinement.

Therefore, the NRC is adding a definition of GTCC waste within § 72.3 that will be consistent with 10 CFR 61.55. The NRC has evaluated 10 CFR part 72 to determine which sections need to be modified to accommodate storage of separate containers of solid GTCC waste co-located with spent fuel within an ISFSI or an MRS. The majority of the changes to 10 CFR part 72 will simply add the term ''GTCC waste'' to the appropriate sections and paragraphs (typically immediately after the terms ''spent fuel'' or ''high-level waste''). In support of this rulemaking, the NRC is developing Interim Staff Guidance for NRC staff and licensee use in applying 10 CFR part 72 storage criteria for various GTCC waste types.

The regulations in 10 CFR part 150 are being modified to be consistent with the changes in 10 CFR part 72. The change to 10 CFR part 150 (Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274) will specify that any GTCC waste stored in an ISFSI or an MRS is under NRC jurisdiction. 10 CFR part 150 also is being modified to indicate that licensing the storage of any GTCC waste that originates in, or is used by, a facility licensed under 10 CFR part 50 (a production or utilization facility) is the responsibility of the NRC.

The NRC has made changes to the final rule based on public comments (see the Response to Public Comments section) and has also determined (not based on public comments) that additional sections within 10 CFR part 72 needed to be removed or modified.

A public comment resulted in the recognition of the need to modify 10 CFR parts 30 and 70 to provide exceptions to the requirements in these parts when the GTCC waste is being stored under the provisions of 10 CFR part 72. Without these changes, licensees would need 10 CFR part(s) 30 and/or 70 licenses in addition to the 10 CFR part 72 license. Other comments resulted in clarification of the preamble and § 72.120 with regard to the commingling of material that is associated with spent fuel assemblies.

In addition, during the review of comments, NRC staff identified the need for several clarifications in the final rule that are not specifically based on public comments. The clarifying changes that NRC made are: § 72.2(a) regarding power reactor-related GTCC waste is being modified to clarify that GTCC waste does not have to be stored in a complex that is designed and constructed specifically for storage of spent fuel; the definition in § 72.3 of ''spent fuel cask or cask'' in the proposed rule is being withdrawn to eliminate an unnecessary storage requirement; § 72.6 is being revised to indicate clearly that reactor-related GTCC waste, if stored under 10 CFR part 72, can only be stored under the provisions of a 10 CFR part 72 specific license; § 72.24(r) in the proposed rule is being removed for consistency with 10 CFR part 50's handling of radioactive material; § 72.40(b) in the proposed rule is being revised to correct an error (the proposed rule inadvertently removed existing text instead of adding a new introductory sentence) and to remove reference to the Atomic Safety and Licensing Appeal Board, which no longer exists; and §§ 72.72, 72.76, and 72.78 are being modified to clarify the reporting requirements for special nuclear material as specified in 10 CFR 74.13(a)(1).

In a previous final rulemaking, ''Clarification and Addition of Flexibility'' (65 FR 50606; August 21, 2000), changes were made to 10 CFR part 72. Section 72.140(c)(2) is the only section that is changed in both the previous and current rulemaking. The changes to this section in the current rulemaking are consistent with the ''Clarification'' rulemaking changes.

The NRC will continue to recover costs for generic activities related to the storage of GTCC waste under 10 CFR part 72 by means of annual fees assessed to the spent fuel storage/reactor decommissioning class of licensees under 10 CFR part 171. Subsequent to issuing the final revision to 10 CFR part 72, 10 CFR part 170 will be amended to clarify that full cost fees will be assessed for amendments and inspections related to the storage of GTCC waste under 10 CFR part 72.

NRC to Maintain Authority for Reactor-Related GTCC Waste

Under section 274 of the Atomic Energy Act of 1954 (AEA), Agreement States possess regulatory authority over radioactive waste only where the Commission has relinquished its pre-existing authority. Section 274

agreements cannot be understood as a general matter to relinquish Commission authority over reactor-related GTCC waste. These wastes are integrally related to the operation of reactors, because these wastes consist for the most part of activated metal reactor components such as core shrouds, support plates, nozzles, core barrels, and in-core instrumentation. When, under the section 274 program, the Commission reaches agreements with States and relinquishes regulatory jurisdiction to them, the Commission specifically retains authority over the ''operation'' of reactors, as required by an NRC rule promulgated nearly 40 years ago. *See* 10 CFR 150.15(a)(1). That rule defines ''operation'' as follows:

> As used in this subparagraph, operation of a facility includes, but is not limited to (i) the storage and handling of radioactive wastes at the facility site by the person licensed to operate the facility; and (ii) the discharge of radioactive effluents from the facility site.

Id. (Emphasis added).

In short, NRC concludes that a State entering a section 274 Agreement with the NRC does not (and cannot) acquire regulatory authority over reactor-related GTCC waste. Contrary to the view of a commenting State, issuance of a final rule asserting ongoing NRC jurisdiction over reactor-related GTCC waste does not take back previously-granted State authority or terminate an NRC-State agreement without abiding by the process set out in section 274(j) of the AEA. Nothing in the AEA, in NRC rules, or in NRC agreements with any of the commenting States even mentions reactor-related GTCC waste, let alone discontinues NRC jurisdiction over it. Hence, the Commission's decision in this rulemaking to exercise ongoing jurisdiction over this form of waste does not violate any provision of law.

Specifically, with regard to the storage of reactor-related GTCC waste, the NRC will continue Federal authority over the GTCC waste after termination of the 10 CFR part 50 license. Thus, under the option of obtaining 10 CFR part 30 and/or 70 licenses, the GTCC waste will remain under Federal authority. If the option of obtaining a specific license under 10 CFR part 72 is chosen, the GTCC waste will also remain under Federal authority. This licensing authority will be irrespective of the physical location of the storage facility (either on or off the originating reactor site).

However, this rule does not affect the States' long-standing practice of exercising regulatory jurisdiction over non-GTCC low-level radioactive waste originally generated at reactors, or over GTCC waste generated by materials licensees regulated by Agreement States. However, under 10 CFR 72.128(b), any LLW generated by the ISFSI (or an MRS) must be treated and stored onsite awaiting transfer to a disposal site. The licensing authority for treatment and storage of ISFSI or MRS generated LLW would be under 10 CFR part 72, and therefore, reserved to the NRC.

For a more detailed discussion of jurisdictional issues, please see the responses to comments 15, 16, and 17.

Comments on the Proposed Rule

This analysis presents a summary of the comments received on the proposed rule, the NRC's response to the comments, and changes made to the final rule as a result of these comments.

The NRC received 18 comment letters. Five were from Agreement States (South Carolina, Illinois, Utah, New York, and Maine), ten from industry (including the Portland General Electric Company, the petitioner, and the Nuclear Energy Institute), one from the Department of Energy (DOE), one from a private citizen, and one from a consulting firm.

In general, none of the commenters were opposed to the idea of storing reactor-related GTCC waste in an Independent Spent Fuel Storage Installation licensed under the provisions of 10 CFR part 72. However, four of the Agreement State commenters were opposed to restricting the licensing authority solely to the NRC and believe that NRC is not correctly interpreting the Atomic Energy Act. Utah is opposed to applying NRC sole jurisdiction to ''away-from-reactor ISFSIs'' because the State believes it could likely end up with GTCC waste indefinitely stored within its borders with no disposal option. South Carolina and New York believe the NRC and the State can effectively collaborate in the regulation of a single facility. Maine believes the rulemaking should be reconsidered because it is not advisable to allow the commingling of spent fuel and GTCC waste. The industry, DOE, the private citizen, and the consulting firm all generally supported the rulemaking and some provided specific recommendations to improve the final rule.

The NRC, in the proposed rule, invited comments on (1) six specific topics dealing with safety, technical or licensing issues for the storage of GTCC waste and (2) three specific questions for Agreement State consideration. The comments on the proposed rule are generally contained within four categories. The first category contains general comments, followed by comments on commingling GTCC waste and spent fuel (these are mostly the comments identified in number 1 above), followed by State issues (these are mostly the comments identified in number 2 above), and then other comments.

A. General Comments on the Proposed Rule:

1. Support of the proposed rule (or support of the comments submitted by the Nuclear Energy Institute (NEI)).

Comment: Thirteen of the 18 commenters provided specific comments in support of the concept of the proposed rule to store GTCC waste in an ISFSI. One of the supportive commenters was NEI, representing the industry, and three commenters also endorsed NEI's comments. As an example, one commenter noted that it had been actively involved with NEI on this issue and fully endorsed NEI's comments on behalf of the industry. The commenter specifically agreed with NRC's proposal to retain regulatory authority over GTCC waste during the interim period between reactor shutdown and prior to disposal. The commenter noted that there is no benefit to public safety and there is only a burden placed upon public resources to have regulatory authority shift to State authorities during this time.

Another industry commenter stated that it supports NRC's proposed rulemaking and encouraged the NRC to continue the development of a rule which is prudent, practical, reasonable and consistent to ensure that the interim storage for GTCC waste is fair and equitable to all involved stakeholders. The commenter noted that the proposed rulemaking will: (1) Clarify NRC's handling of GTCC licensing, (2) be simpler, (3) result in less regulatory burden on licensees, (4) continue to consider the need to protect public health and safety, and (5) allow these waste streams to be stored in an ISFSI or an MRS under the authority of one 10 CFR part 72 license.

Response: Since these comments support the rulemaking, no response is necessary.

2. Flexibility.

Comment: An industry commenter believes that flexibility to manage GTCC waste using other methods than 10 CFR part 72 is in the best interest of public safety. The commenter noted that GTCC waste has been approved, on a case-by-case basis, for disposal at licensed LLW disposal facilities and believes this practice should be allowed to continue.

Response: This rulemaking concerns only the storage of GTCC waste. However, see the response to comment numbers 15 and 17 for additional

information regarding GTCC waste disposal.

3. Definition of spent fuel and GTCC waste.

Comment: Two industry commenters believe the definition of GTCC waste should be changed. One commenter believes it should be defined as spent fuel, as recommended in the petition, and the other believes it should be defined as high-level waste. In either case, the commenters believe this change would simplify disposal.

Three commenters, including DOE and NEI, note that the definition of spent fuel includes the special nuclear material, byproduct material, source material, and other radioactive materials associated with fuel assemblies (i.e., the non-fuel components associated with those fuel assemblies). See 10 CFR 72.3. Non-fuel components may be included as part of the spent fuel delivered for disposal under the ''Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste.'' See 10 CFR 961.11, Appendix E, B.2. The Standard Contract includes as non-fuel components, but is not limited to: control spiders, burnable poison rod assemblies, control rod elements, thimble plugs, fission chambers, primary and secondary neutron sources that are contained within the fuel assembly, and BWR channels that are an integral part of the fuel assembly. These same non-fuel components will ultimately be disposed of in the Federal repository in accordance with the Standard Contract. The commenters believe that the definition of reactor-related GTCC waste is unclear in that it might be seen to include those non-fuel components. The commenters believe that reactor-related GTCC waste should be limited to items such as reactor internals, filters, and resins.

The commenters further state that the rule should clearly state that a licensing basis is being proposed for storage of both categories of material, spent fuel associated material and reactor-related GTCC waste in an ISFSI or an MRS under Federal jurisdiction. The commenters believe that without this clarification the rule could be misinterpreted to impose new requirements for licensees to demonstrate that non-fuel components also meet the radiological classification of GTCC waste as a condition of storage.

Response: The NRC believes, at this time, that defining all GTCC waste as spent fuel or high-level waste for use in 10 CFR part 72 could lead to confusion and inefficiency. If GTCC waste is defined as spent fuel or high-level waste, DOE would be required to dispose of this waste in a deep geologic repository (e.g., Yucca Mountain) and would not have the flexibility to explore potentially more efficient disposal plans. This definition could also require that GTCC waste use limited disposal space meant for wastes that require more stringent confinement.

The commenters noting that the definition of spent fuel in 10 CFR 72.3 includes associated materials are correct. The NRC never intended to classify such material as GTCC waste. The proposed rule did not make it clear that, if this material were separated from the spent fuel, some of it might be GTCC waste. However, it is not deemed to be GTCC waste when it is placed within a spent fuel cask with the associated fuel assemblies. The NRC currently allows the storage of this material with spent fuel and this rulemaking will not make any change to this practice.

Accordingly, the final rule is modified as follows: The NRC has clarified that the material associated with spent fuel assemblies is not GTCC waste and currently can and will continue to be allowed to be stored with spent fuel. The clarifications are being made within the preamble and §§ 72.120(b), (c), and (e) have been modified to clarify what can and cannot be stored with spent fuel. In addition, the NRC is developing Interim Staff Guidance that will provide additional information for the NRC staff and licensees in determining which materials are associated with spent fuel.

4. Proposed rule is premature.

Comment: A State commenter believes that the rulemaking is premature and not within the spirit or letter of the Administrative Procedure Act because the proposed rule contains no separate design criteria for GTCC waste storage containers and reflects an expectation that the applicant will ensure that the co-location of GTCC waste does not adversely affect the safe storage of spent fuel and the operation of the ISFSI. The proposed rule solicited input on a number of issues, such as commingling, performance criteria, and the scope of material subject to the rule. Therefore, the commenter believes that the proposed rule is still in the beginning stages as there are significant decisions relating to technical, safety, and performance criteria yet to be made. In the commenter's view, the NRC should be soliciting comments on an explicit proposal. The commenter also believes that the NRC is seeking a way to make it financially more attractive for utilities to store GTCC waste after decommissioning and, in part, to solicit information from DOE on its GTCC disposal policies.

Response: The Commission does not agree that this rulemaking is ''premature and not within the spirit or the letter of the Administrative Procedure Act.'' In addition, this rulemaking responds to a petition for rulemaking submitted by Portland General Electric Company (PRM–72–2). The proposed rule provided a complete regulatory proposal and a set of questions for the purpose of soliciting additional information that would help form the basis for the final rule. We have received and reviewed all comments and thus have gained the additional information needed to finalize the Statement of Considerations and rule. Through this process, the public has had an adequate opportunity to respond.

Based on public comments, the Commission has developed a final rule which is quite similar to the proposed rule. Changes made within the final rule clarify and correct inadvertent errors within the proposed rule, but do not make any fundamental changes in how the NRC proposed to license the storage of reactor-related GTCC waste in the proposed rule. The final rule addresses and responds to the issues raised by the commenters. The Commission does not anticipate any further rulemaking on the storage of reactor-related GTCC waste unless; (1) based on discussions with DOE and others, changes to the definition of GTCC waste are made, or (2) DOE develops disposal criteria for GTCC waste that would require corresponding changes.

5. General license versus specific license.

Comment: An industry commenter believes the wording in 10 CFR 72.40(b) must be revised. As written, the application to convert a general license to a specific license for an existing ISFSI would be denied. As proposed, it would deny a license if construction on the facility begins before a finding approving issuance of the license with any appropriate conditions to protect environmental values. The ISFSI licensed under 10 CFR 72.210, a general license, is very likely to have been designed, constructed, and operated for years prior to the need to apply for a specific license. The commenter also believes the rule should clearly indicate which sections apply to a general license and which do not. The rule should provide for the storage of GTCC waste at an ISFSI for both general and specific licenses until the 10 CFR part 50 license terminates.

Response: This rulemaking relates to authorizing a 10 CFR part 72 specific license holder, or applicant for a license, to store reactor-related GTCC waste in an ISFSI or an MRS. The comments on transitioning from a 10 CFR part 72 general license to a 10 CFR

part 72 specific license are beyond the scope of this rulemaking. With regard to the commenter's request to indicate clearly which sections of 10 CFR part 72 apply to general licensees and which apply to specific licensees, the NRC previously addressed this issue by adding a new § 72.13 to 10 CFR part 72, in a final rule titled ''Clarification and Addition of Flexibility'' (65 FR 50606; August 21, 2000).

The NRC disagrees with the commenter's suggestion to provide for the storage of GTCC waste under both 10 CFR part 72 general and specific licenses. As indicated in the proposed rule, because a 10 CFR part 72 general license is granted to a person holding a 10 CFR part 50 license to possess or operate a power reactor and a 10 CFR part 50 licensee would already be authorized (see § 50.52) to possess radioactive material (including GTCC waste), there is no need for additional authority to possess and store reactor-related GTCC waste under the general license provisions of 10 CFR part 72. (See also response below).

Note: In evaluating this comment, the NRC determined that portions of § 72.40(b) were inadvertently omitted from the proposed rule. The text contained in the proposed rule was intended to be added to § 72.40(b) instead of to replace this paragraph. Accordingly, the final rule is modified to contain the existing text with the modification from the proposed rule.

6. General license.

Comment: A consulting firm commented that the changes to 10 CFR 72.6 extend the general license authorization for spent fuel in an ISFSI to include reactor-related GTCC waste. For clarity the proposed rule should include: (1) GTCC waste in the title of Subpart K, (2) the authorization for reactor-related GTCC waste in 10 CFR 72.210, (3) reactor-related GTCC waste in 10 CFR 72.212(a)(1) and (a)(2), (4) reactor-related GTCC waste in 10 CFR 72.212(b)(5)(ii), and (5) the authorization for reactor-related GTCC waste in 10 CFR 72.230(b).

Response: The NRC agrees with the commenter that § 72.6 of the proposed rule could be read as allowing the storage of reactor-related GTCC waste at an ISFSI under a general license. This was done inadvertently and was inconsistent with the overall intent of the proposed rule. Therefore, the NRC has revised § 72.6 to indicate clearly that reactor-related GTCC waste only can be stored under the provisions of a specific license.[3]

7. Question from the proposed rule: If reactor licensees, after termination of their 10 CFR part 50 license, elect to store reactor-related GTCC waste under the provisions of 10 CFR parts 30 and 70, is additional guidance needed to provide a more efficient licensing process?

Comment: One State commenter believes that the same technical criteria should be developed and applied to storage of GTCC waste regardless of which licensing option a licensee selects.

Of six industry commenters, some believe that additional guidance is needed while others do not believe additional guidance is needed. One commenter believes the NRC should spend its resources on legislative and regulatory changes that eliminate dual regulation and set one standard protecting public health and safety. Another commenter believes additional guidance should be provided regarding the steps to obtain a 10 CFR parts 30 and 70 license prior to termination of a 10 CFR part 50 license. The guidance should be simple and include consideration of facility history, design, experience, and backfit costs of upgrading to newer regulations as a result of transfer to 10 CFR parts 30 and 70 licenses.

Response: The NRC does not believe that additional guidance specifically for 10 CFR parts 30 and 70 licenses is needed. However, if the NRC were to develop guidance for storage of reactor-related GTCC waste under a 10 CFR part 30 or 70 license, such guidance would be consistent with 10 CFR part 72. The NRC prefers that reactor-related GTCC waste be stored under the provisions of 10 CFR part 72. Therefore, to promote effectiveness and efficiency, the NRC is deferring development of any guidance for 10 CFR parts 30 and 70. However, any application for a 10 CFR part 30 or 70 license may use, to the extent appropriate (considering the case-by-case criteria the application would be proposing), the guidance developed for 10 CFR part 72 in submission of an application. In conjunction with this rule NRC staff is developing Interim Staff Guidance for storage of reactor-related GTCC waste under a 10 CFR part 72 specific license.

8. Standard Review Plan revisions.

Comment: An industry commenter believes that associated changes to the Standard Review Plan to clarify the regulations after their issuance should be given high priority.

Response: In support of this rulemaking, the NRC is developing Interim Staff Guidance for NRC staff and licensee use in utilizing 10 CFR part 72 storage criteria for various GTCC waste types. This guidance will be incorporated into the next revision of the Spent Fuel Project Office Standard Review Plans.

9. Necessary changes to other 10 CFR Parts.

Comment: An industry commenter believes additional changes are necessary to 10 CFR parts 30 and 70, (and 10 CFR part 40 for completeness) for licensees to take full advantage of the proposed changes to 10 CFR part 72. The regulations in 10 CFR parts 30 and 70 need to identify exceptions in order to identify that 10 CFR part 72 would address possession of GTCC waste for those licensees who utilize an ISFSI following termination of their 10 CFR part 50 licenses. The exception in 10 CFR 70.1(c) needs to be expanded to include GTCC waste. Similar changes to 10 CFR 30.1 (and 10 CFR 40.1 for completeness), which do not currently include exception language similar to 10 CFR 70.1(c), also need to be made. The commenter believes that without these changes to 10 CFR part 30 and 70, specific licenses would continue to be required under these parts, as appropriate.

Response: The NRC agrees in part with the commenter. Changes to 10 CFR 30.11(b) and 10 CFR 70.1(c) are made to identify that 10 CFR part 72 specific licensees who possess power reactor-related GTCC waste within an ISFSI will be exempt from the requirements in 10 CFR parts 30 and 70, to the extent that its activities are licensed under the requirements of 10 CFR part 72. However, the NRC does not believe that changes are necessary to 10 CFR part 40 because there should be no need for a source material license at an ISFSI or an MRS.

Accordingly, the final rule will revise 10 CFR 30.11 (b) and 10 CFR 70.1(c) as follows:

30.11(b) Any licensee's activities are exempt from the requirements of this part to the extent that its activities are licensed under the requirements of part 72 of this chapter.

70.1(c) The regulations in part 72 of this chapter establish requirements, procedures, and criteria for the issuance of licenses to possess:

(1) Spent fuel, power reactor-related Greater than Class C (GTCC) waste, and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI), or

(2) Spent fuel, high-level radioactive waste, power reactor-related GTCC waste, and other radioactive materials associated with the storage in a monitored retrievable storage

[3] Not impacted by this rulemaking—10 CFR parts 30 and 70 do permit the storage of reactor-related GTCC waste.

installation (MRS), and the terms and conditions under which the Commission will issue such licenses.

B. Commingling of GTCC Waste and Spent Fuel

10. *Question from the proposed rule:* Should the storage of certain forms of GTCC waste and spent fuel in the same cask be prohibited? Or, should storage be permitted if performance criteria can be established? If so, what criteria should be used?

Comment: A State commenter believes that commingling should be prohibited without firm criteria for each chemical type of GTCC waste and the particular cask design. Assurance of chemical compatibility and ultimate cask structural integrity must be established. Without DOE disposal criteria for multi-purpose casks, spent fuel may have to be handled more than once prior to disposal, and commingling will just complicate matters even more. The commenter believes that DOE should promptly promulgate disposal criteria. Another State commenter opposes any commingling of spent fuel and GTCC waste that contain resins which are composed of water and plastic because the high heat in spent fuel canisters can evaporate and build up pressure within a canister. A third State commenter urges the NRC to reconsider the proposed rulemaking as it believes that it is not advisable to allow commingling of spent fuel and GTCC waste at this time. The commenter noted that the incremental cost of additional GTCC waste canisters would be small relative to the total ISFSI costs and there would be a substantial risk by a licensee given the absence of criteria governing what constitutes an acceptable disposal package. Precluding commingling would also avoid technical issues when either moving the canisters or if re-licensing becomes necessary for spent fuel storage containers at the end of a 20-year license.

DOE supports the position that storage of commingled non-fuel bearing GTCC waste with spent fuel is acceptable under certain conditions. However, the DOE shares NRC's concern that commingled canisters may need to be opened and the GTCC waste separated prior to disposal. Therefore, any commingling decision needs to consider potential additional costs and radiological exposures associated with reopening a canister and removing the GTCC waste prior to acceptance by DOE of the spent fuel.

All six industry commenters on this topic support commingling when justified through a safety analysis. For example, one commenter believes that commingling has significant advantages and noted that many decommissioning reactors will only have about 15 cubic feet of GTCC waste. The advantages are reduced costs and reduced waste volume due to the more efficient utilization of canister volume. However, the commenter noted that, without a clear and defined position from DOE that it will accept commingled canisters, the utilities would take significant risks to commingle because the casks may need to be opened and the waste separated. This could be a tremendous burden for decommissioned reactor licensees because they would no longer have the necessary facilities and personnel to reopen the cask and repackage the waste. However, one commenter noted that in DOE's, ''Viability Assessment of a Repository at Yucca Mountain, Volume 2,'' dated December 1998, that it is DOE's design intention to open packages of commercial spent fuel received at Yucca Mountain. Therefore, DOE clearly has the opportunity to segregate the GTCC waste with little impact upon operations. The commenter also noted that commingling allows safer and more efficient management of GTCC waste. In some cases, during the first 20 years or more after reactor shutdown, GTCC waste, on a weight basis, can produce higher radiation doses than a spent fuel assembly. The GTCC waste could be placed in the center of a container and surrounded by spent fuel bundles to provide additional shielding.

Response: In 10 CFR 72.3, other radioactive materials associated with fuel assemblies are defined as spent fuel and storage of such materials within an ISFSI is the industry standard practice. These non-fuel components associated with fuel assemblies were designed for use inside the operating plant's reactor vessel with no risk to plant safety. The rule is not intended to change the previous guidance given on the storage of non-fuel components such as control rod elements, burnable poison rod assemblies, and thimble plugs. The NRC expectation is that these types of components will be stored and disposed of as part of the spent fuel assembly packages. The NRC recognizes that some of these components, if removed from fuel assemblies, could be classified as GTCC waste. The NRC's approach is to consider these non-fuel components as spent fuel and not as GTCC waste if they are stored with the associated spent fuel. The NRC believes that appropriate interim storage for these non-fuel components should be with the associated spent fuel.

However, with respect to GTCC waste which is not integral to spent fuel assemblies, the NRC has concluded that, in general, GTCC waste should not be stored in the same cask with spent fuel. The NRC believes that properly addressing potential adverse conditions from commingling spent fuel with certain types of GTCC waste presents significant safety and technical issues. In addition, because the DOE has not yet identified criteria for a disposal package, the NRC is concerned that storage of GTCC waste and spent fuel in the same container may be unacceptable for placement in the geologic repository. Therefore, the rule precludes the commingling of GTCC waste and spent fuel, except on a case-by-case basis, because the NRC desires to formulate regulations that both reduce radiological exposure and costs associated with repackaging the spent fuel and GTCC waste into two separate containers for disposal.

The NRC would review and approve certain commingling on a case-by-case basis for GTCC waste composed of solid metal components. This storage arrangement would be undertaken at the licensee's risk that segregation of this material may be required prior to transporting the spent fuel for final disposal. The NRC would expect that a licensee's decision to commingle solid metal components with spent fuel would consider economic factors regarding the possibility that future segregation may be required for transportation and final disposal within a high-level waste repository or at a separate GTCC waste disposal facility. The incremental cost of storing separate GTCC waste canisters might be a relatively small increase in the total ISFSI costs. However, when DOE does provide disposal criteria, the NRC expects to revise the regulations for storage of GTCC waste to be consistent with DOE disposal requirements, if necessary.

The NRC agrees that resin and plastic material should not be commingled with spent fuel. Resins and plastic materials may contain organic compounds that may degrade under the thermal and radiolytic conditions present inside a spent fuel storage cask. The products of this decomposition may be corrosive and/or flammable (both solids and gases). As a result, these decomposition products might adversely affect the integrity of the spent fuel cladding. The NRC concludes, however, that resins and plastics that may be classified as GTCC waste can be safely stored at an ISFSI in a separate container as long as the material has been solidified.

With respect to the comment that DOE intends to open packages at Yucca Mountain, the NRC specifically requested additional information from DOE on its current intentions with regard to disposal of GTCC waste. In response to the proposed rule, DOE did not provide information that causes the NRC to conclude that GTCC waste will be accepted for disposal at Yucca Mountain if this site should be selected as a repository. Therefore, after disposal criteria have been established by DOE, the NRC can revise its regulations and guidance, if necessary.

11. *Question from the proposed rule:* Should the storage of explosive, pyrophoric, combustible, or chemically reactive GTCC waste be prohibited in either commingled or separate GTCC casks? Or should storage be permitted if performance criteria can be established? If so, what criteria should be used?

Comment: The one State commenter believes its comment to question 10 applies to questions 11 through 14; that is, to prohibit commingling. Also, if the waste is explosive, pyrophoric, combustible, or chemically reactive, it should not be stored, or stored in its own specially designed cask.

Five industry commenters believe that with the proper conditions (e.g., limited capacity, relief devices, neutron absorbers, and the introduction of a moderator) these waste types can be safely stored but, as noted by one commenter, storage with these waste characteristics should only be allowed after appropriate conditioning to eliminate such characteristics. Also, storage should be allowed only if under worst-case conditions, an accident would not endanger public health and safety. Another commenter noted that it is highly unlikely that such material would be in reactor decommissioning GTCC waste.

Response: The NRC has concluded that GTCC waste that is explosive, pyrophoric, combustible or chemically reactive should only be stored at an ISFSI or an MRS if this material is solidified and stabilized. For these types of materials, the licensee programs must ensure that an analysis is conducted to show that these materials can be safely stored for the full period of the ISFSI or MRS license. The NRC concludes that this type of material, once stabilized and solidified, should be stored within a separate container as noted in response to question 9. The expectation is that the licensee's programs would ensure the design criteria address accident conditions, pressure buildup, and special shielding requirements, and that released gases meet off-site radiological limits.

12. *Question from the proposed rule:* Should the storage of GTCC that may generate or release gases via radiolytic or thermal decomposition, including flammable gases, be prohibited in either commingled or separate GTCC casks? Or should storage be permitted if performance criteria can be established? If so, what criteria should be used?

Comment: One State commenter believes its comment to question 10 applies to questions 11 through 14; that is, to prohibit commingling. The other State commenter opposes any commingling of spent fuel and GTCC waste that contain resins which are composed of water and plastic because the high heat in spent fuel canisters can cause evaporation and the build up of pressure within a canister. The commenter opposes any mixture of gas-generating materials within a storage container.

Five industry commenters believe that with the proper conditions (e.g., quantities of gas released will not exceed safe limits) this waste type can be safely stored. Also, storage should be allowed only, if under worst-case conditions, an accident would not endanger public health and safety. Another commenter noted that it is highly unlikely that such material would be in reactor decommissioning GTCC waste.

Response: The NRC has concluded that GTCC waste that may release gases via radiolytic or thermal decomposition, including flammable gases, should only be stored at an ISFSI if this material is solidified and stabilized to minimize these characteristics. For these types of materials, the licensee programs must ensure that an analysis is conducted to show that these materials can be safely stored for the full period of the ISFSI or MRS license. The NRC concludes that this type of material, once stabilized and solidified, should be stored within a separate container as noted in response to question 9. The expectation is that the licensee's programs would ensure the design criteria address accident conditions, pressure buildup, and that released gases meet off-site radiological limits.

13. Question from the proposed rule: Should the storage of solid GTCC waste that may contain free liquid (e.g., dewatered resin) be prohibited in either commingled or separate GTCC casks? Or should storage be permitted if performance criteria can be established? If so, what criteria should be used?

Comment: The one State commenter believes its comment to question 10 applies to questions 11 through 14; that is, to prohibit commingling.

Five industry commenters provided differing views: some believe that GTCC waste that may contain free liquids should not be commingled with spent fuel, while others believe that it should be allowed if supported by a Safety Analysis Report. One commenter noted that it is highly unlikely that such material would be in reactor decommissioning GTCC waste (i.e., dewatered resins from reactor plants are not GTCC waste).

Response: The NRC has concluded that solid GTCC waste that contains free liquids should be treated to remove excess free liquids prior to storage at an ISFSI or an MRS. For this solidified material, the licensee's programs must ensure that an analysis is conducted to show that these materials can be safely stored for the full period of the ISFSI or MRS license. The NRC concludes that this type of material, once solidified, should be stored within a separate container as noted in response to question 9. The expectation is that the licensee's programs would ensure the design criteria address accident conditions, pressure buildup, and that released gases meet off-site radiological limits.

14. Question from the proposed rule: Should the storage of liquid GTCC waste be prohibited in either commingled or separate GTCC casks? Or should storage be permitted if performance criteria can be established? If so, what criteria should be used?

Comment: The one State commenter believes its comment to question 10 applies to questions 11 through 14; that is, to prohibit commingling.

Five industry commenters provided differing views: some believe that liquid GTCC waste should not be commingled with spent fuel, while others believe that it should be allowed if supported by a Safety Analysis Report. One commenter noted that it is highly unlikely that such material would be in reactor decommissioning GTCC waste.

Response: The NRC has concluded that liquid GTCC waste should be solidified prior to storage at an ISFSI or an MRS. For this solidified material, the licensee's programs must ensure that an analysis is conducted to show that these materials can be safely stored for the full period of the ISFSI or MRS license. The NRC concludes that this type of material, once solidified, should be stored within a separate container as noted in response to question 9. The expectation is that the licensee's programs would ensure the design criteria address accident conditions, pressure buildup, and that release gases meet off-site radiological limits.

C. Agreement State Issues (Including Specific Questions for Agreement States in the Proposed Rule):

15. From the proposed rule: What is the position of the Agreement States on NRC assuming jurisdiction of storage of GTCC waste generated during the operation of a 10 CFR part 50 license after termination of the 10 CFR part 50 license?

Comment: Only four of the 32 Agreement States responded to this question, but none supported the NRC's exercise of jurisdiction. The four States' reasons varied. The first State commenter, South Carolina, does not view favorably relinquishing what it regards as its jurisdiction over reactor-related GTCC waste because, in South Carolina's view, the waste is composed of radioactive materials which Agreement States can be authorized to regulate under the AEA. South Carolina also noted that, although the Low Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA) clearly makes the Federal government responsible for the disposal of GTCC waste, it is silent on the responsibility for the interim storage of this waste. Therefore, South Carolina believes that the States can have some jurisdiction over the management and storage of these wastes and other low-level waste at decommissioned 10 CFR part 50 facilities. South Carolina says that it may also want to have all GTCC waste stored at a central location rather than at numerous sites throughout the State. South Carolina also believes that the NRC and an Agreement State could effectively collaborate in the regulation of a single facility to avoid duplication of efforts and dual regulation. South Carolina believes that any GTCC waste storage facility constructed outside the restricted exclusion area of a reactor would be clearly subject to State jurisdiction. Further, South Carolina reports that, on a case-by-case basis, it allows temporary storage of selected GTCC waste (less than one percent above Class C limits) from 10 CFR part 50 licensees at its Barnwell low-level waste disposal facility prior to disposing of this waste and wants to maintain licensing authority for reactor-related GTCC waste in order to continue this practice.

The second State commenter, Illinois, objects to what it sees as the NRC's disregard of the AEA of 1954, as amended, and of the Agreement between the NRC and the State of Illinois under section 274b of the AEA. Illinois noted that section 274b authorizes the NRC to discontinue, and an Agreement State to assume, regulatory authority over radioactive material, including byproduct material, source material, and special nuclear material in quantities not sufficient to form a critical mass, and Illinois believes that the NRC has relinquished its authority over these materials in its Agreement with Illinois. Further, section 274j of the AEA specifies the conditions under which the NRC can terminate or suspend all or part of an Agreement and reassert authority. Illinois also argues that neither of the two reasons the AEA gives for termination of an Agreement with an Agreement State—that the Agreement State has either failed to protect the public health and safety or failed to comply with requirements in section 274 of the AEA—is applicable to licensing the storage of GTCC waste, and neither reason is asserted in the proposed rule. Illinois says that the AEA provides the NRC with no authority to unilaterally modify Agreements with Agreement States, either by administrative fiat or by rule. Illinois disputes that the requirement, in section 274c of the AEA, that forbids NRC discontinuance of its authority to license the construction and operation of production and utilization facilities provides NRC with the authority ''to dictate that Agreement States no longer have authority to license storage of GTCC waste at a facility that is no longer licensed as a production or utilization facility.''

The third State commenter, Utah, does not believe that the NRC should ''usurp'' State authority for licensing GTCC waste under 10 CFR parts 30, 70, or 72, once a reactor is decommissioned. The State says there are other areas in which jurisdiction over AEA materials may be either State or Federal. The State believes that, after decommissioning, and especially where spent fuel is shipped offsite, the State should have a significant regulatory presence. (The commenter also believes that only the NRC should license GTCC waste storage casks.)

The fourth State commenter, New York, does not support what it calls the ''carte blanche'' relinquishment of its regulatory authority. New York believes that it has effectively collaborated with the NRC in the regulation of single facilities and is not aware of any problems. New York believes that cooperative effort can minimize duplication and maximize the value of limited resources while still allowing both regulatory entities to retain their current regulatory authority. New York believes relinquishment could be considered on a case-by-case basis where regulatory duplication could not be minimized or a Memorandum of Understanding could not be developed to resolve problematic issues.

Response: Until this rulemaking, which opens a clear path to storage of reactor-related GTCC waste co-located with spent fuel in an ISFSI or an MRS after termination of a 10 CFR part 50 license, the Commission has not had occasion to examine systematically the interplay between NRC and Agreement State jurisdiction over reactor-related GTCC waste. The LLRWPAA assigns to the Federal government the ultimate responsibility for disposal of GTCC waste, but no statute or regulation has explicitly addressed the storage of such waste. After considering all comments received during the rulemaking, and after examining carefully the underlying regulatory and statutory scheme, the Commission concludes that the NRC should retain regulatory jurisdiction over reactor-related GTCC waste after termination of a reactor's 10 CFR part 50 license.

The Commission's position follows directly from the existing Agreements the NRC and the States have entered into under section 274 of the AEA, and it is consistent with other law and with sound policy. Under section 274, Agreement States possess regulatory authority over radioactive waste only where the Commission has relinquished its preexisting authority. No Agreement explicitly mentions reactor-related GTCC waste, and though some Agreement States have programs for storage and disposal of non-reactor-related GTCC waste—programs that have been found compatible with the NRC's own program for regulating such wastes—section 274 Agreements cannot be understood as a general matter to relinquish Commission authority over reactor-related GTCC waste. These wastes are integrally related to the operation of reactors because these wastes consist for the most part of activated metal reactor components such as core shrouds, support plates, nozzles, core barrels, and in-core instrumentation. The Commission has reserved to itself matters integral to the operation of reactors. Thus, when, under the section 274 program, the Commission reaches Agreements with States and relinquishes regulatory jurisdiction to them, the Commission specifically retains authority over the ''operation'' of reactors, as required by an NRC rule promulgated nearly 40 years ago. Section 150.15(a)(1) of 10 CFR defines ''operation'' as follows:

> As used in this subparagraph, operation of a facility includes, but is not limited to (i) the storage and handling of radioactive wastes at the facility site by the person licensed to

operate the facility; and (ii) the discharge of radioactive effluents from the facility site.

Id. (Emphasis added.)

In short, a State entering a section 274 Agreement with the NRC does not, and cannot, acquire regulatory authority over reactor-related GTCC waste. Thus, the Commission's assertion of ongoing NRC jurisdiction over reactor-related GTCC waste does not take back previously-granted State authority or terminate an NRC-State Agreement.[4]

The approach just outlined is consistent with the AEA. Section 274 itself requires continued Commission authority over basic reactor operation even after entry of Agreements. *See* AEA, section 274(c)(1). Section 274 also contemplates continued Commission authority over ''disposal'' of certain types of waste material ''because of the hazards or potential hazards thereof.'' *See* AEA, section 274(c)(4). The final rule the Commission issues today is consistent with these statutory provisions, because the GTCC waste over which the rule retains Commission jurisdiction was used by or generated at operating reactors and can reasonably be regarded as waste whose ''potential hazards'' warrant ultimate disposal under NRC supervision.

This conclusion is strongly reinforced by more recent statutory enactments specifically dealing with the handling of radioactive wastes. The Low Level Radioactive Waste Policy Amendments Act assigns to the Federal government the ultimate responsibility for disposal of GTCC waste, and to the NRC the responsibility for regulating the disposal of GTCC waste generated by NRC licensees. See sections 3(b)(1)(D) and 3(b)(2) of the LLRWPAA.[5] The two principal facts behind these sections were that most States did not want to be ultimately responsible for the disposal of GTCC waste, and that the States did not want the GTCC waste buried in DOE's existing unlicensed low-level waste burial sites. Nonetheless, these sections have been read broadly enough to permit disposal of GTCC waste in facilities run by States or private entities—as long as the Federal government was satisfied that the disposal provided adequate protection of public health and safety—and to permit compatible Agreement State regulation of some GTCC waste stored and disposed of in a State or private facility. See, e.g., 54 FR 22578, 22579 (May 25, 1989).

However, the same statutory language cannot be read so broadly as to empower States to regulate storage and disposal of any and all GTCC waste. That is clearly the case with disposal. Indeed, the language of these two sections could more reasonably be read to prohibit the States from any regulation of disposal of reactor-related GTCC waste whatsoever. As for storage, these sections cannot be interpreted as allowing to Agreement States blanket and unlimited authority over storage of GTCC waste. Because the NRC indisputably has jurisdiction over GTCC waste while a reactor licensed under 10 CFR Part 50 is being operated and similarly has jurisdiction over its disposal, it is reasonable for the NRC to retain regulatory authority over GTCC waste during the interim period—i.e., between the time when the reactor is shut down and the time the GTCC waste goes to disposal. This is especially the case when, as many reactor owners contemplate, the GTCC waste could be stored along with NRC-regulated spent fuel in an NRC-regulated ISFSI or MRS. Low-level radioactive waste not exceeding the Class C limits is different, because no statute assigns the Federal government ultimate responsibility for disposal, or the NRC explicit responsibility for regulating disposal of such waste. Thus, issuance of this final rule does not affect the States' long-standing practice of exercising regulatory jurisdiction over non-GTCC low-level radioactive waste originally generated at reactors, or over GTCC waste generated by materials licensees regulated by Agreement States.

The alternative to NRC jurisdiction over reactor-related GTCC waste stored onsite or in an ISFSI or MRS is a regulatory scheme that calls for not one shift of regulatory authority, as in the case of Class A, B, or C low-level reactor waste, but two shifts of regulatory authority, one at plant shutdown, and the other at disposal. It is difficult to see the practical sense in this, let alone a practical necessity.

The NRC agrees that States can work well with the NRC, and although the NRC is retaining regulatory authority over the storage and disposal of reactor-related GTCC waste, there are a number of ways States may participate in NRC regulation, as the States know from experience. For example, the Commission will continue to adhere to its Policy Statement, ''Cooperation with States at Commercial Nuclear Power Plant and Other NuclearProduction or Utilization Facilities'' (57 FR 6462; February 25, 1992), which allows States to develop specific arrangements, such as exchange of information, State observation of NRC inspection activities, and placement of State resident engineers at nuclear power plants. Nonetheless, that the NRC and an Agreement State can work well together does not prove that they both should have regulatory authority at an NRC-regulated ISFSI that contains a cask with spent fuel, regulated by the NRC, co-located with reactor-related GTCC waste.

16. *From the proposed rule:* What controls and regulatory frameworks would the Agreement States envision, assuming they have jurisdiction over GTCC waste generated during the operation under a 10 CFR Part 50 license after termination of the 10 CFR part 50 license? How would the Agreement States plan to ensure consistency with a national regulatory scheme?

Comment: Only two States responded. The first said that it cannot say what other Agreement States could do, and that each State should be evaluated on its own. But this State nevertheless claimed that GTCC waste is similar to Class B and C waste, which States have regulated for years. The State believes it has the experience and capability needed to establish the controls and regulatory framework comparable to NRC standards. It therefore believes that it is capable of administering 10 CFR part 72 standards. The second State argued that consistency with a national regulatory scheme for storage of GTCC waste would be ensured in the same manner in which the consistency of other Agreement State regulation in other areas is ensured. The second State envisions establishing controls and a regulatory framework that are compatible with the NRC's for this type of waste storage.

Response: With so few responses, the NRC cannot form a clear picture of how the Agreement States would regulate storage of reactor-related GTCC waste so as to ensure consistency with a national program for regulating such waste. As we note in the response to the next

[4] The Commission's action today serves to preserve NRC jurisdiction over reactor-related GTCC waste both at the facility site, which is where most such waste now resides, and at other locations. Although § 150.15(a)(1)(i) refers only to waste ''at the facility site,'' that language is not confining because of the ''is-not-limited-to'' preamble. Our conclusion that such waste should be subject to exclusive NRC jurisdiction is reinforced by considering Sections 274(c)(1) and (4) of the AEA and by Sections 3(b)(1)(d) and 3(b)(2) of the Low Level Radioactive Waste Policy Amendments Act, discussed subsequently.

[5] Section 3(b)(1)(D) says, ''The Federal Government shall be responsible for the disposal of * * * any * * * low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste * * *.'' Section 3(b)(2) says, ''All radioactive waste designated a Federal responsibility pursuant to subparagraph (b)(1)(D) that results from activities licensed by the Nuclear Regulatory Commission * * * shall be disposed of in a facility licensed by the * * * Commission * * *.''

question, some State regulation of the storage and disposal of some marginally reactor-related GTCC waste has already occurred in a way that is consistent with a coherent national program that protects public health and safety. But the question here is whether such a program can be established that would permit State regulation of all GTCC waste as a general matter, no matter what the activity level, no matter how integrally related to reactor operation, and no matter whether stored with spent fuel or not. It is certainly true, as one of the States said, that the NRC has authority under section 274 of the AEA to take steps that help assure that State programs are ''compatible'' with the NRC's own programs. Indeed, it is the NRC's responsibility to work to ensure such compatibility. Nonetheless, only the Agreement States can establish and maintain compatible programs. The NRC can only assess the degree of compatibility and protection of health and safety, through the Integrated Materials Performance Evaluation Program, and take the steps necessary to seek to ensure compatibility and protection of health and safety where it is missing. Under circumstances in which the NRC must exercise jurisdiction of GTCC waste during reactor operations and at the time of disposal, the NRC does not have a strong practical justification for allowing States to exercise jurisdiction over storage in the interim period before disposal. At this time, it is unclear whether a consistent national regulatory scheme could be established and maintained if States exercised jurisdiction over storage of all such wastes.

17. *From the proposed rule:* The NRC staff is not aware of any current Agreement State license for the storage of reactor-related GTCC waste. Are there any such licenses within your State or are you aware of any such Agreement State licenses?

Comment: Two States commented. Illinois reports that it does not have any reactor-related GTCC waste under license. South Carolina reports that it allows temporary storage of some approved GTCC waste from 10 CFR part 50 licensees (less than 1 percent above Class C limits) while awaiting disposal at its licensed Barnwell low-level waste facility. South Carolina also licenses the partially decommissioned Carolinas-Virginia Nuclear Power Associates (CVNPA) reactor, a commercial test reactor sponsored by a consortium of power companies. This reactor was formerly licensed by the Atomic Energy Commission (AEC), but its AEC 10 CFR part 50 license was terminated after the reactor was shut down and placed in a SAFSTOR decommissioned status. Concurrent with the termination of the facility license, the AEC issued a Byproduct Material License which authorized CVNPA to possess and store the byproduct material in the remaining structures and dismantled parts. In 1969, the AEC transferred this Byproduct Material License to South Carolina. The site is currently undergoing complete decommissioning and dismantlement. South Carolina states that ''(a)lthough waste classification of the irradiated reactor components (is) not complete, it is likely there will be some GTCC waste that may require licensure by the State for interim storage, or may be transferred to one of their parent 10 CFR part 50 licensees for storage.''

Response: We note that South Carolina currently regulates storage and disposal of some reactor-related GTCC waste at its Barnwell low-level waste disposal facility. It is South Carolina's practice, as noted in its comment, to accept for storage and disposal at Barnwell only reactor-related waste that is less than 1 percent above the NRC's limits for Class C low-level waste on a case-by-case basis. There is no significant difference between the way such waste should be handled and the way South Carolina handles Class C low-level waste. Thus the Commission does not seek any change in South Carolina's practice. Moreover, there is no question that the States will continue to exercise their current jurisdiction over low-level waste other than GTCC waste, and over GTCC waste that is not reactor-related. With respect to the CVNPA site, if it turns out that some reactor-related GTCC waste results from the further characterization and decommissioning work planned for this site, South Carolina will need to consult with the NRC as to the appropriate management of this waste.

D. Other Comments

18. Blending GTCC waste within the reactor vessel.

Comment: The private citizen commenter believes that the NRC is not following ALARA principles by requiring that small quantities of GTCC waste be segregated from other low-level waste within the reactor vessel. If GTCC waste were left within the reactor vessel and blended with the lower activity material within the vessel, it could be safely disposed of as low level waste. The collective dose to segregate the GTCC waste versus burial of the reactor vessel, averaged to be below Class C, would be significantly less. Therefore, the NRC should develop additional rulemaking and/or guidance on the blending of reactor internals to reduce worker dose.

Response: This rulemaking is designed to add flexibility for the storage of GTCC waste and has not eliminated any current option that licensees may wish to use to store GTCC waste. If the licensee desires to dispose of the reactor vessel, the NRC and appropriate Agreement States will review this on a case-by-case basis. The regulatory process and review could be similar to that used by the NRC and Washington State in approving Portland General Electric Company's (i.e., the Trojan nuclear facility) transportation and disposal of its reactor vessel at a LLW facility. The NRC expects the licensee will consider ALARA principles in determining the best disposal option.

19. Away from reactor storage.

Comment: The State of Utah is greatly concerned, and adamantly opposes, the storage of GTCC waste at away-from-reactor ISFSIs, including something such as the proposed Private Fuel Storage facility for spent fuel. The commenter believes that there is the potential that most of the nation's spent nuclear fuel and GTCC waste could be shipped to Utah and that, once there, it will never leave the State. The commenter noted that there are no long term GTCC waste disposal plans. The commenter believes that the NRC must restrict storage to at-reactor ISFSIs and not allow GTCC waste to be shipped across the country unless, and until, decisive plans have been made for the permanent disposition of GTCC waste. The commenter noted from DOE documents that DOE anticipates that GTCC waste will remain at the reactor site until a disposal option becomes available, and that currently the disposal option is not known. The proposed rule does not address the disposition of the waste at the end of a 10 CFR Part 72 ISFSI license. The commenter believes there is a significant volume of GTCC waste that could be shipped away from the reactor site and the NRC is silent on the transportation of GTCC waste. There is no discussion about transportation containers or the exposure level and the population at risk from transportation.

The commenter believes that NRC needs to prepare a programmatic or generic environmental impact statement (EIS) for the transportation of GTCC waste since this could be a significant departure from the current regulatory scheme and a significant federal action affecting the quality of the human environment. If the proposed Private Fuel Storage ISFSI on the Skull Valley

Goshute Indian reservation in Utah becomes the prime location for GTCC waste storage, the proposed rule would permit the mass movement of GTCC waste across the country. In this respect, the NRC cannot rely on its ''waste confidence rule'' because the waste confidence rule only applies to spent fuel. The NRC does not address the final disposition of GTCC waste. In fact, the NRC decommissioning rule under 10 CFR part 72 only requires the applicant to propose and fund a decommissioning plan after removal of GTCC waste which may never occur. The commenter noted that no EIS had ever been prepared on the transportation of GTCC waste which may be long-lived and can contain millions of curies of radioactivity. The commenter believes particular attention is needed for GTCC waste resins and an evaluation of the hazard of an accident involving a long-duration fire. Resins contain water and plastic which would evaporate and melt unlike activated metals. The commenter believes NRC cannot rely on RADTRAN, a transportation model, because GTCC waste resins are composed of elements that RADTRAN does not address (e.g., ion exchange resins). Moreover, the NRC cannot rely on an EIS conducted for a site specific ISFSI that only addresses storage of spent fuel.

The State of Utah also believes that NRC has not thought through issues related to insurance requirements, liability for harm resulting from GTCC waste, and complexities of waste ownership. Utah maintains that a void will occur in insurance coverage for GTCC waste at an away-from-reactor ISFSI; the generating facility would no longer cover that waste, and the Price-Anderson Act would not cover transportation incidents to and from the ISFSI because GTCC waste is not high level waste. Utah also noted as negatives that 10 CFR part 72 fails to require on-site property insurance; multiple owners of the mix of GTCC waste at an away-from-reactor ISFSI will complicate assigning liability and after decommissioning of a reactor site, the ''deep-pocket'' utility ceases to be an ''owner,'' thus shedding responsibility for the GTCC waste. Also, the State expresses concern that after an accident, it may need to take action in order to protect public health and safety, even though it lacks regulatory authority.

Response: The NRC finds that most of these comments are not germane to this rulemaking, which provides general standards for the storage of reactor-related GTCC wastes. Issues associated with an away-from-reactor ISFSI can appropriately be addressed in a specific licensing action concerning such a facility. In any event, the NRC disagrees with the comments. The comments generally stated that GTCC waste should not be shipped to an away-from-reactor ISFSI site due to lack of analysis regarding transportation containers or the exposure level and the population at risk from transportation. The transportation of radioactive material, which includes GTCC waste, was previously analyzed by the NRC in NUREG 0170, ''Final Environmental Statement on the Transportation of Radioactive Materials by Air and Other Modes.'' This EIS covered the transport of all types of radioactive material by all transport modes (including GTCC waste). Transportation of GTCC waste and other Type B quantities of radioactive material (i.e., spent fuel) is governed by the NRC regulations in 10 CFR part 71 and the Department of Transportation (DOT) regulations in 49 CFR part 173. The NRC believes that NUREG–0170 bounds the environmental impact from the shipment of GTCC waste and this waste can be safely shipped in compliance with these regulations.

With respect to the comment on insurance and liability, under existing law, there is no cause for a void in insurance coverage for GTCC waste at an away-from-reactor ISFSI even though 10 CFR part 72 does not provide specific insurance or indemnity requirements for an away-from-reactor facility. Licensing actions to permit away-from-reactor storage may be made subject to license conditions requiring the maintenance of appropriate amounts of liability insurance up to $200 million. ($200 million is the maximum insurance currently commercially available to cover offsite public liability and is the amount required for large power reactors.) In addition, there may be appropriate commitments, confirmed by license conditions, for insurance to cover onsite damages.

The Price-Anderson Act (Atomic Energy Act section 170, 42 U.S.C. 2210 & 2014 (related definitions)) requires indemnification for 10 CFR Part 50 facilities. The Act also gives the Commission discretionary authority to extend indemnity coverage to activities undertaken by three types of materials licensees. See 42 U.S.C. and 42 U.S.C. 2210 a. Thus, the Commission can indemnify away-from-reactor ISFSIs in the event the Commission were to find that the risks of offsite damage are so large as to be uninsurable or that the public interest requires it. Moreover, the Price-Anderson Act does not restrict its coverage of reactor waste to spent fuel. Thus, were the Commission to use its discretion to cover away-from-reactor ISFSIs, all transportation to and from them would be covered. However, even lacking such a discretionary designation, transportation of GTCC waste to the ISFSI would, in any event, be covered by the generator's Price-Anderson coverage. Likewise, if the final transportation were to be to an indemnified facility, such as a DOE facility, that transportation would be covered by Price-Anderson. See e.g. Atomic Energy Act, section 170n(1)(B) and 42 U.S.C. 2210n(1)(B).

In addition, to address any perceived problem from the multiplicity of customers, 10 CFR part 72 license conditions can require terms in service agreements by which allocation of liability might be made among customers. Where needed, additional financial assurances could be provided. Also, § 72.30's provisions for ''Financial assurance and recordkeeping for decommissioning'' includes a requirement that the decommissioning plan have a funding plan that contains information on how reasonable assurance will be provided that funds will be available to decommission the ISFSI or MRS.

Finally, the State's possible need in an emergency ''to take action even though it is not the regulator of the GTCC waste'' is no different from the circumstance in an emergency resulting from a nuclear power plant or other federally regulated facility that uses radioactive materials. There are like requirements imposed on the 10 CFR part 72 licensee for notification and requests for offsite assistance. *See* § 72.32. The Commission is confident that a partnership of Federal, State, local, and Tribal governments will act to protect the public health and safety and the environment in the event of an emergency.

20. The definition of the term ''cask.''

Comment: One commenter believes that the NRC needs to be clearer when using the term cask as it is defined and used in 10 CFR 72.121(a)(2) and 72.230(b). Reference is made to ''casks that have been certified * * * under part 71,'' but cask is not defined in either 10 CFR part 71 or the transportation regulations in Title 49. The term cask is commonly used throughout the nuclear power industry to refer to one or more types of transport packaging, but it is also generally accepted that the correct term is ''packaging'' rather than ''cask.'' Spent fuel dry storage has extended the application of the term cask, yet it is not formally defined in either Title 10 or Title 49. The commenter noted that the proposed rule included a definition for the terms ''spent fuel storage cask or

cask,'' but believes that the definition may raise more questions than it resolves because it focuses on a container and not a package. The term container is not defined in either Title 10 or Title 49, resulting in a new definition which is based on an undefined term. Does cask refer to (1) a package, (2) packaging, or (3) something else? This is particularly important when referring to ''casks that have been certified * * * under part 71,'' which would suggest a specific package or packaging. The commenter believes that Title 10 should avoid any term related to transportation which would create an inconsistency with Title 49. The commenter proposes several alternative solutions based on the intended meaning of cask to maintain consistency with Title 49 and believes the term should be reviewed by the Department of Transportation and incorporated into 49 CFR 171.8 during the next revision.

Response: The commenter requested that the NRC modify the definition of the term ''cask'' as used in 10 CFR 72.121(a)(2) to better correlate this term to the term packaging and packages used in 10 CFR part 71. The NRC believes the commenter's reference should have been to 10 CFR 72.212(a)(2) which discusses the use of casks certified under 10 CFR part 72. The NRC concludes, however, that the definition of the term cask should not be changed. The general term cask as used in 10 CFR part 72 is intended to speak to the cask design characteristics, such as criticality, shielding, thermal loading, and structural integrity and not all the components of a typical transportation packaging, such as an impact limiter. Because there is not a good correlation between the 10 CFR part 72 cask definition and 10 CFR part 71 packaging and packages, an attempt to relate the terms might cause confusion. As indicated by the commenter, it is very important that terms used in 10 CFR part 71 and DOT regulations are consistent. In the proposed rule the only change intended for the term spent fuel storage cask or cask was to allow the storage of reactor-related GTCC waste within a cask. Attempting to change these terms within NRC regulations would require corresponding changes in DOT regulations, which is beyond the scope of this rulemaking.

However, in evaluating this comment, the NRC believes that changing the definition of ''spent fuel storage cask or cask'' to include GTCC waste was unintended. Adding GTCC waste to this definition would require that this waste type be stored in a ''spent fuel storage cask.'' The NRC did not intend for the requirements in 10 CFR part 72 to be as prescriptive as could be implied in the proposed rule.

Accordingly, the final rule removes the change in the proposed rule to § 72.3 dealing with the definition of ''spent fuel storage cask or cask.''

Section-by-Section Analysis

The following section is provided to assist the reader in understanding the specific changes made to each section or paragraph in 10 CFR parts 30, 70, 72, and 150. For clarity of content in reading a section, much of that particular section may be repeated, although only a minor change is being made. This section should allow the reader to effectively review the specific changes without reviewing existing material that has been included for content, but has not been significantly changed.

Section 30.11(b) is a new paragraph (in the existing CFR it is noted as reserved) to exempt a licensee from the requirements of 10 CFR part 30, to the extent that its activities are licensed under the requirements of 10 CFR part 72.

Section 70.1(c) is being revised to exempt a licensee from the requirements of 10 CFR part 70 when power reactor-related GTCC waste is being stored under the requirements of 10 CFR part 72.

The title to 10 CFR part 72 is being revised to include GTCC waste.

The following sections or paragraphs are being revised to specify the inclusion of GTCC waste, for clarity, or for completeness: §§ 72.1, 72.2(a) and (c), 72.8, 72.16(d), 72.22(e)(3), 72.24 introductory text and (i), 72.28(d), 72.30(a), 72.44(b)(4), (c)(3)(i), (c)(5), (d) and (g)(2), 72.52(b)(2), (c), and (e), 72.54(c)(1), 72.60(c), 72.72(a), (b), and (d), 72.75(b), (c), (d)(1)(iv), and (d)(2)(ii)(L), 72.80(g), 72.82(a) and (b), 72.106(b), 72.108 title and text, 72.122(b)(2), (h)(2), (h)(5), (i), and (l), 72.128 title and (a), and 72.140(c)(2). Also, §§ 72.72, 72.76, and 72.78 have been modified to clarify the reporting requirements for special nuclear material as specified in 10 CFR 74.13(a)(1).

Section 72.3: The definition for GTCC waste is being added to 10 CFR part 72 and the definitions of Design capacity, Independent spent fuel storage installation or ISFSI, Monitored Retrievable Storage Installation or MRS, and Structures, systems, and components important to safety, are being revised to specify the inclusion of GTCC waste.

Section 72.6: This section has been revised to clearly indicate that reactor-related GTCC waste only can be stored under the provisions of a 10 CFR part 72 specific license.

Section 72.40(b): This section has been modified for clarity and by adding a new introductory sentence that would include reactor-related GTCC waste. Also, reference to the Atomic Safety and Licensing Appeal Board has been removed since this board no longer exists.

Sections 72.72(a), 72.76(a), and 72.78(a): These sections have been modified to clarify the reporting requirements for special nuclear material as specified in 10 CFR 74.13(a)(1).

Section 72.120: This section has been modified for clarity and to provide some general considerations for the storage of GTCC waste within an ISFSI or an MRS.

Section 150.15(a)(7)(i) and (ii): Essentially repeats the text of the existing paragraphs with amendments for consistency with the new § 150.15(a)(7)(iii).

Section 150.15(a)(7)(iii): This new paragraph will specify that the storage of reactor-related GTCC waste within an ISFSI or an MRS licensed pursuant to 10 CFR part 50 and/or part 72 is exempt from Agreement State authority.

Paragraph 150.15(a)(8): This new paragraph will specify that the storage of reactor-related GTCC waste licensed under 10 CFR part 30 and/or part 70 is exempt from Agreement State authority.

In the NRC's final rule, ''Clarification and Addition of Flexibility'' (65 FR 50606; August 21, 2000), changes have been made to 10 CFR part 72. Section 72.140(c)(2) is the only section that is being changed in both rules and this rulemaking is consistent with the ''Clarification'' rulemaking changes.

Compatibility of Agreement State Regulations

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), § 70.1(c), 10 CFR part 72 and § 150.15 continue to be classified as compatibility Category ''NRC.'' Section 30.11(b) is also classified as Category ''NRC.'' Previously, this subsection was reserved and classified as Category ''D,'' not required for purposes of compatibility. The NRC program elements in Category ''NRC'' are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or provisions of Title 10 of the Code of Federal Regulations.

Because the Commission was particularly interested in the position of

the Agreement States on certain issues, three questions were identified in the proposed rule for Agreement State input. Five of the 32 Agreement States commented on the proposed rule (four on the three questions). The comments and responses on the specific Agreement State questions are found on the Comments in the Proposed Rule section, comment numbers 15, 16, and 17.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that agencies use technical standards that are developed or adopted by voluntary consensus standard bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this rule, the NRC is presenting amendments to its regulations that would allow the licensing of interim storage of GTCC waste. This action does not constitute the establishment of a standard that establishes generally-applicable requirements and the use of a voluntary consensus standard is not applicable.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The rule will provide reactor licensees an additional option of storing GTCC waste under a 10 CFR part 72 license using spent fuel storage criteria of that part. Storage of GTCC waste at an ISFSI or an MRS would be in a passive mode with no human intervention needed for safe storage. The Environmental Assessment determined that there is no significant environmental impact as a result of these changes.

The Environmental Assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the Environmental Assessment and the finding of no significant impact are available from Mark Haisfield, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6196.

Paperwork Reduction Act Statement

This final rule amends information collection requirements contained in 10 CFR part 72 that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval number 3150–0132. The proposed changes to 10 CFR part(s) 30, 70, and 150 do not contain a new or amended information collection requirement. Existing requirements were approved by the Office of Management and Budget, approval number(s) 3150–0017, 3150–0009, and 3150–0032.

The burden to the public for this information collection is estimated to average 120 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of this information collection, including suggestions for reducing the burden, to the Records Management Branch (T–6 E6), U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, or by Internet electronic mail at *BJS1@NRC.GOV*; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0132), Office of Management and Budget, Washington DC 20503.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The Commission has prepared a final Regulatory Analysis on this regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the Regulatory Analysis are available from Mark Haisfield, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6196.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The amendments will apply to reactor licensees, ISFSI licensees, certificate holders, applicants for a Certificate of Compliance, and DOE. The majority, if not all, of these licensees would not qualify as small entities under the NRC's size standards (10 CFR 2.810).

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Backfit Analysis

The NRC has determined that the backfit requirements, 10 CFR 50.109 and 72.62, do not apply to this rule, and therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1) or 72.62(a). This rule will not require licensees to use 10 CFR part 72 to store GTCC waste. It provides a practical option with criteria that licensees may use. It does not preclude, or change, use of 10 CFR parts 30 and 70 as a licensing mechanism to store GTCC waste. The NRC anticipates that storage of GTCC waste licensed under 10 CFR part 72 can simplify the licensing process, for both licensees and the NRC, with no significant impact to public health and safety or the environment.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR parts 30, 70, 72 and 150.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec.184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 30.11 a new paragraph (b) is added to read as follows:

§ 30.11 Specific exemptions.

* * * * *

(b) Any licensee's activities are exempt from the requirements of this part to the extent that its activities are licensed under the requirements of part 72 of this chapter.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

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

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835 as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–49 (42 U.S.C. 2243).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

4. In § 70.1 paragraphs (c)(1) and (2) are revised to read as follows:

§ 70.1 Purpose.

* * * * *

(c) * * *

(1) Spent fuel, power reactor-related Greater than Class C (GTCC) waste, and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI), or

(2) Spent fuel, high-level radioactive waste, power reactor-related GTCC waste, and other radioactive materials associated with the storage in a monitored retrievable storage installation (MRS), and the terms and conditions under which the Commission will issue such licenses.

* * * * *

5. The heading of part 72 is revised to read as follows:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

6. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 295 as amended by Pub. L. 102–486, sec 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203; 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

7. Section 72.1 is revised to read as follows:

§ 72.1 Purpose.

The regulations in this part establish requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel, power reactor-related Greater than Class C (GTCC) waste, and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI) and the terms and conditions under which the Commission will issue these licenses. The regulations in this part also establish requirements, procedures, and criteria for the issuance of licenses to the Department of Energy (DOE) to receive, transfer, package, and possess power reactor spent fuel, high-level radioactive waste, power reactor-related GTCC waste, and other radioactive materials associated with the storage of these materials in a monitored retrievable storage installation (MRS). The term Monitored Retrievable Storage Installation or MRS, as defined in § 72.3, is derived from the Nuclear Waste Policy Act (NWPA) and includes any installation that meets this definition. The regulations in this part also establish requirements, procedures, and criteria for the issuance of Certificates of Compliance approving spent fuel storage cask designs.

8 In § 72.2 paragraphs (a) and (c) are revised to read as follows:

§ 72.2 Scope.

(a) Except as provided in § 72.6(b), licenses issued under this part are limited to the receipt, transfer, packaging, and possession of:

(1) Power reactor spent fuel to be stored in a complex that is designed and constructed specifically for storage of power reactor spent fuel aged for at least one year, other radioactive materials associated with spent fuel storage, and power reactor-related GTCC waste in a solid form in an independent spent fuel storage installation (ISFSI); or

(2) Power reactor spent fuel to be stored in a monitored retrievable storage installation (MRS) owned by DOE that is designed and constructed specifically for the storage of spent fuel aged for at least one year, high-level radioactive waste that is in a solid form, other radioactive materials associated with storage of these materials, and power reactor-related GTCC waste that is in a solid form.

* * * * *

(c) The requirements of this regulation are applicable, as appropriate, to both wet and dry modes of storage of—

(1) Spent fuel and solid reactor-related GTCC waste in an independent spent fuel storage installation (ISFSI); and

(2) Spent fuel, solid high-level radioactive waste, and solid reactor-related GTCC waste in a monitored retrievable storage installation (MRS).

* * * * *

9. Section 72.3 is amended by adding a definition, in its proper alphabetic order, of the term *Greater than Class C waste*, and revising the definitions of *Design capacity, Independent spent fuel storage installation or ISFSI, Monitored Retrievable Storage Installation or MRS*, and *Structures, systems, and components important to safety*, to read as follows:

§ 72.3 Definitions.

* * * * *

Design capacity means the quantity of spent fuel, high-level radioactive waste, or reactor-related GTCC waste, the maximum burn up of the spent fuel in MWD/MTU, the terabequerel (curie) content of the waste, and the total heat generation in Watts (btu/hour) that the storage installation is designed to accommodate.

* * * * *

Greater than Class C waste or GTCC waste means low-level radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in § 61.55 of this chapter.

* * * * *

Independent spent fuel storage installation or ISFSI means a complex designed and constructed for the interim storage of spent nuclear fuel, solid reactor-related GTCC waste, and other radioactive materials associated with spent fuel and reactor-related GTCC waste storage. An ISFSI which is located on the site of another facility licensed under this part or a facility licensed under part 50 of this chapter and which shares common utilities and services with that facility or is physically connected with that other facility may still be considered independent.

* * * * *

Monitored Retrievable Storage Installation or MRS means a complex designed, constructed, and operated by DOE for the receipt, transfer, handling, packaging, possession, safeguarding, and storage of spent nuclear fuel aged for at least one year, solidified high-level radioactive waste resulting from civilian nuclear activities, and solid reactor-related GTCC waste, pending shipment to a HLW repository or other disposal.

* * * * *

Structures, systems, and components important to safety means those features of the ISFSI, MRS, and spent fuel storage cask whose functions are—

(1) To maintain the conditions required to store spent fuel, high-level radioactive waste, or reactor-related GTCC waste safely;

(2) To prevent damage to the spent fuel, the high-level radioactive waste, or reactor-related GTCC waste container during handling and storage; or

(3) To provide reasonable assurance that spent fuel, high-level radioactive waste, or reactor-related GTCC waste can be received, handled, packaged, stored, and retrieved without undue risk to the health and safety of the public.

* * * * *

10. Section 72.6 is revised to read as follows:

§ 72.6 License required; types of licenses.

(a) Licenses for the receipt, handling, storage, and transfer of spent fuel or high-level radioactive waste are of two types: general and specific. Licenses for the receipt, handling, storage, and transfer of reactor-related GTCC are specific licenses. Any general license provided in this part is effective without the filing of an application with the Commission or the issuance of a licensing document to a particular person. A specific license is issued to a named person upon application filed pursuant to regulations in this part.

(b) A general license is hereby issued to receive title to and own spent fuel, high-level radioactive waste, or reactor-related GTCC waste without regard to quantity. Notwithstanding any other provision of this chapter, a general licensee under this paragraph is not authorized to acquire, deliver, receive, possess, use, or transfer spent fuel, high-level radioactive waste, or reactor-related GTCC waste except as authorized in a specific license.

(c) Except as authorized in a specific license and in a general license under subpart K of this part issued by the Commission in accordance with the regulations in this part, no person may acquire, receive, or possess—

(1) Spent fuel for the purpose of storage in an ISFSI; or

(2) Spent fuel, high-level radioactive waste, or radioactive material associated with high-level radioactive waste for the purpose of storage in an MRS.

11. Section 72.8 is revised to read as follows:

§ 72.8 Denial of licensing by Agreement States.

Agreement States may not issue licenses covering the storage of spent fuel and reactor-related GTCC waste in an ISFSI or the storage of spent fuel, high-level radioactive waste, and reactor-related GTCC waste in an MRS.

12. Section 72.16 is amended by revising paragraph (d) to read as follows:

§ 72.16 Filing of application for specific license.

* * * * *

(d) *Fees.* The application, amendment, and renewal fees applicable to a license covering an ISFSI are those shown in § 170.31 of this chapter.

* * * * *

13. Section 72.22 is amended by revising paragraph (e)(3) to read as follows:

§ 72.22 Contents of application: General and financial information.

* * * * *

(e) * * *

(3) Estimated decommissioning costs, and the necessary financial arrangements to provide reasonable assurance before licensing, that decommissioning will be carried out after the removal of spent fuel, high-level radioactive waste, and/or reactor-related GTCC waste from storage.

14. Section 72.24 is amended by revising the introductory text and paragraph (i) to read as follows:

§ 72.24 Contents of application: Technical information.

Each application for a license under this part must include a Safety Analysis Report describing the proposed ISFSI or MRS for the receipt, handling, packaging, and storage of spent fuel, high-level radioactive waste, and/or reactor-related GTCC waste as appropriate, including how the ISFSI or MRS will be operated. The minimum information to be included in this report must consist of the following:

* * * * *

(i) If the proposed ISFSI or MRS incorporates structures, systems, or components important to safety whose functional adequacy or reliability have not been demonstrated by prior use for that purpose or cannot be demonstrated by reference to performance data in related applications or to widely accepted engineering principles, an identification of these structures, systems, or components along with a schedule showing how safety questions will be resolved prior to the initial receipt of spent fuel, high-level

radioactive waste, and/or reactor-related GTCC waste as appropriate for storage at the ISFSI or MRS.

* * * * *

15. Section 72.28 is amended by revising paragraph (d) to read as follows:

§ 72.28 Contents of application: Applicant's technical qualifications.

* * * * *

(d) A commitment by the applicant to have and maintain an adequate complement of trained and certified installation personnel prior to the receipt of spent fuel, high-level radioactive waste, and/or reactor-related GTCC waste as appropriate for storage.

16. Section 72.30 is amended by revising paragraph (a) to read as follows:

§ 72.30 Financial assurance and recordkeeping for decommissioning.

(a) Each application under this part must include a proposed decommissioning plan that contains sufficient information on proposed practices and procedures for the decontamination of the site and facilities and for disposal of residual radioactive materials after all spent fuel, high-level radioactive waste, and reactor-related GTCC waste have been removed, in order to provide reasonable assurance that the decontamination and decommissioning of the ISFSI or MRS at the end of its useful life will provide adequate protection to the health and safety of the public. This plan must identify and discuss those design features of the ISFSI or MRS that facilitate its decontamination and decommissioning at the end of its useful life.

* * * * *

17. Section 72.40 is amended by revising paragraph (b) to read as follows:

§ 72.40 Issuance of license.

* * * * *

(b) A license to store spent fuel and reactor-related GTCC waste in the proposed ISFSI or to store spent fuel, high-level radioactive waste, and reactor-related GTCC waste in the proposed MRS may be denied if construction on the proposed facility begins before a finding approving issuance of the proposed license with any appropriate conditions to protect environmental values. Grounds for denial may be the commencement of construction prior to a finding by the Director, Office of Nuclear Materials Safety and Safeguards or designee or a finding after a public hearing by the presiding officer, Atomic Safety and Licensing Board, or the Commission acting as a collegial body, as appropriate, that the action called for is the issuance of the proposed license with any appropriate conditions to protect environmental values. This finding is to be made on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter or in the case of an MRS on the basis of evaluations made pursuant to sections 141(c) and (d) or 148(a) and (c) of NWPA (96 Stat. 2242, 2243, 42 U.S.C. 10161(c), (d); 101 Stat. 1330–235, 1330–236, 42 U.S.C. 10168(a), (c)), as appropriate, and after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives.

* * * * *

18. Section 72.44 is amended by revising paragraphs (b)(4), (c)(3)(i), (c)(5), the introductory text of paragraph (d), and (g)(2) to read as follows:

§ 72.44 License conditions.

* * * * *

(b) * * *

(4) The licensee shall have an NRC-approved program in effect that covers the training and certification of personnel that meets the requirements of subpart I before the licensee may receive spent fuel and/or reactor-related GTCC waste for storage at an ISFSI or the receipt of spent fuel, high-level radioactive waste, and/or reactor-related GTCC waste for storage at an MRS.

* * * * *

(c) * * *

(3) * * *

(i) Inspection and monitoring of spent fuel, high-level radioactive waste, or reactor-related GTCC waste in storage;

* * * * *

(5) *Administrative controls.* Administrative controls include the organization and management procedures, recordkeeping, review and audit, and reporting requirements necessary to assure that the operations involved in the storage of spent fuel and reactor-related GTCC waste in an ISFSI and the storage of spent fuel, high-level radioactive waste, and reactor-related GTCC waste in an MRS are performed in a safe manner.

(d) Each license authorizing the receipt, handling, and storage of spent fuel, high-level radioactive waste, and/or reactor-related GTCC waste under this part must include technical specifications that, in addition to stating the limits on the release of radioactive materials for compliance with limits of part 20 of this chapter and the ''as low as is reasonably achievable'' objectives for effluents, require that:

* * * * *

(g) * * *

(2) Construction of the MRS or acceptance of spent nuclear fuel, high-level radioactive waste, and/or reactor-related GTCC waste at the MRS is prohibited during such time as the repository license is revoked by the Commission or construction of the repository ceases.

* * * * *

19. Section 72.52 is amended by revising paragraphs (b)(2), (c), and (e) to read as follows:

§ 72.52 Creditor regulations.

* * * * *

(b) * * *

(2) That no creditor so secured may take possession of the spent fuel and/or reactor-related GTCC waste under the provisions of this section before—

(i) The Commission issues a license authorizing possession; or

(ii) The license is transferred.

(c) Any creditor so secured may apply for transfer of the license covering spent fuel and/or reactor-related GTCC waste by filing an application for transfer of the license under § 72.50(b). The Commission will act upon the application under § 72.50(c).

* * * * *

(e) As used in this section, ''creditor'' includes, without implied limitation—

(1) The trustee under any mortgage, pledge, or lien on spent fuel and/or reactor-related GTCC waste in storage made to secure any creditor;

(2) Any trustee or receiver of spent fuel and/or reactor-related GTCC waste appointed by a court of competent jurisdiction in any action brought for the benefit of any creditor secured by a mortgage, pledge, or lien;

(3) Any purchaser of the spent fuel and/or reactor-related GTCC waste at the sale thereof upon foreclosure of the mortgage, pledge, or lien or upon exercise of any power of sale contained therein; or

(4) Any assignee of any such purchaser.

20. Section 72.54 is amended by revising paragraph (c)(1) to read as follows:

§ 72.54 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

* * * * *

(c) * * *

(1) Limit actions involving spent fuel, reactor-related GTCC waste, or other licensed material to those related to decommissioning; and

* * * * *

21. Section 72.60 is amended by revising paragraph (c) to read as follows:

§ 72.60 Modification, revocation, and suspension of license.

* * * * *

(c) Upon revocation of a license, the Commission may immediately cause the retaking of possession of all special nuclear material contained in spent fuel and/or reactor-related GTCC waste held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public, the Commission may cause the taking of possession of any special nuclear material contained in spent fuel and/or reactor-related GTCC waste held by the licensee before following any of the procedures provided under sections 551–558 of title 5 of the United States Code.

22. Section 72.72 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 72.72 Material balance, inventory, and records requirements for stored materials.

(a) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, and transfer of all special nuclear material with quantities as specified in § 74.13(a)(1). The records must include as a minimum the name of shipper of the material to the ISFSI or MRS, the estimated quantity of radioactive material per item (including special nuclear material in spent fuel and reactor-related GTCC waste), item identification and seal number, storage location, onsite movements of each fuel assembly or storage canister, and ultimate disposal. These records for spent fuel and reactor-related GTCC waste at an ISFSI or for spent fuel, high-level radioactive waste, and reactor-related GTCC waste at an MRS must be retained for as long as the material is stored and for a period of five years after the material is disposed of or transferred out of the ISFSI or MRS.

(b) Each licensee shall conduct a physical inventory of all spent fuel, high-level radioactive waste, and reactor-related GTCC waste containing special nuclear material meeting the requirements in paragraph (a) of this section at intervals not to exceed 12 months unless otherwise directed by the Commission. The licensee shall retain a copy of the current inventory as a record until the Commission terminates the license.

* * * * *

(d) Records of spent fuel, high-level radioactive waste, and reactor-related GTCC waste containing special nuclear material meeting the requirements in paragraph (a) of this section must be kept in duplicate. The duplicate set of records must be kept at a separate location sufficiently remote from the original records that a single event would not destroy both sets of records. Records of spent fuel or reactor-related GTCC waste containing special nuclear material transferred out of an ISFSI or of spent fuel, high-level radioactive waste, or reactor-related GTCC waste containing special nuclear material transferred out of an MRS must be preserved for a period of five years after the date of transfer.

23. Section 72.75 is amended by revising the introductory text of paragraphs (b) and (c), paragraphs (b)(2), (b)(3), (b)(6), (d)(1)(iv), and (d)(2)(ii)(L) to read as follows:

§ 72.75 Reporting requirements for specific events and conditions.

* * * * *

(b) Non-emergency notifications: Four-hour reports. Each licensee shall notify the NRC as soon as possible but not later than 4 hours after the discovery of any of the following events or conditions involving spent fuel, HLW, or reactor-related GTCC waste:

* * * * *

(2) A defect in any storage structure, system, or component which is important to safety.

(3) A significant reduction in the effectiveness of any storage confinement system during use.

* * * * *

(6) An unplanned fire or explosion damaging any spent fuel, HLW, and/or reactor-related GTCC waste, or any device, container, or equipment containing spent fuel, HLW, and/or reactor-related GTCC waste when the damage affects the integrity of the material or its container.

(c) Non-emergency notifications: Twenty-four hour reports. Each licensee shall notify the NRC within 24 hours after the discovery of any of the following events involving spent fuel, HLW, or reactor-related GTCC waste:

* * * * *

(d) * * *

(1) * * *

(iv) The quantities, and chemical and physical forms of the spent fuel, HLW, or reactor-related GTCC waste involved; and

* * * * *

(2) * * *

(ii) * * *

(L) The quantities, and chemical and physical forms of the spent fuel, HLW, or reactor-related GTCC waste involved;

* * * * *

24. Section 72.76 is amended by revising paragraph (a) to read as follows:

§ 72.76 Material status reports.

(a) Except as provided in paragraph (b) of this section, each licensee shall complete, in computer-readable format, and submit to the Commission a material status report in accordance with instructions (NUREG/BR–0007 and NMMSS Report D–24 ''Personal Computer Data Input for NRC Licensees''). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. These reports provide information concerning the special nuclear material possessed, received, transferred, disposed of, or lost by the licensee. Material status reports must be made as of March 31 and September 30 of each year and filed within 30 days after the end of the period covered by the report. The Commission may, when good cause is shown, permit a licensee to submit material status reports at other times. The Commission's copy of this report must be submitted to the address specified in the instructions. These prescribed computer-readable forms replace the DOE/NRC Form 742 which has been previously submitted in paper form.

* * * * *

25. Section 72.78 is amended by revising paragraph (a) to read as follows:

§ 72.78 Nuclear material transfer reports.

(a) Except as provided in paragraph (b) of this section, whenever the licensee transfers or receives special nuclear material, the licensee shall complete in computer-readable format a Nuclear Material Transaction Report in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24, ''Personal Computer Data Input for NRC Licensees''). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555–0001. Each ISFSI licensee who receives spent fuel from a foreign source shall complete both the supplier's and receiver's portion of the Nuclear Material Transaction Report, verify the identity of the spent fuel, and indicate the results on the receiver's portion of the form. These prescribed computer-readable forms replace the DOE/NRC Form 741 which has been previously submitted in paper form.

* * * * *

26. Section 72.80 is amended by revising paragraph (g) to read as follows:

§ 72.80 Other records and reports.

* * * * *

(g) Each specific licensee shall notify the Commission, in accordance with § 72.4, of its readiness to begin operation at least 90 days prior to the first storage of spent fuel, high-level waste, or reactor-related GTCC waste in an ISFSI or an MRS.

27. Section 72.82 is amended by revising paragraphs (a) and (b) to read as follows:

§ 72.82 Inspections and tests.

(a) Each licensee under this part shall permit duly authorized representatives of the Commission to inspect its records, premises, and activities and of spent fuel, high-level radioactive waste, or reactor-related GTCC waste in its possession related to the specific license as may be necessary to meet the objectives of the Act, including section 105 of the Act.

(b) Each licensee under this part shall make available to the Commission for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, packaging, or transfer of spent fuel, high-level radioactive waste, or reactor-related GTCC waste.

* * * * *

28. Section 72.106 is amended by revising paragraph (b) to read as follows:

§ 72.106 Controlled area of an ISFSI or an MRS.

* * * * *

(b) Any individual located on or beyond the nearest boundary of the controlled area may not receive from any design basis accident the more limiting of a total effective dose equivalent of 0.05 Sv (5 rem), or the sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue (other than the lens of the eye) of 0.5 Sv (50 rem). The lens dose equivalent may not exceed 0.15 Sv (15 rem) and the shallow dose equivalent to skin or any extremity may not exceed 0.5 Sv (50 rem). The minimum distance from the spent fuel, high-level radioactive waste, or reactor-related GTCC waste handling and storage facilities to the nearest boundary of the controlled area must be at least 100 meters.

* * * * *

29. Section 72.108 is revised to read as follows:

§ 72.108 Spent fuel, high-level radioactive waste, or reactor-related Greater than Class C waste transportation.

The proposed ISFSI or MRS must be evaluated with respect to the potential impact on the environment of the transportation of spent fuel, high-level radioactive waste, or reactor-related GTCC waste within the region.

30. Section 72.120 is revised to read as follows:

§ 72.120 General considerations.

(a) As required by § 72.24, an application to store spent fuel or reactor-related GTCC waste in an ISFSI or to store spent fuel, high-level radioactive waste, or reactor-related GTCC waste in an MRS must include the design criteria for the proposed storage installation. These design criteria establish the design, fabrication, construction, testing, maintenance and performance requirements for structures, systems, and components important to safety as defined in § 72.3. The general design criteria identified in this subpart establish minimum requirements for the design criteria for an ISFSI or an MRS. Any omissions in these general design criteria do not relieve the applicant from the requirement of providing the necessary safety features in the design of the ISFSI or MRS.

(b) The ISFSI must be designed to store spent fuel and/or solid reactor-related GTCC waste.

(1) Reactor-related GTCC waste may not be stored in a cask that also contains spent fuel. This restriction does not include radioactive materials that are associated with fuel assemblies (e.g., control rod blades or assemblies, thimble plugs, burnable poison rod assemblies, or fuel channels);

(2) Liquid reactor-related GTCC wastes may not be received or stored in an ISFSI; and

(3) If the ISFSI is a water-pool type facility, the reactor-related GTCC waste must be in a durable solid form with demonstrable leach resistance.

(c) The MRS must be designed to store spent fuel, solid high-level radioactive waste, and/or solid reactor-related GTCC waste.

(1) Reactor-related GTCC waste may not be stored in a cask that also contains spent fuel. This restriction does not include radioactive materials associated with fuel assemblies (e.g., control rod blades or assemblies, thimble plugs, burnable poison rod assemblies, or fuel channels);

(2) Liquid high-level radioactive wastes or liquid reactor-related GTCC wastes may not be received or stored in an MRS; and

(3) If the MRS is a water-pool type facility, the high-level waste and reactor-related GTCC waste must be in a durable solid form with demonstrable leach resistance.

(d) The ISFSI or MRS must be designed, made of materials, and constructed to ensure that there will be no significant chemical, galvanic, or other reactions between or among the storage system components, spent fuel, reactor-related GTCC waste, and/or high level waste including possible reaction with water during wet loading and unloading operations or during storage in a water-pool type ISFSI or MRS. The behavior of materials under irradiation and thermal conditions must be taken into account.

(e) The NRC may authorize exceptions, on a case-by-case basis, to the restrictions in paragraphs (b) and (c) of this section regarding the commingling of spent fuel and reactor-related GTCC waste in the same cask.

31. Section 72.122 is amended by revising paragraphs (b)(2), (h)(2), (h)(5), (i) and (l) to read as follows:

§ 72.122 Overall requirements.

* * * * *

(b) * * *

(2)(i) Structures, systems, and components important to safety must be designed to withstand the effects of natural phenomena such as earthquakes, tornadoes, lightning, hurricanes, floods, tsunami, and seiches, without impairing their capability to perform their intended design functions. The design bases for these structures, systems, and components must reflect:

(A) Appropriate consideration of the most severe of the natural phenomena reported for the site and surrounding area, with appropriate margins to take into account the limitations of the data and the period of time in which the data have accumulated, and

(B) Appropriate combinations of the effects of normal and accident conditions and the effects of natural phenomena.

(ii) The ISFSI or MRS also should be designed to prevent massive collapse of building structures or the dropping of heavy objects as a result of building structural failure on the spent fuel, high-level radioactive waste, or reactor-related GTCC waste or on to structures, systems, and components important to safety.

* * * * *

(h) * * *

(2) For underwater storage of spent fuel, high-level radioactive waste, or reactor-related GTCC waste in which the pool water serves as a shield and a confinement medium for radioactive materials, systems for maintaining water purity and the pool water level must be designed so that any abnormal operations or failure in those systems from any cause will not cause the water

level to fall below safe limits. The design must preclude installations of drains, permanently connected systems, and other features that could, by abnormal operations or failure, cause a significant loss of water. Pool water level equipment must be provided to alarm in a continuously manned location if the water level in the storage pools falls below a predetermined level.

* * * * *

(5) The high-level radioactive waste and reactor-related GTCC waste must be packaged in a manner that allows handling and retrievability without the release of radioactive materials to the environment or radiation exposures in excess of part 20 limits. The package must be designed to confine the high-level radioactive waste for the duration of the license.

(i) *Instrumentation and control systems.* Instrumentation and control systems for wet spent fuel and reactor-related GTCC waste storage must be provided to monitor systems that are important to safety over anticipated ranges for normal operation and off-normal operation. Those instruments and control systems that must remain operational under accident conditions must be identified in the Safety Analysis Report. Instrumentation systems for dry storage casks must be provided in accordance with cask design requirements to monitor conditions that are important to safety over anticipated ranges for normal conditions and off-normal conditions. Systems that are required under accident conditions must be identified in the Safety Analysis Report.

* * * * *

(l) *Retrievability.* Storage systems must be designed to allow ready retrieval of spent fuel, high-level radioactive waste, and reactor-related GTCC waste for further processing or disposal.

32. Section 72.128 is amended by revising the heading and the introductory text of paragraph (a) to read as follows:

§ 72.128 Criteria for spent fuel, high-level radioactive waste, reactor-related Greater than Class C waste, and other radioactive waste storage and handling.

(a) Spent fuel, high-level radioactive waste, and reactor-related GTCC waste storage and handling systems. Spent fuel storage, high-level radioactive waste storage, reactor-related GTCC waste storage and other systems that might contain or handle radioactive materials associated with spent fuel, high-level radioactive waste, or reactor-related GTCC waste, must be designed to ensure adequate safety under normal and accident conditions. These systems must be designed with—

* * * * *

33. Section 72.140 is amended by revising paragraph (c)(2) to read as follows:

§ 72.140 Quality assurance requirements.

* * * * *

(c) * * *

(2) Each licensee shall obtain Commission approval of its quality assurance program prior to receipt of spent fuel and/or reactor-related GTCC waste at the ISFSI or spent fuel, high-level radioactive waste, and/or reactor-related GTCC waste at the MRS. Each licensee or applicant for a specific license shall obtain Commission approval of its quality assurance program before commencing fabrication or testing of a spent fuel storage cask.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

34. The authority citation for part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

35. Section 150.15 is amended by revising paragraph (a)(7) and adding a new paragraph (a)(8) to read as follows:

§ 150.15 Persons not exempt.

(a) * * *

(7) The storage of:

(i) Spent fuel in an independent spent fuel storage installation (ISFSI) licensed under part 72 of this chapter,

(ii) Spent fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS) licensed under part 72 of this chapter, or

(iii) Greater than Class C waste, as defined in part 72 of this chapter, in an ISFSI or an MRS licensed under part 72 of this chapter; the GTCC waste must originate in, or be used by, a facility licensed under part 50 of this chapter.

(8) Greater than Class C waste, as defined in part 72 of this chapter, that originates in, or is used by, a facility licensed under part 50 of this chapter and is licensed under part 30 and/or part 70 of this chapter.

* * * * *

Dated at Rockville, Maryland, this 3rd day of October, 2001.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–25416 Filed 10–10–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–18–AD; Amendment 39–12457; AD 2001–20–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that requires repetitive inspections of the bearing support fitting of the forward trunnion on the main landing gear (MLG) to detect corrosion and cracking; follow-on actions, if necessary; and repair/rework of the support fitting, or replacement with a new or repaired/reworked fitting. The actions specified by this AD are intended to prevent failure of the support fitting, which could result in collapse of the MLG during normal operations; consequent damage to the airplane structure; and injury to flight crew, passengers, or ground personnel. This action is intended to address the identified unsafe condition.

DATES: Effective November 15, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2001.

ADDRESSES: 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2028 or (425) 227–2774; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 727 series airplanes was published in the **Federal Register** on August 10, 2000 (65 FR 48943). That action proposed to require repetitive inspections of the bearing support fitting of the forward trunnion on the main landing gear (MLG) to detect corrosion and cracking; follow-on actions, if necessary; and rework of the support fitting.

Actions Since Issuance of Proposal

Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has reviewed and approved Boeing Service Bulletin 727–57A0179, Revision 5, dated December 20, 2000. Revision 5 revises certain actions regarding the support fitting. Such actions include the option of replacing a damaged fitting with a new fitting or with a repaired/reworked fitting, reducing the amount of material removed from the holes in the fitting and from all faces of the support fitting common to the holes, and radius-boring the edges of the machined surfaces. Revision 5 also revises the effectivity, and changes the sequence of certain inspection and repair/rework instructions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Clarify the Rework Requirement

The Air Transport Association (ATA) of America states that several operators have requested clarification of the term ''rework'' in the body of the NPRM, as follows:

• One commenter states that the term ''rework'' needs to be defined, and that the service bulletins do not define the term. The commenter proposes that rework should be defined in paragraphs (a), (b), and (c) of the NPRM as the accomplishment of Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, Revision 1, dated June 13, 1991; Revision 2, dated April 30, 1992; Revision 3, dated September 2, 1999; or Revision 4, dated July 13, 2000. Paragraph (c) of the NPRM is cited as paragraph (d) in the final rule.

• Another commenter states that paragraph (a) of the NPRM should include a service bulletin reference similar to paragraph (b) of the NPRM. This reference would clarify the rework action required by the NPRM. The commenter states that the term ''rework,'' as used in the NPRM, is confusing and that the correct term is ''shop overhaul.'' In addition, paragraphs (b) and (c) of the NPRM should cite ''Part II'' of the Accomplishment Instructions of the applicable service bulletins. As stated previously, paragraph (c) of the NPRM is cited as paragraph (d) in the final rule.

The FAA concurs that it is necessary to clarify the rework requirements and to cite specific paragraphs (parts) of the service bulletins, which specify the rework procedures. Boeing Service Bulletin 727–57A0179, Revision 5, dated December 20, 2000, was issued to clarify the follow-on actions by specifying repair/rework of the support fitting, or replacement with a new or repaired/reworked fitting. In response, we have cited the specific part of the appropriate revision of the service bulletins in paragraphs (a), (b), and (d) of the final rule.

Requests To Extend the Rework Threshold

Two commenters request that the FAA extend the compliance time in certain paragraphs of the NPRM. These requests and justifications are as follows:

• One commenter requests extending the compliance time specified in paragraph (a) from 18 months to the ''next heavy maintenance visit (HMV).'' The commenter also requests changing the compliance time for the inspection/rework actions required by paragraph (c)(2) of the NPRM from 36 months to ''next gear change.'' The commenter justifies its request by stating that, since it began conducting ''on wing'' ultrasonic inspections of the subject fittings in 1993, no fitting has been found to be cracked and no overhaul has identified any potential fitting failures.

• One commenter requests extending the compliance time specified in paragraph (a) from 18 to 24 months. The commenter states that the 18-month interval would present an undue economic burden because of the number of work hours and additional maintenance requirements, and would require airplanes to be removed from service for extended periods of time. The proposed extension would allow the rework to be performed during scheduled maintenance visits, such as a C-check. Such an extension would reduce the financial burden without compromising the safety of their fleet.

In addition, another commenter states that the inventory and production of spare parts could not support the proposed insurance cuts, and that this could result in the unnecessary grounding of airplanes. The FAA infers that the commenter is requesting an extension of the compliance time for accomplishing the rework action.

The FAA does not concur with the commenters' requests to extend the compliance times. We have determined that the proposed compliance times in paragraphs (a) and (c)(2) of the NPRM (cited as paragraph (d)(2) in the final rule) should not be extended for the following reasons, as listed below.

• The proposal to use the terms ''HMV'' and ''next gear change'' instead of the specified compliance times is not specific enough to ensure when the action must be accomplished.

• The service bulletin recommends accomplishment of the rework within the specified 18 months for those fittings that have not been reworked (overhauled) previously.

• Revision 5 of the service bulletin allows operators the option of repairing/reworking damaged support fittings, or replacing the fittings with new fittings. Revision 5 also reduces the specified limits of the material removed from the faces common to the holes in the support fittings and the diameter of the holes in the fittings. Such a reduction will lengthen the time that the existing parts can be used, so the immediate purchase of a new part may not be necessary. The final rule includes Revision 5 of the service bulletin as an additional source of service information.

• In developing the appropriate compliance times for the inspection and rework actions, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the rework. In consideration of these items, as well as the reports of the collapse of the main landing gear on a number of airplanes, the FAA has determined that the 18-month compliance time specified in paragraph (a) of this AD, and the 36-month compliance time specified in paragraph (c)(2) of the NPRM (cited as paragraph (d)(2) in the final rule), represent the appropriate intervals of time allowable so that the specified actions can be accomplished during scheduled maintenance intervals for the majority of affected operators, and an acceptable level of safety can be maintained.

• Although inspections will continue per paragraph (a) of this AD until

accomplishment of the rework per paragraph (d) of the NPRM (cited as paragraph (e) in the final rule), the inspections will not necessarily detect corrosion pitting, which also could lead to stress corrosion cracking of the fitting.

For these reasons, the FAA has determined that the compliance times for the inspections and rework actions specified in the AD are appropriate. No changes are made to the final rule in this regard.

Request To Include a Rework Option

One commenter requests the option of using chrome plate, not more than 0.010 inches thick, followed by a repair sleeve wet with primer, in lieu of the required cadmium plate/primer/sealant combination specified in Part II of Revision 4 of the previously referenced service bulletin. Service experience indicates that the use of chrome plate during rework provides superior corrosion protection.

The FAA does not concur that it is necessary to change the rework requirement in the final rule to specify the proposed option. The commenter did not provide sufficient technical details for the proposed chrome plating process. However, we would consider this option under the provisions for requesting approval of an alternative method of compliance, as provided in paragraph (h) in the final rule (cited as paragraph (f) of the NPRM). No change is made to the final rule in this regard.

Requests To Delete or Modify the ''Insurance Cut'' Requirements

Several commenters request deleting or modifying the requirement to do the insurance cut. The FAA infers that the insurance cut refers to the rework of the support fitting, which includes removing any damaged material from the face of the support fitting and from the holes of the fitting, and to increase the diameter of the holes in the fitting. The commenters' requests and justifications are as follows:

Three of the commenters do not consider it necessary to do the insurance cuts on support fittings that do not show damage, such as corrosion or cracking. One of the commenters states that the Component Maintenance Manual (CMM) referenced in Revision 4 of the service bulletin specifies rework only if the fitting has corrosion or cracks, and that rework is unnecessary if the fitting is corrosion or crack free.

Another commenter states that Revisions 3 and 4 of the referenced service bulletin are ambiguous if the insurance cut is required on support fittings that are corrosion or crack free. The FAA infers that the commenter considers that the insurance cut specified in Revisions 3 and 4 of the service bulletins is unnecessary. The commenter also states that the root cause of the fractured fittings is the initiation of corrosion in the bore of the fitting, and that stress concentrations from corrosion pitting lead to cracking. Corrosion also can be controlled by regular overhaul of the subject fitting at the same time as the landing gear. Service records indicate that adequate safety was provided during previous overhauls that did not include insurance cuts and, until 1991, did not include protective sealant. Current overhaul procedures include additional improvements to further ensure safety.

Another commenter states that insurance cuts for undamaged fittings should not be a requirement because the non-destructive tests (NDT) should be adequate. Another commenter states that insurance cuts are unnecessary after a magnetic particle inspection (MPI) because such action was not required in the past, and safety was not adversely affected. In addition, MPIs and a dedicated maintenance program provide adequate crack detection and a high level of safety throughout the life of the component. Another commenter states that MPI is one of the most sensitive and reliable methods for detecting shallow cracks and defects on steel parts.

Another commenter, the manufacturer, states that it has further evaluated the insurance cut requirement, and has concluded that the size of the cut can be reduced without compromising safety. Such a reduction still allows adequate removal of nondetectable cracks not found during the MPI, and is a more practical approach to machining high-strength steel. Further, the depth of the insurance cut specified in earlier revisions of Boeing Alert Service Bulletin 727–57A0179 prior to the issuance of Revision 5 of the service bulletin is excessive and could lead to additional damage. Revision 5 has been issued to specify the recommended reduction in the size of the insurance cut.

The FAA partially concurs with the commenters' suggestions to change the ''insurance cut'' requirements. The FAA does not concur that the insurance cut (rework) on undamaged support fittings is unnecessary, because certain cracks may remain undetected by the specified inspections. Although the referenced CMM specifies rework only if certain damage is found, we have determined that, even if the support fitting does not show damage, rework of the support fitting is necessary to address the identified unsafe condition. In addition, we have determined that even though an operator's service records show that adequate safety was provided during previous overhauls and that current overhaul procedures include improvements to ensure safety, the rework requirements specified by this AD are still necessary to ensure that all operators follow the same procedures in addressing the specified unsafe condition.

The FAA does not concur that NDTs or MPIs are adequate to detect small cracks. Although we agree that an MPI is both sensitive and reliable, small cracks may remain following that inspection. For that reason, rework is necessary to ensure the removal of any cracking that remains undetected by the inspections.

However, the FAA concurs with the commenters' requests to modify the insurance cut (rework) requirements for the support fitting. We consider that the sensitivity of the main particle inspection is sufficient to detect cracks of a smaller size than those specified in Revision 4 or earlier revisions of the service bulletins. As a result, we have determined that removing less material from the holes in the trunnion bearing support fitting is adequate to ensure the safety of the fleet. Although Revision 5 of the service bulletin specifies a further reduction in the size of the insurance cut specified in Revisions 3 and 4 (and earlier revisions) of the service bulletin, we consider that the repair/rework action accomplished per Revisions 3, 4, or 5 of the service bulletins, and the replacement action (i.e., replaced with a new or repair/reworked part) per Revision 5 of the service bulletin, are equally acceptable. Paragraph (e) in the final rule (cited as paragraph (d) of the NPRM) has been changed accordingly.

Requests To Revise the Inspections/ Rework Intervals

The ATA states that five member airlines request that the inspection/ rework intervals specified in the NPRM be extended from 12,000 flight cycles to a 10-year overhaul cycle. Several of the member airlines consider that the existing 10-year overhaul programs, combined with effective corrosion prevention programs, have prevented the unsafe condition identified in the NPRM. As a result, several commenters recommend that the inspections be performed on a 10-year overhaul cycle. Several commenters state that having a Corrosion Prevention and Control Program (CPCP), with a 10-year interval between rework (overhaul), is adequate in maintaining corrosion at an acceptable level of safety.

Another commenter states that there are no data to support an interval of 12,000 flight cycles for reworking the subject fitting. The commenter states that all failures of the forward trunnion support fitting have occurred on fittings with extensive corrosion and long periods without overhaul. Such failures are not due to cyclic loading, but to intergranular stress corrosion cracking. The manufacturer (Boeing) confirms that the threshold of 12,000 flight cycles, cited in paragraphs (b)(1) and (c)(1) of the NPRM, is based on an industry average for D-checks and not on a damage tolerance assessment or other criteria.

One commenter requests extending the 12,000 flight cycles specified in paragraphs (b)(1), (c)(1), and (d) of the NPRM to 16,000 flight cycles. The commenter indicates that its gear overhaul records show no failed fittings due to cracks or corrosion, and no corrosion in the large bore of the fittings in 12 out of 14 fittings. In addition, the fittings had bearings installed without faying surface sealant, although the current overhaul procedure requires such sealant, which will improve corrosion resistance.

One commenter states that Boeing has identified the subject fitting as an ''on condition'' part, with no prescribed time limits for rework (overhaul). In addition, the Boeing 727 Maintenance Planning Document (MPD) recommends an inspection of the subject fitting at intervals not to exceed 16,000 flight cycles.

The FAA does not concur with the requests to extend the 12,000-flight-cycle intervals specified in paragraphs (b)(1), (c)(1), and (d) of the NPRM (cited as paragraphs (b)(1), (d)(1), and (e) in the final rule). Although a number of operators have implemented effective CPCPs per AD 90–25–03, amendment 39–6787 (55 FR 49258, November 5, 1990), fleet experience indicates that more rigorous inspections are required to detect and correct cracking of a bearing support fitting for the main landing gear. Preliminary data from the manufacturer indicate that, based on crack growth, 12,000 flight cycles is the correct interval for the inspections/rework. In addition, the inspection/rework intervals specified in certain earlier issues of the MPDs and CPCPs may not be adequate for detecting such cracking. Further, we have not received sufficient data from the commenters to determine what the acceptable 10-year overhaul requirements are for the specified support fitting.

In view of this information, we find that the compliance times for the inspections and repair/rework actions cited in this AD are appropriate for ensuring an adequate level of safety. No change is made to the final rule in this regard. However, should an operator wish to gain approval for use of an alternate inspection schedule that provides an acceptable level of safety, the operator may submit a request for approval of an alternative method of compliance under paragraph (h) of this AD.

Request To Revise the Compliance Time in Paragraph (a)

One operator requests revising paragraph (a) of the NPRM to require that operators accomplish the inspection ''at the later of'' rather than ''at the earlier of'' the times required in that paragraph. The commenter states that the earlier compliance time would not allow sufficient time for the inspection, and that qualified personnel or equipment would not be available. An estimated 6 hours would be required for the inspection instead of the 4 hours specified in the NPRM. In addition, the requested change would not adversely affect safety.

The FAA does not concur with the request to make the proposed revision to the compliance time in paragraph (a) of this AD. Although the proposed change may be appropriate for the commenter, it may not be appropriate for other operators. We point out that corrosion is affected by time rather than flight cycles, and that the AD addresses both fatigue and corrosion factors. No change is made to the final rule in this regard.

Requests To Include a Replacement Option

Two commenters request that the FAA revise the NPRM to specify that operators may either rework the support fitting or replace it with a new fitting. The commenters also request that the FAA revise paragraph (e) of the NPRM (cited as paragraph (g) in the final rule) to include the replacement option. The commenters contend that there is no justification to rework (shop overhaul) and ''insurance cut'' a new part that has not been subjected to cyclic loads and has no corrosion.

The FAA concurs with the commenters' requests that this AD should include a replacement option, which allows operators to either repair/rework a damaged support fitting, or replace it with a new or reworked fitting. We also agree that it is not necessary for new parts to be reworked. While paragraph (e) of the final rule requires that operators repair/rework the support fitting, a new paragraph (f) allows an option for replacement of the fitting with a new fitting, followed by repetitive inspections of the new fitting. In addition, we have reformatted paragraph (g) of the final rule. Paragraph (g)(1) clarifies that a new fitting that has been received from the manufacturer and has not been previously installed on any airplane is acceptable for installation.

Request To Defer Action on New Support Fittings

One commenter suggests revising the NPRM to defer action on new support fittings until the airplane reaches an initial threshold of 10 years. The FAA concurs. Paragraph (f)(2) of the final rule is added to specify that new fittings, if installed, must be inspected at intervals not to exceed 12,000 flight cycles or 10 years, whichever occurs first.

Request To Clarify Paragraphs (b) and (c) of the Proposed Rule

One commenter requests clarification of paragraph (b) of the NPRM by dividing it into two distinct categories. The commenter suggests changing the service bulletins referenced in the ''condition statement'' of paragraph (b) of the NPRM to specify only the original issue and Revisions 1 and 2, and changing the service bulletins referenced in the ''condition statement'' of paragraph (c) of the NPRM to specify only Revisions 3 and 4 of the service bulletins. The commenter considers that such clarification will assist operators in tracking the reworked support fittings.

The FAA does not concur that the proposed clarifications to paragraphs (b) and paragraph (c) of the NPRM (cited as paragraphs (b) and (d) in the final rule) are necessary. The intent of the proposed rule was to have those paragraphs apply to airplanes reworked per any revision of the service bulletins. In the final rule, the intent of paragraph (b) is to require an interim inspection, until accomplishment of the inspections/rework actions required by paragraph (d), which specifies a grace period of 36 months for those airplanes that exceed 12,000 flight cycles or 10 years after rework. Paragraph (d) requires the accomplishment of either the inspections and repair/rework actions in paragraph (e), or the alternative actions in the new paragraph (f) of the final rule. Because the commenter's proposed changes do not keep this intent, no changes are made to the final rule in this regard.

Requests To Clarify Paragraph (d) of the Proposed Rule

One commenter states that paragraph (d) of the NPRM (cited as paragraph (e) in the final rule) should clarify that the repetitive inspections are ''detailed

visual and magnetic particle inspections.'' Another commenter states that paragraph (d) of the NPRM should clarify whether the repetitive inspections are ultrasonic inspections per Part I of the service bulletins, or detailed visual and magnetic particle inspections per Part II of the service bulletins.

The FAA concurs with the commenters' requests. We have revised paragraph (e) in the final rule to specify repetitive detailed visual and magnetic particle inspections, and to clarify that those inspections are to be accomplished in accordance with Part II of the Accomplishment Instructions of Revisions 3, 4, or 5 of the previously referenced service bulletins. In addition, we have added that accomplishment of the inspections and repair/rework or replacement action specified by paragraph (e) of the final rule constitutes terminating action for the requirements in paragraphs (a) through (d) of this AD.

Request To Revise Cost Impact

One commenter states that the cost estimate presented in the preamble to the NPRM is too low. The commenter states that its line maintenance personnel estimate that it will require a minimum of 6 hours to do the ultrasonic inspection instead of the 4 hours specified in Boeing Alert Service Bulletin 727–57A0179, Revision 4, dated July 13, 2000.

The FAA does not concur that the cost estimate for the ultrasonic inspection proposed by the NPRM is too low for several reasons. First, the previously referenced service bulletins specify 4 hours for the ultrasonic inspection. Second, the commenter did not provide any substantiating data for the requested change. As stated in the preamble in the NPRM, our cost estimates typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. As a result, no change to the final rule is necessary in this regard.

Request To Correct a Paragraph Reference

One commenter requests that a paragraph reference specified in Note 1 in the NPRM be changed from paragraph (e) to paragraph (f). The FAA concurs with the request to change the paragraph reference; however, the correct paragraph reference in Note 1 of the final rule is now paragraph (h). The final rule is changed accordingly.

Request To Issue a Supplemental NPRM

One commenter, the ATA, requests that the FAA issue a supplemental NPRM in lieu of a final rule. The justification for this request is because of the comprehensive and detailed nature of the many comments received from the operators regarding the requirements of the NPRM and their recommended changes. The commenter advises that one operator has submitted a written proposal that includes suggested technical changes, which would provide a level of safety equivalent to that of the NPRM.

The FAA does not concur that a supplemental NPRM should be issued in lieu of a final rule. We consider that all of the commenters' proposed changes are relieving or clarifying in nature and do not add any additional requirements. Issuance of a supplemental NPRM is necessary only if the commenters request substantive changes, and the FAA concurs with those commenters' requests. In this case, the FAA considers that issuance of the final rule is the appropriate rulemaking action.

Actions Since Issuance of the Proposed Rule

Since the issuance of the proposed rule, the FAA has determined that the requirements for the follow-on actions/repetitive inspections specified in paragraphs (b)(2)(i) and (b(2)(ii) of the NPRM need to be clarified. We inadvertently specified the follow-on actions/repetitive inspections in paragraph (b)(2) of the NPRM. Those requirements, as specified in the service bulletin, also apply to paragraphs (a) and (b)(1) of the NPRM. To reflect this change, we have revised the final rule by including the follow-on actions/repetitive inspections, specified in paragraphs (b)(2)(i) and (b)(2)(ii) of the NPRM, as paragraphs (c), (c)(1), and (c)(2) in the final rule. We also have renumbered the succeeding paragraphs in the final rule accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,375 Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 912 airplanes of U.S. registry will be affected by this AD.

Should an operator be required to accomplish the ultrasonic inspection, it will take approximately 4 work hours per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the ultrasonic inspection on U.S. operators is estimated to be $240 per airplane, per inspection cycle.

It will take approximately 6 work hours per airplane to accomplish the detailed visual and magnetic particle inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the detailed visual and magnetic particle inspections on U.S. operators is estimated to be $328,320, or $360 per airplane, per inspection cycle.

It will take approximately 108 work hours per airplane to accomplish the rework of the trunnion fitting, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the rework on U.S. operators is estimated to be $5,909,760, or $6,480 per airplane.

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

Regulatory Impact

The regulations 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.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

2001–20–09 Boeing: Amendment 39–12457. Docket 2000–NM–18–AD.

Applicability: All Model 727 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair of 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 the bearing support fitting of the forward trunnion, which could result in collapse of the main landing gear during normal operations; consequent damage to the airplane structure; and injury to flight crew, passengers, or ground personnel; accomplish the following:

Interim Inspections/Follow-On Actions

(a) For airplanes having a bearing support fitting of the forward trunnion installed that has NOT been repaired/reworked in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, dated March 8, 1990; Revision 1, dated June 13, 1991; Revision 2, dated April 30, 1992; Revision 3, dated September 2, 1999; or Revision 4, dated July 13, 2000: Within 1,500 flight cycles or 6 months after the effective date of this AD, whichever occurs first; perform an ultrasonic inspection of the bearing support fitting of the forward trunnion to detect corrosion and cracking in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, Revision 3, dated September 2, 1999; Revision 4, dated July 13, 2000; or Boeing Service Bulletin 727–57A0179, Revision 5, dated December 20, 2000; and within 18 months after the effective date of this AD, accomplish the requirements in paragraph (e) or (f) of this AD.

(b) For airplanes having a bearing support fitting of the forward trunnion installed that HAS been repaired/reworked in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, dated March 8, 1990; Revision 1, dated June 13, 1991; Revision 2, dated April 30, 1992; Revision 3, dated September 2, 1999; or Revision 4, dated July 13, 2000: Perform an ultrasonic inspection of the bearing support fitting of the forward trunnion to detect corrosion and cracking in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, Revision 3, dated September 2, 1999; Revision 4, dated July 13, 2000; or Boeing Service Bulletin 727–57A0179, Revision 5, dated December 20, 2000; at the latter of the times specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Within 12,000 flight cycles or 10 years after repair/rework, whichever occurs first.

(2) Within 1,500 flight cycles or 6 months after the effective date of this AD, whichever occurs first.

Follow-On Actions/Repetitive Inspections

(c) Accomplish the actions required by either paragraph (c)(1) or (c)(2) of this AD, as applicable, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, Revision 3, dated September 2, 1999; Revision 4, dated July 13, 2000; or Boeing Service Bulletin 727–57A0179, Revision 5, dated December 20, 2000.

(1) If no corrosion or cracking is detected by the inspections required by paragraph (a) or (b) of this AD, prior to further flight, clean the fitting in accordance with the service bulletins. Repeat the inspection thereafter at intervals not to exceed 1,500 flight cycles or 6 months, whichever occurs first.

(2) If any corrosion or cracking is detected by the inspections required by paragraph (a) or (b) of this AD, prior to further flight, accomplish the requirements in paragraph (e) or (f) of this AD.

Inspections, Repair/Rework

(d) For airplanes having a bearing support fitting of the forward trunnion installed that HAS been repaired/reworked in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, dated March 8, 1990; Revision 1, dated June 13, 1991; Revision 2, dated April 30, 1992; Revision 3, dated September 2, 1999; Revision 4, dated July 13, 2000: Accomplish the requirements in paragraph (e) or (f) of this AD at the later of the times specified in paragraphs (d)(1) and (d)(2) of this AD.

(1) Within 12,000 flight cycles or 10 years after rework, whichever occurs first.

(2) Within 36 months after the effective date of this AD.

Inspections, Repair/Rework

(e) At the applicable time specified in paragraph (a), (c)(2), or (d) of this AD, as applicable: Perform detailed visual and magnetic particle inspections to detect corrosion and cracking of the fitting, in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0179, Revision 3, dated September 2, 1999; Revision 4, dated July 13, 2000; or Boeing Service Bulletin 727–57A0179, Revision 5, dated December 20, 2000; and repair/rework the support fitting in accordance with the service bulletins. Repeat the inspections at intervals not to exceed 12,000 flight cycles or 10 years, whichever occurs first, in accordance with the service bulletins. Accomplishment of the requirements in this paragraph constitutes terminating action for the requirements in paragraphs (a), (b), (c), and (d) of this AD.

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.''

Alternative Action

(f) Accomplishment of the actions required by paragraphs (f)(1) and (f)(2) of this AD in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 72757A0179, Revision 5, dated December 20, 2000, is acceptable for compliance with the repair/rework requirements of paragraph (e) of this AD.

(1) Replacement of the fitting with a new fitting, as specified in Part II of the Accomplishment Instructions of the service bulletin at the time specified in paragraph (e) of this AD.

(2) Accomplishment of repetitive inspections of a new fitting thereafter at intervals not to exceed 12,000 flight cycles or 10 years, whichever occurs first, in accordance with the service bulletin.

Spares

(g) As of the effective date of this AD, no person shall install on any airplane any bearing support fitting of the forward trunnion identified in the ''Existing Part Number'' column of Paragraph 2.E. of Boeing Alert Service Bulletin 727–57A0179, Revision 3, dated September 2, 1999; Revision 4, dated July 13, 2000; or Boeing Service Bulletin 727–57A0179, Revision 5, dated December 20, 2000; unless that support fitting meets the criteria specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) The fitting has been repaired/reworked in accordance with Part II of the

Accomplishment Instructions of Revisions 3, 4, or 5 of the service bulletins, or the new fitting has been received from the manufacturer and has not been previously installed on any airplane.

(2) The part number of the fitting has been verified in accordance with Revisions 4 or 5 of the service bulletins.

(3) The maximum taxi gross weight (MTGW) limit of the fitting is greater than or equal to the MTGW of the airplane in accordance with Revisions 4 or 5 of service bulletins.

Alternative Methods of Compliance

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

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

Special Flight Permit

(i) 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

(j) The actions shall be done in accordance with the service information included in Table 1, as follows:

TABLE 1.—SERVICE BULLETINS

Service bulletin	Revision	Date
Boeing Alert Service Bulletin 727–57A0179	3	September 2, 1999.
Boeing Alert Service Bulletin 727–57A0179	4	July 13, 2000.
Boeing Service Bulletin 727–57A0179	5	December 20, 2000.

This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 52(a) and 1 CFR part 51. Copies 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.

Effective Date

(k) This amendment becomes effective on November 15, 2001.

Issued in Renton, Washington, on October 2, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25184 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–361–AD; Amendment 39–12459; AD 2001–20–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that currently requires repetitive freeplay checks of the elevator, and replacement of worn elevator power control actuator (PCA) reaction link rod-end bearings and the PCA rod-end bearing, if necessary. That AD also provides for an optional terminating action for the repetitive checks. This amendment removes the optional terminating action provided by the existing AD, expands the applicability of the existing AD to include additional airplanes, and requires repetitive freeplay checks of the elevator at a revised repeat interval and repetitive lubrication of bearings of the elevator actuator load loop and hinge line. The actions specified by this AD are intended to prevent unacceptable airframe vibration during flight, which could lead to excessive wear of bearings of the elevator PCA load loop and hinge line and result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 15, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2001.

ADDRESSES: 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 Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89–03–05, amendment 39–6120 (54 FR 3430, January 24, 1989), which is applicable to certain Model 757 series airplanes, was published in the **Federal Register** on March 20, 2001 (66 FR 15670). The action proposed to continue to require repetitive freeplay checks of the elevator, and replacement of worn elevator power control actuator (PCA) reaction link rod-end bearings and the PCA rod-end bearing, if necessary. The action also proposed to remove the optional terminating action provided by the existing AD, expand the applicability of the existing AD to include additional airplanes, and require repetitive freeplay checks of the elevator at a revised repeat interval and repetitive lubrication of bearings of the elevator actuator load loop and hinge line.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Withdraw the Proposed AD as Unnecessary

One commenter, an operator, considers the proposed AD unnecessary. This commenter reports that the fleet has not experienced any problems with airframe vibration due to elevator PCA load loop bearings. The commenter adds that the fleet has incorporated the terminating actions as specified by

Boeing Service Bulletin 757–27A0086, Revision 2, dated July 27, 1989, and is scheduled for bearing lubrication every 18 months. According to the commenter, it is unclear how the nature of the airframe vibration is unsafe, unless it is not addressed when first identified.

The FAA infers that the operator is requesting that the proposed AD be withdrawn. The FAA does not agree with the commenter's rationale as a basis for withdrawal. Other operators have reported vibration events despite having incorporated the terminating action of AD 89–03–05 and scheduling lubrication at 18-month intervals. Further, not all vibration events are addressed immediately. In some cases, no action was taken until the vibration worsened. The FAA has determined that issuance of this AD is necessary to ensure the safety of the fleet.

Request To Replace Proposed Service Information

Several commenters request that the proposed AD be revised to replace the cited source of service information (Boeing Service Bulletin 757–27A0086). The commenters provide the following reasons for this request:

1. The service bulletin specifies use of BMS3–24 grease (Aeroshell 16), which has been replaced by the bearing manufacturer with BMS3–33 grease. The commenters state that BMS3–33 grease has better corrosion-preventive properties.

2. The freeplay check procedures specified by the service bulletin can produce ''unnecessary'' failures that would require unnecessary corrective action.

3. The service bulletin specifies a sequence for replacing specific bearings. The commenters request that operators be allowed to assess the serviceability of individual components and, based on that assessment, to replace, in any order, the defective component to correct the elevator freeplay.

4. The part number for the bearing has been changed.

The FAA partially concurs with the request and provides the following responses, numbered to correspond to the comments listed above.

1. The FAA has determined that use of either the BMS3–24 or BMS3–33 grease will be acceptable, as long as the grease types are not intermixed on any individual bearing. The FAA does agree that BMS3–33 grease does have better corrosion-preventive properties, but is unable to concur with the request to change the requirement as proposed without documented, approved procedures for purging existing grease. However, once those procedures are defined, the FAA may approve requests for alternative methods of compliance under the provisions of paragraph (f)(1) of the final rule if data are submitted to substantiate that adequate purging procedures have been developed.

2. The FAA has determined that an ''unnecessary'' failure (false positive result) does not represent a serious safety risk. Use of too-conservative criteria for allowable freeplay outweighs any inconvenience to operators from a false positive result.

3. The FAA agrees that the replacement sequence described in the service bulletin may need clarification. Defective bearings must be replaced when they are discovered, regardless of the sequence listed in the service bulletin. Paragraphs (a) and (b) of the final rule have been revised to clarify the requirement.

4. As indicated in the service bulletin, the bearings may be replaced with reaction link bearings having either Boeing part number (P/N) S251N214–8 (Rexnord P/N DRX34C) or S251N214–11 (Rexnord P/N DRX34B). The Boeing PCA assembly, P/N S251N211–11, contains Rexnord P/N DRX32B. The FAA has added new Note 3 to this final rule to clarify the part numbers.

Request To Require Future Service Information

One commenter requests that the proposed AD be revised to require compliance with procedures that will be included in a future service bulletin expected to be issued in September 2001. The commenter advises that the new service bulletin will include minor refinements to the procedures described in Boeing Service Bulletin 757–27A0086, which is cited in AD 89–03–05 as the appropriate source of service information for the freeplay check. The minor refinements are intended to adequately detect freeplay and yet avoid ''unnecessary'' failures. The commenter requests that the AD also require a second freeplay check, which would terminate the repetitive freeplay checks and lubrication, and follow-up maintenance review board (MRB) actions, which are in the process of being revised. The commenter states that the revised MRB tasks will improve detection of elevator freeplay and improve prevention of corrosion by shorter lubrication intervals. The commenter concludes that incorporation of the new service information will be adequate to prevent elevator vibration in flight.

The FAA does not concur with the request. The FAA cannot approve the use of a document that does not yet exist. In addition, in an AD, reference to an unpublished service bulletin violates Office of the Federal Register (OFR) regulations regarding approval of materials ''incorporated by reference'' in rules. However, if a new service bulletin is issued in the future, operators may request approval to use it as an alternative method of compliance under the provisions of paragraph (f)(1) of this final rule. In consideration of the urgency of the identified unsafe condition and the amount of time that has already elapsed since the proposed AD was issued, the FAA has determined that further delay of this final rule is not appropriate. If the FAA finds that a substantial safety benefit can be derived from the future service bulletin that would justify mandating its incorporation, the FAA may consider further rulemaking. Furthermore, there is no guarantee that the service bulletin will be issued in September 2001; any delay would further expose the fleet to risks. Accomplishment of MRB actions are not mandatory, so reliance on their accomplishment by operators cannot satisfy any terminating requirements of an AD. In addition, incorporation of a new service bulletin having new actions would alter the actions of the proposed AD; therefore, additional rulemaking would be required. The FAA finds that delaying this action would be inappropriate in light of the identified unsafe condition. No change to the final rule is necessary in this regard.

Request To Extend Freeplay Check Interval

Several commenters request that the proposed compliance time be extended to better accommodate operators' schedules. One commenter suggests mandating the elevator freeplay check as an MRB task at a ''2C-check'' or 36-month interval. Another commenter suggests a 24-month interval. Another commenter, an operator, anticipates that the proposed interval would place a significant and undue financial burden on its operations, which would extend to the flying public.

The FAA does not concur. Designating these actions as MRB tasks, which are not mandatory, would provide no assurance that operators would follow the prescribed actions within the prescribed schedule. Furthermore, although the maintenance planning data document currently recommends a ''2C'' freeplay check, the fleet is still subject to vibration. Service history for the affected airplanes has shown that vibration can occur in less than 24 months after a ''C'' check. Therefore, the FAA finds the 18-month

interval to be appropriate; no change to the final rule is warranted in this regard.

Request To Shorten Lubrication Interval

One commenter requests that the lubrication interval be shortened to reduce the incidence of corrosion (the main contributor to excessive freeplay) in the bearings. The commenter recommends accomplishing the bearing lubrication at 6-to 9-month intervals for airplanes on which the terminating action of AD 89–03–05 has been accomplished, and at 1,000-flight-hour intervals for airplanes on which the terminating action has not been accomplished.

The FAA does not concur. The FAA finds that delaying this action would be inappropriate in light of the identified unsafe condition. Furthermore, shortening the proposed interval would alter the requirements, so additional rulemaking would be required. However, the FAA may consider further rulemaking to revise the lubrication intervals, if data are provided that demonstrate that shorter intervals are necessary to ensure safety.

Request To Extend Compliance Time for Certain Airplanes

Several commenters request an extension of the proposed compliance time for the initial check and lubrication for certain airplanes. For airplanes that are not subject to paragraph (a) or (b) of the proposed AD, the commenters suggest a revised threshold of 5,000—rather than 3,000—total flight cycles, and a revised grace period of 180—rather than 90—days; and revised repetitive intervals of up to 24 months. The commenters suggest these extensions to circumvent an anticipated significant impact on operators' schedules and maintenance.

The FAA partially concurs. The FAA finds it necessary to retain the 3,000-flight-cycle threshold as proposed, in light of an event in which an airplane that had accumulated fewer than 5,000 total flight cycles did experience a vibration event. However, the FAA concurs with the request to extend the grace period to 180 days for those airplanes that are not subject to AD 89–03–05; the bearings on those airplanes have improved bearing seals with improved grease retention. The FAA has determined that the grace period, as proposed, represents an appropriate interval in which the initial check/lubrication can be accomplished in a timely manner within the fleet and still maintain an adequate level of safety. Paragraph (d)(3) of this final rule has been revised accordingly.

Request To Clarify Compliance Times

Two commenters state that the compliance requirements in the proposed AD are vague. One commenter states that the proposed AD does not specify if compliance can be taken on airplanes that have completed the inspection but are not incorporated into the service bulletin effectivity. The other commenter requests that Table 1 be revised for the group that has accomplished neither paragraph (a) nor (b) by including ''aircraft which previously accomplished the terminating actions of AD 89–03–05.'' The commenter states that this additional language would clarify the requirement indicating that those airplanes are subject to the new rule.

The FAA does not concur. The applicability of this AD includes all Model 757 series airplanes. An affected airplane that does not fall within the applicability in paragraph (a) or (b) of the AD is included in the requirement for paragraph (d)(3). No change to the final rule (except for the addition of subparagraph numbers (1), (2), and (3) in paragraph (d)) is necessary in this regard.

Request To Approve Alternative Measuring Devices

Several commenters request that the proposed AD be revised to allow the use of measuring devices specified in the airplane maintenance manual (AMM) to measure the deflection in the elevator. (The proposed AD would require measuring the freeplay by use of a dial indicator, as specified by Boeing Service Bulletin 757–27A0086.) The commenters suggest a scale or ruler with 0.001 or 0.010 graduations.

The FAA concurs with this request and finds that use of a scale or ruler having graduations of 0.010 inch or finer to measure the freeplay will provide the accuracy necessary to ensure safety. New Note 2 of the final rule has been added to advise operators of the acceptability of alternative measuring devices.

Request To Allow Interim Corrective Action

One commenter requests that the proposed AD be revised to allow interim corrective action if the freeplay is between certain limits specified by Section III.F.1 of Boeing Service Bulletin 757–27A0086. The commenter states that this interim action would allow affected airplanes to remain in service until the next ''C-check.''

The interim corrective action, provided by AD 89–03–05, is retained in this AD; therefore, no change to the final rule is necessary in this regard.

Request for Clarification of Certain Requirements

Two commenters questioned the location of certain parts that are required to be lubricated. The commenters request (1) clarification of the identity of the bearings in the load loop and hinge line, and (2) a reference to or demonstration of the location of the PCA load loop and hinge line.

The commenter may have misinterpreted ''PCA load loop'' as including the PCA input linkage. Mandated checks and lubrication of this entire area are not included in the requirements of this AD. No change to the final rule is necessary in this regard.

Request for Clarification of Terminology

One commenter requests a change to the heading of the fourth column in Table 1 of the proposed AD. The commenter requests that ''MPD '2C' check'' be changed to read, ''MPD item 27–02–00–6A'' to show that the current MPD ''2C'' check is no longer a requirement.

The FAA does not concur. Except for Section 9, the MPD is not approved or required by the FAA. The item designations may change without FAA knowledge or approval. No change to the final rule is necessary in this regard.

Request To Extend Compliance Time To Accommodate Parts Availability

Several commenters express concern about the availability of replacement bearings for failed PCAs. With only a single source for their manufacture, the bearings may not be in adequate supply to accommodate the affected fleet, and as a result operators may experience unnecessary down time.

The FAA infers that the commenters are requesting an extension of the compliance time to accommodate anticipated parts shortages. The FAA does not concur. The FAA has determined that used PCAs may be used for replacement parts if they are modified in accordance with Boeing Service Bulletin 757–27A0086. Also, as discussed previously, the grace period for the freeplay checks has been extended in the final rule, further mitigating the problem of parts availability.

Request for Terminating Action

One commenter requests that the proposed AD be revised to provide terminating action for the repetitive freeplay checks. Terminating action would ease the burden of repetitive checks.

The FAA does not concur. The FAA is not aware of any terminating action

that is being considered or developed. If such action is developed, approved, and available, the FAA may consider additional rulemaking. However, due to the nature of corrosion, even modified areas would likely continue to need repetitive inspections.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 906 airplanes of the affected design in the worldwide fleet.

The actions that are currently required by AD 89–03–05 affect approximately 90 airplanes of U.S. registry. Those actions take approximately 30 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $162,000, or $1,800 per airplane, per check cycle.

The FAA estimates that 598 airplanes of U.S. registry will be affected by this new AD. The new actions required by this AD will take approximately 28 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $1,004,640, or $1,680 per airplane, per check cycle.

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

Regulatory Impact

The regulations 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.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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 removing amendment 39–6120 (54 FR 3430, January 24, 1989), and by adding a new airworthiness directive (AD), amendment 39–12459, to read as follows:

2001–20–11 Boeing: Amendment 39–12459. Docket 2000–NM–361–AD. Supersedes AD 89–03–05, Amendment 39–6120.

Applicability: All Model 757 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent unacceptable airframe vibration during flight, which could lead to excessive wear of elevator bearings and result in reduced controllability of the airplane, accomplish the following:

RESTATEMENT OF REQUIREMENTS OF AD 89–03–05

Repetitive Elevator Freeplay Checks

(a) For Boeing Model 757 series airplanes listed in Boeing Alert Service Bulletin 757–27A0086, dated June 9, 1988, on which the elevator power control actuator (PCA) rod-end and reaction link rod-end bearings are lubricated at intervals of 1,000 flight hours or less, in accordance with Boeing Service Letter 757-SL–27–26, dated April 1, 1988, and on which paragraph (d) of AD 89–03–05 was not done: Within the next 90 days after March 6, 1989 (the effective date of AD 89–03–05, amendment 39–6120), or prior to the accumulation of 4,000 flight hours total time-in-service, whichever occurs later, and thereafter at intervals not to exceed 4,000 flight hours, perform an elevator freeplay check in accordance with Boeing Alert Service Bulletin 757–27A0086, dated June 9, 1988, or Revision 2, dated July 27, 1989. Doing paragraph (d) of this AD ends the repetitive inspections required by this paragraph.

Note 2: Use of a scale having graduations of 0.010 inch or finer may be used to measure the freeplay, as required by paragraphs (a), (b), and (d) of this AD.

(b) For Boeing Model 757 series airplanes listed in Boeing Alert Service Bulletin 757–27A0086, dated June 9, 1988, not subject to paragraph (a) of this AD, and on which paragraph (d) of AD 89–03–05 was not done: Within the next 90 days after March 6, 1989, or prior to the accumulation of 3,000 flight hours total time-in-service, whichever occurs later, and thereafter at intervals not to exceed 3,000 flight hours, perform an elevator freeplay check in accordance with Boeing Alert Service Bulletin 757–27A0086, dated June 9, 1988, or Revision 2, dated July 27, 1989. Doing paragraph (d) of this AD ends the repetitive inspections required by this paragraph.

Replacement

(c) If freeplay of the elevator exceeds the limits specified in the service bulletin during any check per this AD: Before further flight, replace elevator PCA reaction link rod-end bearings and PCA rod-end bearings, as necessary, with new, improved bearings, in accordance with Boeing Alert Service Bulletin 757–27A0086, dated June 9, 1988, or Revision 2, dated July 27, 1989. After the effective date of this AD, use only Revision 2 of the service bulletin. Regardless of the sequence for replacing specific bearings listed in the alert service bulletin, defective bearings must be replaced when they are discovered.

NEW REQUIREMENTS OF THIS AD

Repetitive Elevator Freeplay Checks

(d) For all airplanes, do elevator freeplay checks per Boeing Service Bulletin 757–27A0086, Revision 2, dated July 27, 1989. Before further flight after the freeplay checks, lubricate the bearings in the elevator PCA load loop and hinge line. Use of either the BMS3–24 or BMS3–33 grease will be acceptable, as long as the grease types are not intermixed on any individual bearing. Do these actions per the schedule in the following table:

TABLE 1.—COMPLIANCE SCHEDULE

For airplanes subject to—	Do the initial check and lubrication—	Repeat the check and lubrication thereafter at least every—	Inspection per paragraph (d) of this AD ends the requirements of—
(1) Paragraph (a) of this AD	Within 4,000 flight hours after the most recent inspection per paragraph (a) of AD 89–03–05, or 18 months after the effective date of this AD, whichever occurs first	18 months	Paragraph (a) of this AD.
(2) Paragraph (b) of this AD	Within 3,000 flight hours after the most recent inspection per paragraph (b) of AD 89–03–05 or 18 months after the effective date of this AD, whichever occurs first	18 months	Paragraph (b) of this AD.
(3) Neither paragraph (a) nor (b) of this AD.	3,000 total flight hours or 180 days after the effective date of this AD, whichever occurs later	18 months	N/A.

Replacement

(e) If freeplay of the elevator exceeds the limits specified in the service bulletin during any check per paragraph (d) of this AD: Before further flight, replace elevator PCA reaction link rod-end bearings and PCA rod-end bearings, as necessary, with new, improved bearings, per Boeing Service Bulletin 757–27A0086, Revision 2, dated July 27, 1989.

Note 3: The replacement required by paragraph (e) of this AD may be accomplished with reaction link bearings having either Boeing part number (P/N) S251N214–8 (Rexnord P/N DRX34C) or S251N214–11 (Rexnord P/N DRX34B). The Boeing PCA assembly, P/N S251N211–11, contains Rexnord P/N DRX32B.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 89–03–05, amendment 39–6120, are NOT considered to be approved as alternative methods of compliance with this AD.

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

Special Flight Permits

(g) 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

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin 757–27A0086, dated June 9, 1988; or Boeing Service Bulletin 757–27A0086, Revision 2, dated July 27, 1989; as applicable. 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

(i) This amendment becomes effective on November 15, 2001.

Issued in Renton, Washington, on October 2, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25183 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–220–AD; Amendment 39–12456; AD 2001–20–08]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, that requires repetitive eddy current inspections to detect cracks in the upper girder of the two main landing gear (MLG) brackets; and repair of a cracked bracket followed by repetitive inspections, or replacement of a cracked MLG bracket with an improved bracket, as applicable. This AD also provides for an optional terminating action for certain requirements of this AD. The actions specified by this AD are intended to detect and correct cracks in the upper girder of the MLG bracket, which could progress into the vertical stiffeners of the MLG bracket and result in reduced structural integrity of the landing gear. This action is intended to address the identified unsafe condition.

DATES: Effective November 15, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on May 4, 2001 (66 FR 22479). That action proposed to require repetitive eddy current inspections to detect cracks in the upper girder of the two main landing gear (MLG) brackets; and repair of a cracked bracket followed by repetitive inspections, or replacement of a cracked MLG bracket with an improved bracket, as applicable. That action also proposed to provide for optional terminating action for certain requirements of this AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Allow Flight with Cracks

One commenter requests that airplanes be allowed to fly with cracks within the range of 16 millimeters (mm) (0.630 inches) to 40 mm (1.575 inches) on the MLG bracket, with repetitive inspections, for a period of six months or until the next heavy maintenance check, whichever occurs first. A second commenter requests that the replacement of the MLG bracket required by paragraph (b) of the proposed AD be required only when cracks exceed 40 mm (1.575 inches), as indicated in Dutch airworthiness directive 1999–045/2 dated October 31, 2000, and Fokker Service Bulletin F28/59–90, Revision 1, dated August 28, 2000. Both commenters point out that the proposed replacement of the MLG bracket would require extended downtime and would be a disruption to the operator's operating schedule if the repair cannot be accomplished in conjunction with a heavy maintenance check. The commenters state that requiring replacement of the MLG bracket with cracks between 15 mm (0.591 inches) and 40 mm (1.575 inches) could create severe logistical disturbances and a significant cost impact for the operators, with no added safety benefit.

The FAA partially agrees with these commenters. The FAA acknowledges that if any crack is found, no matter what its length, the repair or replacement required by paragraph (a) or (c) of the AD requires a considerable number of work hours. We also acknowledge that unless the repetitive inspections required by paragraph (a) of this AD are scheduled during a heavy maintenance check, any crack finding could potentially remove the airplane from service and possibly result in a disruption to operating schedules.

To address this issue, the Rijksluchtvaartdienst (RLD), the airworthiness authority for the Netherlands, has allowed a repeat inspection at intervals of 250 flight cycles, or one month, as an alternate to replacement. Neither Dutch airworthiness directive 1999–045/2, dated October 31, 2000, nor Fokker Service Bulletin F28/59–90, Revision 1, dated August 28, 2000, puts a time limit on this replacement deferral. If the FAA were to allow for this reduced inspection cycle in lieu of repair, we would require a time limit.

While recognizing that repair deferrals may be necessary at times, FAA policy is intended to minimize adverse human factors relating to the lack of reliability of long-term repetitive inspections, which may reduce the safety of the type certificated design if such repair deferrals are practiced routinely. Based upon correspondence with the manufacturer, the FAA has determined that no structural detrimental permanent deformation will occur in the MLG and surrounding structure under the full limit load when a stress corrosion crack with a length of 40 mm or less is present at the indicated location. In addition, no failure will occur in the MLG bracket or surrounding structure under the ultimate load. If the crack does not exceed 40 mm in length it will not cause loss of function or interfere with other necessary parts of the design. Experience supports the results of the theoretical analysis and the FAA has a high degree of confidence that operation with a known crack is safe as long as it is closely monitored.

Consequently, paragraph (a) of the final rule has been revised to allow for a repair deferral period of not more than 18 months if a crack of 40 mm or less is detected, provided the crack is monitored at the reduced inspection interval specified in the service bulletin. In addition, paragraph (a) has been revised and reformatted to clarify that terminating action is not necessary; paragraph (c) has been removed; and subsequent paragraphs have been renumbered accordingly.

Under the provisions of paragraph (e) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Clarification of Service Bulletin Reference

The FAA's intent in this rule was to require that repairs specified in paragraph (a) be performed in accordance with Part 3 (''The Repairs and the Repetitive Inspections'') of the Accomplishment Instructions of Fokker Service Bulletin F28/57–90, Revision 1, dated August 28, 2000. As issued, the supplemental notice of proposed rulemaking contained an incorrect reference to a service bulletin paragraph. The final rule has been revised to correct this error and to clarify the appropriate requirements.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 8 Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $960, or $120 per airplane.

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

Regulatory Impact

The regulations 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.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

2001–20–08 Fokker Services B.V.: Amendment 39–12456. Docket 99–NM–220–AD.

Applicability: Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes; serial numbers 11003 through 11091 inclusive, 11094 through 11171 inclusive, 11991, and 11992; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracks in the upper girder of the main landing gear (MLG) bracket, which could progress into the vertical stiffeners of the MLG bracket and result in reduced structural integrity of the landing gear, accomplish the following:

Repetitive Inspections and Corrective Actions

(a) Within 12 months after the effective date of this AD, perform an eddy current inspection of the upper girder of the MLG brackets on the left and right sides of the airplane for cracks, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/57–90, Revision 1, dated August 28, 2000.

(1) If no cracks are found, repeat the inspection at least every 18 months unless the terminating action in paragraph (c) of this AD has been accomplished.

(2) Except as provided by paragraph (d) of this AD, if any crack is found, accomplish a repair as specified in Part 3, ''The Repairs and the Repetitive Inspections'', of the Accomplishment Instructions of the service bulletin, or accomplish the specified action at the time shown in paragraph (a)(2)(i), (a)(2)(ii), (a)(2)(iii), or (a)(2)(iv) of this AD, as applicable.

(i) For airplanes on which a crack 15 millimeters (mm) in length or less is found: repair as specified in paragraph (a)(2) or, for a period of time not to exceed 18 months until accomplishment of a repair, repeat the inspection every 250 flight cycles or 1 month, whichever occurs first, in accordance with the service bulletin. After the repair has been accomplished, repeat the inspection required in paragraph (a) of this AD at least every 18 months unless the terminating action in paragraph (c) of this AD has been accomplished.

(ii) For airplanes on which a crack greater than 15 mm but less than or equal to 25 mm in length is found: Within 18 months from the date of the inspection, accomplish the terminating action in paragraph (c) of this AD. From the date of the inspection until the accomplishment of the terminating action, repeat the inspection every 250 flight cycles or 1 month, whichever occurs first .

(iii) For airplanes on which a crack greater than 25 mm but less than or equal to 40 mm in length is found: Within 18 months from the date of the inspection, accomplish the terminating action in paragraph (c) of this AD. From the date of the inspection until the accomplishment of the terminating action, repeat the inspection every 50 flight cycles or 1 week, whichever occurs first.

(iv) For airplanes on which a crack greater than 40 mm in length is found: Prior to further flight, except as provided by paragraph (d) of this AD, accomplish the terminating action in paragraph (c) of this AD.

Note 2: Inspections accomplished before the effective date of this AD in accordance with Fokker Service Bulletin F28/57–90, dated March 1, 1999, are considered acceptable for compliance with paragraph (a) of this AD.

Reporting Requirement

(b) Within 10 days after accomplishing each inspection required by paragraph (a) of this AD, submit a report of the inspection results to: Fokker Services B.V., Technical Services, Attn: Manager Airline Support, P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Terminating Action

(c) If required by paragraph (a) of this AD, except as provided by paragraph (d) of this AD, replacement of the MLG bracket with a new, improved bracket (including measuring the position of the existing MLG bracket, removing the existing bracket and attachment fittings, checking alignment of the fastener holes, measuring gaps, installing a shim, and aligning the new bracket), in accordance with Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999, constitutes terminating action for the repetitive inspections specified in paragraph (a) of this AD for the replaced bracket.

(d) If any discrepancy is detected during accomplishment of the replacement procedures, and the service bulletin or any appendix to the service bulletin specifies to contact Fokker for appropriate action: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Rijksluchtvaartdienst (or it delegated agent).

Alternative Methods of Compliance

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

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

Special Flight Permits

(f) 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

(g) Except as provided by paragraph (d) of this AD, the actions shall be performed in accordance with Fokker Service Bulletin F28/57–90, Revision 1, dated August 28, 2000; and Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999; as applicable. 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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. 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.

Note 4: The subject of this AD is addressed in Dutch airworthiness directive 1999–045/2, dated October 31, 2000.

Effective Date

(h) This amendment becomes effective on November 15, 2001.

Issued in Renton, Washington, on October 2, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25182 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–157–AD; Amendment 39–12455; AD 2001–20–07]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Beech 400A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon (Beech) Model 400A series airplanes, that requires replacement of certain bus bars connecting the battery and external power receptacle to the airframe ground with a new, improved bus bar. This amendment is prompted by reports of electrical arcing at the battery and external power receptacle of the airframe ground in the aft fuselage due to a deficiency in the bus bar and washer design. The actions specified by this AD are intended to prevent overheating or arcing of the ground connection in the aft fuselage area, which could result in a fire hazard due to ignition of fuel fumes during an engine start sequence.

DATES: Effective November 15, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Philip E. Petty, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4139; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Model Beech 400A series airplanes was published in the **Federal Register** on August 30, 1999 (64 FR 47142). That action proposed to require replacement of certain bus bars connecting the battery and external power receptacle to the airframe ground with a new, improved bus bar.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter requests that the ''Spares'' paragraph be revised to read as follows (added text in brackets): ''(b) As of the effective date of this AD, no person shall install on any [Raytheon Model Beech 400A series] airplane, a bus bar, P/N 128–364239–17 or P/N 101–361146–1.'' The commenter states that the same part number is used on Raytheon (Beech) Models 300 and B300 and is not unsafe on those models. The ''Spares'' paragraph proposed in the NPRM could be interpreted in such a way as to prevent the use of the parts on Raytheon (Beech) Models 300 and B300.

The FAA concurs and has revised paragraph (b) of the final rule accordingly.

Explanation of Changes Made to Proposed AD

The final rule has also been revised to reflect the updated name of Raytheon Model Beech 400A series airplanes and the current address from which service information may be received.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 122 Model Beech 400A series airplanes of the affected design in the worldwide fleet. The FAA estimates that 110 airplanes of U.S. registry will be affected by this AD, that it will take approximately 11 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. The manufacturer has committed previously to its customers that it will bear the cost of replacement parts. As a result, the cost of those parts is not attributable to this AD. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $72,600, or $660 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above.

The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations 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.

For the reasons discussed above, I certify that this action (1) is not a

''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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:

2001–20–07 Raytheon Aircraft Company (Formerly Beech): Amendment 39–12455. Docket 99–NM–157–AD.

Applicability: Model 400A series airplanes, serial numbers RK–78, RK–87 through RK–207 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing or overheating of the ground connection in the aft fuselage area, which could result in a fire hazard due to ignition of fuel fumes during an engine start sequence, accomplish the following:

Replacement

(a) Within 50 flight hours after the effective date of this AD, replace the two bus bars, part number (P/N) 128–364239–17 and P/N 101–361146–1, with a new, improved bus bar, P/N 101–364046–231, in accordance with Raytheon Aircraft Service Bulletin SB 24–3253, dated January, 1999.

Spares

(b) As of the effective date of this AD, no person shall install on any Raytheon Model Beech 400A series airplane a bus bar having either P/N 128–364239–17 or P/N 101–361146–1.

Alternative Methods of Compliance

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

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

Special Flight Permits

(d) 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

(e) The replacement shall be done in accordance with Raytheon Aircraft Service Bulletin SB 24–3253, dated January 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 Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on November 15, 2001.

Issued in Renton, Washington, on October 2, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25181 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–264–AD; Amendment 39–12463; AD 2001–20–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes and MD–88 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 McDonnell Douglas Model DC–9 series airplanes and MD–88 airplanes. This action requires an inspection to determine if a certain AC cross-tie relay is installed; replacement of a certain AC cross-tie relay with a new AC cross-tie relay; and repetitive cleaning, inspection, repair and testing of a certain AC cross-tie relay. This action is necessary to prevent AC cross-tie relay failures, which could result in internal arcing of the relay and smoke and/or fire in the cockpit and cabin. This action is intended to address the identified unsafe condition.

DATES: Effective October 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before December 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–264–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–264–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 Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: The FAA has received reports of a recent incident on a McDonnell Douglas Model DC–9 series airplane involving smoke in the cockpit and cabin. Investigation of the incident revealed that the smoke was caused by an internal phase-to-phase short circuit of the alternating current (AC) cross-tie relay resulting from migration and accumulation of metallic dust from electrical contact wear. Operators have reported other instances of AC cross-tie relay failure, causing arcing in the electrical panel area. Internal phase-to-phase short circuiting of the AC cross-tie relay caused by metallic dust accumulation, if not corrected, could result in internal arcing of the relay and smoke and/or fire in the cockpit and cabin.

Other Relevant Rulemaking

Operators should note that a supplemental notice of proposed rulemaking (NPRM), Rules Docket 99–NM–90–AD, was published in the **Federal Register** on June 14, 2001 (66 FR 32276), which would require replacement of certain AC power relays with certain new relays, and repetitive overhauls of certain AC power relays. That supplemental NPRM is related to this AD.

Based on comments received in response to the supplemental NPRM and the recent incident described above, the FAA has determined that the AC cross-tie relay, part number (P/N) 914F567–3 and –4, poses a more serious safety condition than previously determined. The FAA finds that a shorter compliance time (i.e., within 90 days after the effective date of this AD) than the compliance time specified in the supplemental NPRM (i.e., within 12 months after the effective date of the AD) is necessary for accomplishing the replacement of AC cross-tie relay, P/N 914567–3. Since a shorter compliance time would alter the actions currently proposed by the supplemental NPRM, another supplemental NPRM would be required. The FAA finds that to delay that action would be inappropriate in light of the identified unsafe condition.

In addition, the FAA has verified with the airplane manufacturer that there is a limited availability of spare parts, Sundstrand (Westinghouse) AC cross-tie relay, P/N 914567–4. Therefore, for any Sundstrand (Westinghouse) AC cross-tie relay, P/N 914567–4, with more than 7,000 flight hours since modification or installation, and for airplanes on which the flight hours since modification or installation of Sundstrand (Westinghouse) AC cross-tie relay, P/N 914567–4 cannot be determined, the FAA has determined that replacement and repetitive maintenance of those relays within 90 days will accommodate the time necessary for affected operators to obtain and replace the affected relay, without adversely affecting safety.

In light of the above findings, certain actions required for the AC cross-tie relays, P/N 914F567–3 and –4, that were specified in the supplemental NPRM have been specified in this AD, and the supplemental NPRM will be revised to reflect these changes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin DC9–24A193, dated July 31, 2001, which describes procedures for a one-time inspection to determine if a certain AC cross-tie relay is installed. The service bulletin also describes procedures for replacement of any AC cross-tie relay, P/N 914F567–3, with a Sundstrand (Westinghouse) relay, P/N 9008D09 series or 914F567–4; and repetitive cleaning, inspection, repair and testing of any Sundstrand (Westinghouse) AC cross-tie relay, P/N 914F567–4. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent internal arcing of the AC cross-tie relay and smoke and/or fire in the cockpit and cabin. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between This Rule and Service Bulletin

Operators should note that, although the procedures described in Boeing Alert Service Bulletin DC9–24A193, dated July 31, 2001, specify maintenance of P/N 9008D09 series when it is beyond service interval limits, this AD does not require repetitive maintenance of AC cross-tie relays with that P/N because the unsafe condition has not been found on AC cross-tie relays with that P/N.

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 2001–NM–264–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:

2001–20–15 McDonnell Douglas: Amendment 39–12463. Docket 2001–NM–264–AD.

Applicability: Model DC–9 series airplanes and MD–88 airplanes; certificated in any category; as specified in Boeing Alert Service Bulletin DC9–24A193, dated July 31, 2001.

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 (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent internal arcing of the alternating current (AC) relay and smoke and/or fire in the cockpit and cabin, accomplish the following:

Inspection

(a) Within 90 days after the effective date of this AD, perform a one-time inspection to determine if an AC cross-tie relay, part number (P/N) 914F567–3, or Sundstrand (Westinghouse) AC cross-tie relay, P/N 914F567–4, is installed, per Boeing Alert Service Bulletin DC9–24A193, dated July 31, 2001.

Replacement of Any AC cross-tie relay, P/N 914F567–3

(b) If any AC cross-tie relay, P/N 914F567–3, is found installed during the inspection required by paragraph (a) of this AD, within 90 days after the effective date of this AD, replace AC cross-tie relay, P/N 914F567–3, with a Sundstrand (Westinghouse) cross-tie relay, P/N 9008D09 series or 914F567–4, per the Accomplishment Instructions of Boeing Alert Service Bulletin DC9–24A193, dated July 31, 2001.

Maintenance of Sundstrand (Westinghouse) AC cross-tie relay, P/N 914F567–4

(c) If any Sundstrand (Westinghouse) AC cross-tie relay, P/N 914F567–4, is found installed during the inspection required by paragraph (a) of this AD, clean, inspect, repair, and test the relay, per Sundstrand (Westinghouse) Overhaul Manual 24–20–46, Revision 8, dated August 15, 1983, at the later of the times specified in paragraph (c)(1) and (c)(2) of this AD, except as provided by paragraph (d) of this AD.

(1) Within 90 days after the effective date of this AD.

(2) Within 7,000 flight hours after installation of the Sundstrand (Westinghouse) AC cross-tie relay, P/N 914F567–4.

(d) For airplanes on which the flight hours since installation of any Sundstrand (Westinghouse) AC cross-tie relay, P/N 914F567–4, cannot be determined: Clean, inspect, repair, and test within 90 days after the effective date of this AD.

Repetitive Maintenance of Sundstrand (Westinghouse) AC cross-tie relay, P/N 914F567–4

(e) Repeat the cleaning, inspection, repair, and test required by paragraphs (c) and (d) of this AD on all Sundstrand (Westinghouse) AC cross-tie relays, P/N 914F567–4, installed per paragraphs (b) and (c) of this AD at intervals not to exceed 7,000 flight hours.

Alternative Methods of Compliance

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

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

Special Flight Permits

(g) 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

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin DC9–24A193, dated July 31, 2001; and Sundstrand (Westinghouse) Overhaul Manual 24–20–46, Revision 8, dated August 15, 1983; as applicable. 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 Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024); and Hamilton Sundstrand, 4747 Harrison Avenue, P.O. Box 7002, Rockford, IL 61125–7002; as applicable. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on October 26, 2001.

Issued in Renton, Washington, on October 3, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25394 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–287–AD; Amendment 39–12464; AD 2001–20–16]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319 and A320 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 Airbus Model A319 and A320 series airplanes. This action requires revising the Airplane Flight Manual to advise the flight crew of performance corrections necessary to ensure adequate runway lengths for certain takeoff and landing conditions. This action is necessary to prevent the airplane from departing the end of the runway during a landing or a rejected takeoff due to reduced braking performance.

DATES: Effective October 26, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 26, 2001.

Comments for inclusion in the Rules Docket must be received on or before November 13, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–287–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–287–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Airbus Model A319 and A320 series airplanes equipped with certain Goodrich carbon brakes. The DGAC advises that a Model A320 series airplane departed the end of the runway during landing. Investigation revealed that the airplane's Goodrich brakes did not meet performance specifications. The reduced performance may have been caused by the contamination of the brake wear surfaces by the oxidation inhibitor applied during production and/or a tendency of this particular type of oxidation inhibitor to absorb water. The susceptibility of this oxidation inhibitor to absorb water is exacerbated during a period of inactivity of the airplane brakes (that is, more than 7 sequential days without brake usage). Such reduced braking performance could exist throughout the life of the brakes and, if not corrected, could result in the airplane departing the end of the runway during landing or a rejected takeoff.

Explanation of Relevant Service Information

Airbus has issued A319/320/321 Airplane Flight Manual (AFM) Temporary Revisions (TRs) 5.02.00/60 (for Model A319 series airplanes) and 5.03.00/21 (for Model A320 series airplanes), both Issue 2, both dated September 14, 2001. The TRs provide the flight crew with performance corrections necessary to ensure adequate runway lengths for certain takeoff and landing conditions. The performance corrections are intended to prevent the airplane from departing the end of the runway during a landing or a rejected takeoff due to reduced braking performance. The DGAC classified these TRs as mandatory and issued French airworthiness directive 2001–441(B), dated September 19, 2001, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to ensure adequate takeoff and landing field lengths to prevent the airplane from departing the end of the runway during a landing or a rejected takeoff due to reduced braking performance. This AD requires a revision to the Limitations section of the FAA-approved AFM to advise the flight crew of performance corrections necessary to ensure adequate runway lengths for certain takeoff and landing conditions.

Difference Between This AD and French Airworthiness Directive

The applicability of this AD includes additional part numbers and modifications not identified by the existing French airworthiness directive. Those additional part numbers and modifications are included in Issue 2 of TRs 5.02.00/60 and 5.03.00/21, cited in this AD as the appropriate sources of information for the revised AFM procedures.

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 2001–NM–287–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:

2001–20–16 Airbus Industrie: Amendment 39–12464. Docket 2001–NM–287–AD.

Applicability: Model A319 and A320 series airplanes, certificated in any category, equipped with Goodrich carbon brakes having part number 2–1526–4, 2–1526–5, 2–1572, 2–1600–1, or 2–1600–2.

Note 1: Brakes having the affected part numbers may have been installed in production in accordance with Airbus Modification 23597, 24007, 24260, 25810, 30075, or 31146; or in service in accordance with Airbus Service Bulletin A320–32–1090, A320–32–1114, A320–32–1180, A320–32–1221, or A320–32–1228.

Compliance: Required as indicated, unless accomplished previously.

To prevent the airplane from departing the end of the runway during a landing or a rejected takeoff due to reduced braking performance, accomplish the following:

Revision of Airplane Flight Manual (AFM)

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved AFM by inserting into the AFM a copy of Airbus AFM Temporary Revision (TR) 5.02.00/60 (for Model A319 series airplanes) or TR 5.03.00/21 (for Model A320 series airplanes), both Issue 2, both dated September 14, 2001; as applicable.

Note 2: Reference in TRs 5.02.00/60 and 5.03.00/21 to airplanes stored for a period of ''more than 7 days'' means a period of more than 7 consecutive days without brake usage.

(b) When the TRs required by paragraph (a) of this AD have been incorporated into the general AFM revisions, the general revisions may be inserted into the AFM, provided the information contained in the general revisions is identical to that specified in the TRs.

Alternative Methods of Compliance

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

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

Special Flight Permits

(d) Special flight permits may be issued in accordance with 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

(e) The AFM revisions shall be done in accordance with Airbus Airplane Flight Manual Temporary Revision 5.02.00/60, Issue 2, dated September 14, 2001; or Airbus Airplane Flight Manual Temporary Revision 5.03.00/21, Issue 2, dated September 14, 2001; as applicable. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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.

Note 4: The subject of this AD is addressed in French airworthiness directive 2001–441(B), dated September 19, 2001.

Effective Date

(f) This amendment becomes effective on October 26, 2001.

Issued in Renton, Washington, on October 3, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25393 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 6

Ensuring Access to Electronic and Information Technology for Individuals With Disabilities

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule amendments.

SUMMARY: The FTC is amending its administrative procedures for resolving complaints filed by individuals with disabilities pursuant to the Rehabilitation Act of 1973 with regard to alleged discrimination in Commission programs and activities. These amendments extend the procedures to complaints regarding agency compliance with disability access standards for electronic and information technology, as required by section 508 of the Rehabilitation Act.

EFFECTIVE DATE: October 11, 2001.

ADDRESSES: Comments may be addressed to the Secretary, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or by TDD (202) 326–2502, or by electronic mail to *508@ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, Office of the General Counsel, FTC, 202/326–2447, *atang@ftc.gov.* To listen to an audio version of this document, call (202) 326–2230.

SUPPLEMENTARY INFORMATION: On December 21, 2000, the United States Architectural and Transportation Barriers Compliance Board (''Access Board'') published final disability access standards for federal electronic and information technology (''EIT'') under section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794d, as amended. *See* 65 FR 80500 (final EIT accessibility standards), *to be codified at* 36 CFR part 1194. Section 508 requires that agencies, when developing, procuring, maintaining or using EIT,[1] ensure that such technology allows individuals with disabilities who are federal employees to have access to and use of information and data that is comparable to the access to and use of such information and data by federal employees without disabilities, unless an undue burden would be imposed on the agency. 29 U.S.C. 794d(a)(1)(A)(i). Likewise, federal agencies are required to ensure that such technology allows individuals with disabilities who are members of the public seeking information or services from the agency to have access to and use of information and data that is comparable to the access to and use of the information and data by members of the public who are not disabled, unless an undue burden would be imposed on the agency. 29 U.S.C. 794d(a)(1)(A)(ii). When it would be an undue burden for the agency to develop, procure, maintain, or use EIT that meets the Access Board's accessibility standards, the agency must provide individuals with disabilities the information and data involved by an alternative means of access that allows such individuals to use that information and data. 29 U.S.C. 794d(a)(1)(B).

To enforce these requirements, section 508 provides that any individual with a disability may file a complaint with the agency alleging that it has failed to comply with such standards with respect to EIT, but only if such EIT was procured by the agency no less than six months after the date that the final standards were published (*i.e.,* June 21, 2001, which is six months after the publication date of December 21, 2000). 29 U.S.C. 794d(f)(1)(A). Section 508 provides that complaints filed under section 508 shall be processed under the administrative procedures established by the agency to implement section 504 of the Rehabilitation Act, which prohibits discrimination against individuals with disabilities in federal programs and activities generally. *See* 29 U.S.C. 794.

The Commission's procedures for processing section 504 complaints are set forth in Part 6 of the Commission's Rules of Practice, 16 CFR part 6. Thus, the Commission is amending Part 6 to accommodate administrative complaints, if any, that may be filed under section 508. The amendments are described below:

Authority citation. This citation now refers to both sections 504 and 508 of the Rehabilitation Act.

Section 6.101: Purpose. The Commission is amending this section to add a reference to section 508.

Section 6.103: Definitions. The Commission is adding definitions of ''electronic and information technology,'' ''information technology,'' and ''section 508.'' These definitions are based on section 508 and the Access Board standards.

Section 6.152: Program accessibility: electronic and information technology. This section, which was previously reserved, sets forth a summary description of the requirement that the agency provide individuals with disabilities access to information and data that is comparable to the access provided to non-disabled individuals whenever the agency develops, procures, maintains, or uses EIT, as required by section 508.

The revised section also makes clear that, in revising its procedures to accommodate section 508 complaints, the Commission intends in no way to waive or modify the legal or procedural requirements otherwise imposed by section 508, which authorizes complaints only with respect to EIT procured on or after June 21, 2001, as explained earlier.[2] Likewise, the amendment makes clear that the Commission's procedures are not intended to authorize EIT complaints that are otherwise legally exempted under section 508.[3]

Section 6.170: Compliance procedures. The Commission is revising paragraphs (b), (d) and (i) of this section, which describes the administrative procedures to be followed by the agency in resolving complaints of discrimination on the basis of handicap

[1] As defined by the Access Board, EIT includes information technology—i.e., any equipment or interconnected system or subsystem of equipment used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, such as computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources—as well as any other equipment or inter-connected system or subsystem of equipment used in the creation, conversion, or duplication of data or information. For instance, EIT includes telecommunications products (e.g., telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and certain office equipment (e.g., copier and fax machines). *See* 36 CFR 1194.4.

[2] Section 508 does not remove or interfere with any separate or concurrent right, if any, that an individual with disabilities may have to file a complaint regarding EIT procured before June 21, 2001, to the extent, if any, that such complaint is cognizable under section 504, which applies to discrimination in the conduct of agency programs or activities generally, as noted earlier. *See* 66 FR 20894, 20895 (Apr. 25, 2001) (Federal Acquisition Regulation amendments implementing section 508). In this regard, section 508, by its terms, does not limit any right, remedy, or procedure otherwise available under any other provision of federal law that provides ''greater or equal'' protection than section 508 does for the rights of individuals with disabilities. 29 U.S.C. 794d(g).

[3] For example, section 508 expressly exempts EIT procured for national security systems. 29 U.S.C. 794d(a)(5). Also exempted by regulation are: one-time micropurchases under $2,500 prior to January 1, 2003; EIT to be located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of the equipment; and EIT acquired by a contractor incidental to a contract. 36 CFR 1194.3 (Access Board standards); 48 CFR 39.204 (Federal Acquisition Regulation).

in programs or activities conducted by the Commission. Paragraph (b), which had referred to complaints alleging employment-related violations of ''section 504,'' is being revised to refer to alleged violations of ''section 504 or 508.'' The Commission is also taking the opportunity to correct a legal citation in paragraph (b) to the relevant Equal Employment Opportunity Commission procedures for processing complaints by individuals with disabilities concerning alleged discrimination in federal employment.

Paragraph (d) addresses the procedures for discrimination complaints unrelated to federal employment (e.g., by members of the general public with disabilities) alleging violations ''prohibited by this part [*i.e.,* Part 6 of the Commission's Rules].'' The Commission finds it unnecessary to amend this language, since violations ''prohibited by this part'' now include section 508 violations in light of the revision to 16 CFR 6.152 discussed earlier. The Commission, however, is conforming its mailing address in paragraph (d)(3) to U.S. Postal Service standards. A similar technical correction is made in paragraph (i)(2) of this section.

Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. *See* 16 CFR 1.26(b)(5).

Administrative Procedure Act

These amendments are purely procedural and do not materially or substantially alter the legal rights of interested parties. Thus, the Administrative Procedure Act (APA) does not require prior public notice and comment. 5 U.S.C. 553(b)(A) (exempting rules of agency organization, procedure, or practice). Nonetheless, the Commission will consider comments, if any, submitted on these amendments in order to determine whether further action, if any, may be appropriate or necessary.

Regulatory Flexibility Act

The requirements for initial and final regulatory analyses of the small business impact of these rule amendments, pursuant to the Regulatory Flexibility Act, are not applicable, because that Act does not require analyses for matters that are exempt from notice-and-comment under the APA. 5 U.S.C. 605. Moreover, the Act does not require such analyses when an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. *Id.* The Commission hereby certifies that these amendments will not have such an impact, because the procedures apply only to individuals with disabilities, who are not small businesses within the meaning of the Act. This document serves as notice of this certification to the Small Business Administration.

Paperwork Reduction Act

The rule amendments contain no information collection requirements (i.e., reporting, recordkeeping, or disclosure) subject to prior review and approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501–3518.

List of Subjects in 16 CFR Part 6

Blind, Civil rights, Computer technology, Deaf, Disabled, Discrimination against handicapped, Employment, Equal employment opportunity, Federal buildings and facilities, Government employees, Government procurement, Handicapped.

For the reasons set forth in the preamble, the Federal Trade Commission amends Chapter I of Title 16, Code of Federal Regulations, as follows:

PART 6—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL TRADE COMMISSION

1. Revise the authority citation for Part 6 to read as follows:

Authority: 29 U.S.C. 794, 794d.

2. Amend § 6.101 by adding a new sentence to the end of the section:

§ 6.101 Purpose.

* * * This part also implements section 508 of the Rehabilitation Act of 1973, as amended, with respect to the accessibility of electronic and information technology developed, procured, maintained, or used by the agency.

3. Amend § 6.103 by inserting the following new paragraphs in alphabetical order, between existing definitional paragraphs:

§ 6.103 Definitions.

For purposes of this part, the term—

* * * * *

''Electronic and information technology'' includes information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation are not electronic and information technology.

* * * * *

''Information technology'' means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term ''information technology'' includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

* * * * *

''Section 508'' means section 508 of the Rehabilitation Act of 1973, as amended.

4. Revise § 6.152, which was previously reserved, to read as follows:

§ 6.152 Program accessibility: electronic and information technology.

(a) When developing, procuring, maintaining, or using electronic and information technology, the Commission shall ensure, unless an undue burden would be imposed on the agency, that the electronic and information technology allows, regardless of the type of medium of the technology:

(1) individuals with disabilities who are employees to have access to and use of information and data that is comparable to the access to and use of the information and data by employees who are not individuals with disabilities; and

(2) individuals with disabilities who are members of the public seeking

information or services from the Commission to have access to and use of information and data that is comparable to the access to and use of the information and data by members of the public who are not individuals with disabilities.

(b) When the development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Architectural and Transportation Barriers Compliance Board pursuant to section 508(a)(2) of the Rehabilitation Act of 1973, as amended, would impose an undue burden on the Commission, the Commission shall provide individuals with disabilities covered by paragraph (a) of this section with the information and data involved by an alternative means of access that allows such individuals to use the information and data.

(c) This section shall not apply to any matter legally exempted by section 508, by the standards referenced in paragraph (b) of this section, or by other applicable law or regulation. Nothing in this section shall be construed to limit any right, remedy, or procedure otherwise available under any provision of federal law (including sections 501 through 505 of the Rehabilitation Act of 1973, as amended) that provides greater or equal protection for the rights of individuals with disabilities than section 508.

5. Amend § 6.170 by adding two new sentences to the end of paragraph (b), and by revising paragraphs (d)(3) and (i)(2) to read as follows:

§ 6.170 Compliance procedures.

(b) * * * The Commission shall apply the same procedures to process complaints alleging violations of section 508. Complaints alleging a violation of section 508 may not be filed with respect to any exempted matters as described in § 6.152(c) of this chapter, and may be filed only with respect to electronic and information technology procured by the Commission on or after June 21, 2001.

* * * * *

(d) * * *

(3) The complaint must be addressed to the Director of Equal Employment Opportunity, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

* * * * *

(i) * * *

(2) The appeal must be addressed to the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–25550 Filed 10–10–01; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 01–74]

RIN 1515–AC89

Preferential Treatment of Brassieres Under the United States-Caribbean Basin Trade Partnership Act

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

ACTION: Interim regulations; corrections.

SUMMARY: This document makes corrections to the document published in the **Federal Register** on October 4, 2001, as T.D. 01–74 which set forth interim amendments to the Customs Regulations to implement those provisions within the United States-Caribbean Basin Trade Partnership Act (the CBTPA) that establish standards for preferential treatment for brassieres imported from CBTPA beneficiary countries.

EFFECTIVE DATE: These corrections are effective October 4, 2001.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Office of Regulations and Rulings (202–927–1361).

SUPPLEMENTARY INFORMATION:

Background

On October 4, 2001, Customs published in the **Federal Register** (66 FR 50534) T.D. 01–74 to set forth interim amendments to the Customs Regulations to implement those provisions within the United States-Caribbean Basin Trade Partnership Act (the CBTPA) that establish standards for preferential treatment for brassieres imported from CBTPA beneficiary countries. The interim regulatory amendments contained in T.D. 01–74 involve specifically the methods, procedures and related standards that will apply for purposes of determining compliance with the 75 percent aggregate U.S. fabric components content requirement for CBTPA brassieres which went into effect on October 1, 2001. The interim amendments took effect on the date of publication.

This document makes three corrections to cross-reference citations within paragraph (c)(3)(ii) of § 10.228.

PART 10—[CORRECTED]

Corrections of Publication

The document published in the **Federal Register** as T.D. 01–74 on October 4, 2001 (66 FR 50534) is corrected as set forth below.

§ 10.228 [Corrected]

1. On page 50541, in the first column, in § 10.228, the introductory text of paragraph (c)(3)(ii) is corrected by removing the reference ''paragraph (c)(3)'' and adding, in its place, the reference ''paragraph (c)(3)(i)''.

2. On page 50541, in the first column, in § 10.228, paragraph (c)(3)(ii)(E) is corrected by removing the reference ''paragraph (b)(1)'' and adding, in its place, the reference ''paragraph (b)(1)(i)'' and by removing the reference ''paragraph (b)(2)'' and adding, in its place, the reference ''paragraph (b)(1)(ii)''.

Dated: October 5, 2001.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 01–25532 Filed 10–10–01; 8:45 am]

BILLING CODE 4820–02–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Chapter XL

Disaster Relief Relating to PBGC Deadlines in Response to Terrorist Attacks of September 11, 2001

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of disaster relief relating to PBGC deadlines.

SUMMARY: The Pension Benefit Guaranty Corporation is extending deadlines and providing relief from penalties in response to the major disasters declared by the President of the United States on account of the terrorist attacks of September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY and TDD, call 800–877–8339 and request connection to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Introduction

The Pension Benefit Guaranty Corporation administers the pension plan termination insurance program under Title IV of the Employee

Retirement Income Security Act of 1974 (ERISA). ERISA and PBGC regulations set deadlines of various kinds that must be met in order to be in compliance with the law.

The PBGC is aware that many of its customers may face a variety of compliance-related problems and concerns as a result of the terrorist attacks of September 11, 2001. During this difficult period, the PBGC will work with its customers to resolve any special issues and problems that may arise. This notice provides relief relating to PBGC deadlines.

Persons Entitled to Relief

This notice provides relief relating to PBGC deadlines as described below to Designated Persons. A ''Designated Person'' is a person responsible for meeting a PBGC deadline (for example, a plan administrator or plan sponsor) that (1) is located in a disaster area for which relief is provided under the Department of Labor announcement referenced below, or (2) cannot reasonably obtain information or other assistance needed to meet the deadline from a service provider, bank, or other person whose operations are directly affected by the disaster.

This notice also provides relief relating to PBGC deadlines as described below where a plan's Form 5500 or Form 5500–EZ filing deadline is extended as a result of the terrorist attacks under the announcement issued by the Department of Labor on September 14, 2001, on behalf of the Pension and Welfare Benefits Administration, the Internal Revenue Service, and the PBGC (a ''Form 5500 Disaster Extension''). The Department of Labor announcement is available at http://www.dol.gov/dol/pwba/public/media/press/Pr091401.htm. A Form 5500 deadline that was extended as a result of that DOL announcement is referred to in this notice as a ''Form 5500 Disaster Extension Date.''

Claiming Disaster Relief

A person claiming disaster relief described in this notice for a filing made with the PBGC should print or type ''September 11, 2001, terrorist attack relief until _____'' prominently at the top of the filing, inserting in the blank the last date to which relief for the filing is provided. (On Form 1 or Form 1–EZ, also check the ''disaster relief'' box at the top of the form.) Similarly, if a person receives an inquiry or bill from the PBGC that appears not to take disaster relief into account, the inquiry or bill should be returned to the PBGC with the same wording written at the top. (The PBGC may, for example, generate such an inquiry or bill because it has not yet been alerted to the fact that the filer claims disaster relief.)

Case-by-Case Relief

This notice does not cover every situation in which PBGC disaster relief may be warranted. For example:

- The definition of ''Designated Person'' does not capture every person that might experience difficulty in meeting a PBGC deadline for reasons related to the disaster.
- This notice does not grant specific disaster relief for all filings. For example, it does not provide relief for certain filings that involve particularly important or time-sensitive information where there may be a high risk of substantial harm to participants or the PBGC insurance program, *i.e.,* notices of large missed contributions under section 412(n) of the Internal Revenue Code, advance notices of reportable events under ERISA section 4043, and annual financial and actuarial information reports from certain controlled groups under ERISA section 4010.

Those affected by the disaster who need relief from the PBGC that is not covered by this notice should contact the PBGC as soon as reasonably possible. The PBGC will work with them in ensuring that they receive appropriate relief. To request case-by-case relief, contact Diane Morstein at the PBGC by _____.

- Calling 1–800–736–2444, extension 4136, or 202–326–4136 (for TTY and TDD, call 800–877–8339 and request connection to 202–326–4136);
- Sending an e-mail to *practitioner.pro@pbgc.gov*; or
- Writing to Pension Benefit Guaranty Corporation, Diane Morstein, Suite 610, 1200 K Street, NW., Washington, DC 20005–4026, Re: Disaster Relief Notice.

Premiums

Relief for Designated Persons

The following relief applies where the plan administrator of a plan is a Designated Person.

First, if the deadline for submitting a premium payment form and paying any related premium (making a ''premium filing'') for the plan falls on or after September 11, 2001, and before February 12, 2002, the PBGC will waive any late payment penalty (under ERISA section 4007) and any late filing penalty (under ERISA section 4071) for the period from that premium filing deadline through February 12, 2002.

Second, if the plan has a Form 5500 Disaster Extension Date for the 2000 plan year that is later than February 12, 2002, the PBGC will waive any late payment penalty and any late filing penalty for the period from February 12, 2002, through that Form 5500 Disaster Extension Date for the following premium filings:

- The plan's *2001* Form 1 (or Form 1–EZ) premium filing that is due late in the *2001* plan year (*e.g.,* October 15, 2001, for calendar year plans), and
- The plan's *2002* flat-rate premium filing (the ''Form 1–ES filing'') that is due early in the *2002* plan year (*e.g.,* February 28, 2002, for calendar year plans) *if* the plan is a large plan. (Also, the PBGC will treat the 2002 Form 1–ES filing as timely made for purposes of applying the ''safe harbor'' penalty waiver rules if the filing is made by the 2000 Form 5500 Disaster Extension Date.)

Relief for Persons Other Than Designated Persons

Where the plan administrator of a plan is not a Designated Person, the PBGC will provide penalty relief if (1) the plan has a Form 5500 Disaster Extension Date of November 15, 2001, for the 1999 or 2000 plan year because of disruption of transportation and delivery of documents, and (2) the premium filing deadline for the plan for the following plan year (the 2000 or 2001 plan year, respectively) falls on or after September 11, 2001, and before November 15, 2001. Under this penalty relief, the PBGC will waive any late payment penalty (under ERISA section 4007) and any late filing penalty (under ERISA section 4071) for the period from that premium filing deadline through the November 15, 2001, Form 5500 Disaster Extension Date.

Effect on Interest

The relief in this notice relating to PBGC premiums does not include relief from late premium payment interest charges. The PBGC is not permitted by law to waive such charges. (ERISA section 4007(b); 29 CFR 4007.7 and .8(b)(3)).

Effect of Short Plan Years

This premium-related relief assumes no short plan years, but applies in similar fashion to short plan years. Plan administrators of plans with short plan years during the relevant period should contact the PBGC for guidance.

Examples

- *Example 1.* Plan A is a calendar year plan. The deadline for Plan A's 2001 Form 1 (or Form 1–EZ), along with the related premium payment, is October 15, 2001. Plan A's original 2000 Form 5500 due date of July 31, 2001, was extended for two and a half months to October 15, 2001, for reasons

unrelated to the disaster. Plan A's plan administrator is a Designated Person. Under this notice, the PBGC will waive late payment penalties and late filing penalties for the period from October 15, 2001, through February 12, 2002. Because Plan A's Form 5500 Disaster Extension Date for the 2000 Form 5500 is also February 12, 2002, this notice does not provide additional penalty relief beyond February 12, 2002.

• *Example 2.* Plan B's plan year begins on March 1. The deadline for Plan B's 2001 Form 1 (or Form 1–EZ), along with the related premium payment, is December 17, 2001. Under Plan B's Form 5500 Disaster Extension, the 2000 Form 5500 (which was originally due October 1, 2001) is due July 30, 2002. Plan B's plan administrator is a Designated Person. Under this notice, the PBGC will waive late payment penalties and late filing penalties for Plan B's 2001 Form 1 (or Form 1–EZ) filing for the period from December 17, 2001, through July 30, 2002.

• *Example 3.* Plan B in Example 2 is a large plan required to pay its 2002 flat-rate premium filing (Form 1–ES filing) on April 30, 2002. Under this notice, the PBGC will waive late payment penalties and late filing penalties for the period from April 30, 2002, through July 30, 2002, for Plan B's 2002 Form 1–ES filing.

• *Example 4.* Plan C is a calendar year plan. The deadline for Plan C's 2001 Form 1 (or Form 1–EZ) is October 15, 2001. Plan C's original 2000 Form 5500 due date of July 31, 2001, was extended for two and a half months to October 15, 2001, for reasons unrelated to the disaster. Plan C has a Form 5500 Disaster Extension because the plan administrator had difficulty in meeting filing deadlines because of disruption of transportation and delivery of documents by mail or private delivery service resulting from the disasters. Plan C's Form 5500 Disaster Extension Date for the 2000 Form 5500 is November 15, 2001. Plan C's plan administrator is not a Designated Person. Under this notice, the PBGC will waive late payment penalties and late filing penalties for Plan C's 2001 Form 1 (or Form 1–EZ) for the period from October 15, 2001, through November 15, 2001.

Single-Employer Plan Terminations

Standard Terminations

If the plan administrator of a plan that is terminating in a standard termination is a Designated Person, any of the following plan termination deadlines for the plan that falls on or after September 11, 2001, and before February 12, 2002, is extended to February 12, 2002:

• The deadline for filing the standard termination notice (Form 500) (29 CFR 4041.25(a)). (Note that this automatically extends the deadline for providing notices of plan benefits to participants and beneficiaries (29 CFR 4041.24(a)) because that deadline is the date when the standard termination notice is filed.)

• The deadline for completing the distribution of plan assets (29 CFR 4041.28(a)).

• The deadline for filing the post-distribution certification (Form 501) without penalty (29 CFR 4041.29(b)). (Note that this automatically extends the deadline for filing missing participant information and certifications without penalty and for paying missing participants' designated benefits to the PBGC without interest (29 CFR 4050.6(b)(2)).)

Distress Terminations

If the plan administrator of a plan that is terminating in a distress termination is a Designated Person and the deadline for filing the distress termination notice (Form 601) (29 CFR 4041.45(a)) falls on or after September 11, 2001, and before February 12, 2002, that deadline is extended to February 12, 2002. (Plan administrators of plans in distress terminations for which the PBGC has issued a distribution notice should contact the PBGC for case-by-case relief. See *''Case-by-case relief''* above.)

Participant Notices

A plan's deadline for providing a Participant Notice under ERISA section 4011 for a plan year is two months after the deadline (including extensions) for filing the plan's Form 5500 for the preceding plan year (29 CFR 4011.8). Thus, if the plan has a Form 5500 Disaster Extension for the 2000 plan year, the deadline for providing a Participant Notice for the 2001 plan year is automatically extended to two months after the 2000 Form 5500 Disaster Extension Date.

In addition, if the plan administrator of a plan is a Designated Person, any deadline for providing a Participant Notice that falls on or after September 11, 2001, and before February 12, 2002, is extended to February 12, 2002.

Reportable Events Notices

Under the PBGC's regulation on post-event notices of reportable events (29 CFR part 4043, subparts A and B), the plan administrator and each contributing sponsor of a plan for which a reportable event occurs generally must notify the PBGC of the event within 30 days after the event occurs. In certain cases, the regulation extends the reporting deadline until 30 days after a plan's Form 5500 due date. (*See* 29 CFR 4043.23(d)(2), .29(d)(2), .30(d)(2), .31(d)(2), and .34(d)(4).) If such a 30-day extension applies to a Form 5500 for which there is a Form 5500 disaster extension, the 30-day extension period in the PBGC's regulation will begin to run on the Form 5500 Disaster Extension Date.

In addition, if a Designated Person is responsible for filing a reportable event post-event notice for which the deadline falls on or after September 11, 2001, and before February 12, 2002, that person's deadline for filing the notice is extended to February 12, 2002.

In the case of notices required in advance of the effective date of a reportable event (29 CFR part 4043, subparts A and C), the PBGC will grant relief where appropriate on a case-by-case basis. See *''Case-by-case relief''* above.

Annual Employer Reporting Under ERISA Section 4010

The PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR part 4010) requires annual financial and actuarial information reporting in certain cases by contributing sponsors (and their controlled group members) maintaining plans with large underfunding or certain missed contributions or funding waivers. The PBGC will grant relief where appropriate on a case-by-case basis for these reports. See *''Case-by-case relief''* above.

However, the regulation permits the filing of certain actuarial information by an alternative due date, which is 15 days after a plan's Form 5500 due date, if certain requirements are met (29 CFR 4010.10(b)). If such an alternative due date is based on a Form 5500 for which there is a Form 5500 Disaster Extension, the 15-day period in the PBGC's regulation will be measured from the Form 5500 Disaster Extension Date.

Requests For Reconsideration or Appeals

The deadline for requesting review of a PBGC determination under the PBGC's regulation on Rules for Administrative Review of Agency Decisions (29 CFR part 4003) is generally 45 days (for an appeal) or 30 days (for a request for reconsideration) after the date of the determination. If a Designated Person is aggrieved by a PBGC determination, and the deadline for filing an appeal or a request for reconsideration of the determination falls on or after September 11, 2001, and before February 12, 2002, that person's deadline for filing the appeal or request for reconsideration is extended to February 12, 2002.

Multiemployer Plan Deadlines

Premium Deadlines

The disaster relief relating to premium deadlines (discussed under ''Premiums,'' above) also applies to multiemployer plans.

Other Multiemployer Deadlines

Under the PBGC's regulations governing multiemployer plans, various persons (*e.g.,* the plan sponsor) are subject to deadlines for making filings with the PBGC, issuing notices to persons other than the PBGC, and taking other actions. If the person responsible for meeting the deadline is a Designated Person, and the deadline falls on or after September 11, 2001, and before February 12, 2002, the PBGC will neither assess a penalty under ERISA section 4302 nor take any other enforcement action with respect to any failure to comply with the deadline during the period ending on February 12, 2002.

The PBGC recognizes that persons other than the PBGC may have rights to enforce some of these deadlines. The PBGC expects these persons to act reasonably—fully taking into account the effects of the recent disasters—in deciding whether and to what extent to exercise these rights.

The PBGC will grant other relief where appropriate on a case-by-case basis for deadlines relating to multiemployer plans. See ''*Case-by-case relief*'' above.

Issued in Washington, DC, this 5th day of October 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–25638 Filed 10–10–01; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510–AA87

Administrative Wage Garnishment

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule makes technical amendments to the regulations issued by the Department of the Treasury concerning implementation of the administrative wage garnishment provisions of the Debt Collection Improvement Act of 1996.

DATES: This rule is effective October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program Specialist, Debt Management Services, at (202) 874–6660, or Ronda Kent, Senior Attorney, at (202) 874–6680, Financial Management Service, Department of the Treasury, 401 14th Street SW, Washington, DC 20227. This document is available for downloading from the Financial Management Service web site at the following address: http://www.fms.treas.gov/debt.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1998, the Department of the Treasury's Financial Management Service (FMS) issued a final rule (63 FR 25136) concerning implementation of the administrative wage garnishment provisions in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104–134, 110 Stat. 1321–358 (Apr. 26, 1996), codified at 31 U.S.C. 3720D. FMS published a technical amendment to the rule on April 28, 1999 (64 FR 22905), which deleted the requirement that Federal agencies issue an administrative wage garnishment order on agency letterhead. The requirement to issue the order on a form prescribed by the Secretary of the Treasury remains unchanged. This rule makes further technical amendments to the regulations concerning administrative wage garnishment, which are codified at 31 CFR 285.11.

Technical Amendments

Section 285.11(b) Scope

In § 285.11(b)(3), the citation to the Federal Claims Collection Standards (FCCS) is updated to reflect the revised FCCS published on November 22, 2000 (65 FR 70390). The revised FCCS are found at 31 CFR parts 900–904.

Section 285.11(c) Definitions

In § 285.11(c), the term ''certificate of service'' is replaced with the term ''evidence of service.'' Conforming changes are made in §§ 285.11(e)(3) and 285.11(g)(3). Unlike a certificate of service, evidence of service does not need to be in the form of a document signed by an agency official. The purpose of evidence of service is the same as that of the certificate of service, that is, to retain evidence that a document has been sent to the debtor or employer for wage garnishment purposes. Evidence of service may be retained electronically or otherwise, so long as the manner of retention is sufficient for evidentiary purposes.

Section 285.11(g) Wage Garnishment Order

Section 285.11(g)(1) is amended to clarify the time frame within which an agency is required to issue a wage garnishment order after sending notice to the debtor of the agency's intent to do so. While agencies are encouraged to issue the wage garnishment order within the 30 day time period suggested, nothing in this rule is intended to imply that any wage garnishment order issued after such 30 day period is invalid.

Section 285.11(g)(2) is amended to allow the wage garnishment order to contain either the signature of, or the image of the signature of, the agency official authorized to issue the wage garnishment order. For purposes of this rule, the lack of an original signature on the wage garnishment order does not necessarily prove that the agency did not authorize the wage garnishment order. Evidence of such approval to garnish a debtor's wages may be retained by the agency electronically or otherwise, so long as the manner of retention is sufficient for evidentiary purposes. Employers must comply with a wage garnishment order that contains an original, or image of an original, signature.

Regulatory Analysis

This rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act do not apply.

Special Analysis

FMS is promulgating this final rule without opportunity for prior public comment and without a delayed effective date pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (the ''APA''). FMS has determined that a comment period and a delayed effective date are unnecessary because nothing in this rule impacts the rights or obligations of debtors or changes the authorities under which Federal agencies collect debt.

List of Subjects in 31 CFR Part 285

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Hearing and appeal procedures, Salaries, Wages.

Authority and Issuance

For the reasons set forth in the preamble, 31 CFR 285.11 is amended as follows:

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

1. The authority citation for part 285 continues to read as follows:

Authority: 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3720A, 3720B, 3720D; E.O. 13019; 3 CFR, 1996 Comp., p. 216.

2. Section 285.11 is amended by revising paragraphs (b)(3), (c), (e)(3), and (g) to read as follows:

285.11 Administrative wage garnishment.

* * * * *

(b) *Scope.*

* * * * *

(3) Nothing in this section precludes the compromise of a debt or the suspension or termination of collection action in accordance with applicable law. See, for example, the Federal Claims Collection Standards (FCCS), 31 CFR parts 900–904.

* * * * *

(c) *Definitions.* As used in this section the following definitions shall apply:

Agency means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal Government, including government corporations. For purposes of this section, agency means either the agency that administers the program that gave rise to the debt or the agency that pursues recovery of the debt.

Business day means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, a Sunday, or a Federal legal holiday.

Debt or *claim* means any amount of money, funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by an individual, including debt administered by a third party as an agent for the Federal Government.

Delinquent nontax debt means any nontax debt that has not been paid by the date specified in the agency's initial written demand for payment, or applicable agreement, unless other satisfactory payment arrangements have been made. For purposes of this section, the terms ''debt'' and ''claim'' are synonymous and refer to delinquent nontax debt.

Debtor means an individual who owes a delinquent nontax debt to the United States.

Disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this section, ''amounts required by law to be withheld'' include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

Employer means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government.

Evidence of service means information retained by the agency indicating the nature of the document to which it pertains, the date of mailing of the document, and to whom the document is being sent. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

Garnishment means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

Withholding order means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body. For purposes of this section, the terms ''wage garnishment order'' and ''garnishment order'' have the same meaning as ''withholding order.''

* * * * *

(e) *Notice requirements.*

* * * * *

(3) The agency will retain evidence of service indicating the date of mailing of the notice.

* * * * *

(g) *Wage garnishment order.* (1) Unless the agency receives information that the agency believes justifies a delay or cancellation of the withholding order, the agency should send, by first class mail, a withholding order to the debtor's employer:

(i) Within 30 days after the debtor fails to make a timely request for a hearing (i.e., within 15 business days after the mailing of the notice described in paragraph (e)(1) of this section), or,

(ii) If a timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the agency to proceed with garnishment, or,

(iii) As soon as reasonably possible thereafter.

(2) The withholding order sent to the employer under paragraph (g)(1) of this section shall be in a form prescribed by the Secretary of the Treasury. The withholding order shall contain the signature of, or the image of the signature of, the head of the agency or his/her delegatee. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the debtor's name, address, and social security number, as well as instructions for withholding and information as to where payments should be sent.

(3) The agency will retain evidence of service indicating the date of mailing of the order.

* * * * *

Dated: September 28, 2001.

Richard L. Gregg,

Commissioner.

[FR Doc. 01–25602 Filed 10–11–01; 8:45 am]

BILLING CODE 4810–35–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4140a; FRL–7079–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Eight Individual Sources Located in the Philadelphia-Wilmington-Trenton Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for eight major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the direct final rule published on August 31, 2001 (66 FR 45933), EPA stated that if it received adverse comment by October 1, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 31, 2001 (66 FR 45954). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(174) is withdrawn as of October 11, 2001.

[FR Doc. 01–25548 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4118a; FRL–7079–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Nine Individual Sources Located in the Philadelphia-Wilmington-Trenton Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for nine major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the direct final rule published on August 31, 2001 (66 FR 45928), EPA stated that if it received adverse comment by October 1, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 31, 2001 (66 FR 45953). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(184) is withdrawn as of October 11, 2001.

[FR Doc. 01–25547 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4148a; FRL–7079–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Three Individual Sources Located in the Philadelphia-Wilmington-Trenton Area; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule approving revisions which establish reasonably available control technology (RACT) requirements for three major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the direct final rule published on August 31, 2001 (66 FR 45938), EPA stated that if it received adverse comment by October 1, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 31, 2001 (66 FR 45954). EPA will not institute a second comment period on this action.

DATES: The direct final rule is withdrawn as of October 11, 2001.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at (215) 814–2108.

List of Subjects in 40 CFR Part 52

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

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

§ 52.2020 [Amended]

Accordingly, the addition of § 52.2020(c)(182) is withdrawn as of October 11, 2001.

[FR Doc. 01–25546 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ105–0045; FRL–7063–1]

Approval and Promulgation of Implementation Plans; Arizona—Maricopa Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving under the Clean Air Act (CAA or Act), as a revision to the Arizona State Implementation Plan (SIP), a general permit rule that provides for the expeditious implementation of best management practices (BMPs) to reduce particulate matter (PM–10) from agricultural sources in the Maricopa County (Phoenix) PM–10 nonattainment area. EPA is approving the general permit rule as meeting the ''reasonably available control measure'' (RACM) requirements of the Act.

EFFECTIVE DATE: November 13, 2001.

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

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

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

Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, Air Division, U.S.

Environmental Protection Agency, EPA Region 9, 75 Hawthorne Street (AIR2), San Francisco, CA 94105, (415) 744–1286 or *ungvarsky.john@epa.gov*. This document is also available as an electronic file on EPA's Region 9 Web page at *http://www.epa.gov/region09/air*.

SUPPLEMENTARY INFORMATION

I. Background

A. Air Quality Status

Portions of Maricopa County [1] are designated nonattainment for the PM–10 national ambient air quality standards (NAAQS) [2] and were originally classified as ''moderate'' pursuant to section 188(a) of the CAA. 56 FR 11101 (March 15, 1991). On May 10, 1996, EPA reclassified the Maricopa County PM–10 nonattainment area to ''serious'' under CAA section 188(b)(2). 61 FR 21372. Having been reclassified, Phoenix is required to meet the serious area requirements in CAA section 189(b).

While the Phoenix PM–10 nonattainment area is currently classified as serious, today's action relates only to the moderate area statutory requirements for RACM. However, Arizona developed legislation and a general permit rule applicable to agricultural sources of PM–10 when the area had already been reclassified to serious. Therefore the State's focus was on the serious area statutory requirements for ''best available control measures'' (BACM). RACM is generally considered to be a subset of BACM. As a result, in order to evaluate whether the general permit rule meets the RACM requirements for the purpose of this rulemaking, EPA referred to portions of the State's serious area SIP submittal.[3]

B. CAA Planning Requirements and EPA Guidance

The air quality planning requirements for PM–10 nonattainment areas are set out in subparts 1 and 4 of title I of the Clean Air Act. Those states containing initial moderate PM–10 nonattainment areas were required to submit, among other things, by November 15, 1991 provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993. CAA sections 172(c)(1) and 189(a)(1)(C). Since that deadline has passed, EPA has concluded that the required RACM/RACT must be implemented ''as soon as possible.'' *Delaney* v. *EPA,* 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be ''as soon as practicable.'' *See* 55 FR 41204, 41210 (October 1, 1990) and 63 FR 28898, 28900 (May 27, 1998).

EPA has issued a ''General Preamble'' [4] describing EPA's preliminary views on how the Agency intends to review SIPs and SIP revisions submitted under title I of the Act, including those state submittals containing moderate PM–10 nonattainment area SIP provisions. The methodology for determining RACM/RACT is described in detail in the General Preamble. 57 FR 13498, 13540–13541. In short and as pertinent here, EPA suggests starting to define RACM with the list of available control measures for fugitive dust in Appendix C1 to the General Preamble and adding to this list any additional control measures proposed and documented in public comments. Any measures that apply to emission sources of PM–10 and that are de minimis and any measures that are unreasonable for technology reasons or because of the cost of the control in the area can then be culled from the list. In addition, potential RACM may be culled from the list if a measure cannot be implemented on a schedule that would advance the date for attainment in the area. 57 FR 13498, 13560; 57 FR 18070, 18072 (April 28, 1992).

PM–10 nonattainment areas reclassified as serious under section 188(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions providing for, among other things, the implementation of BACM no later than four years from the date of reclassification. The SIP must also provide for attainment of the PM–10 NAAQS by December 31, 2001, unless EPA grants an extension of that deadline. *See* CAA sections 188(c)(2) and (e); 189(b). On August 16, 1994, EPA issued an Addendum to the General Preamble that describes the Agency's preliminary views on the CAA provisions for serious area PM–10 nonattainment SIPs. 59 FR 41998. The Addendum provides that for moderate PM–10 areas reclassified as serious, the RACM requirements are carried over and elevated to a higher level of stringency, *i.e.,* BACM. 59 FR 41998, 42009.

II. Proposed Action

In May 1998, Arizona Governor Hull signed into law Senate Bill 1427 (SB 1427) which revised title 49 of the Arizona Revised Statutes (ARS) by adding section 49–457. This legislation established an Agricultural Best Management Practices (BMP) Committee that was required to adopt by rule by June 10, 2000, an agricultural general permit specifying BMPs for regulated agricultural activities to reduce PM–10 emissions in the Maricopa PM–10 nonattainment area. ARS 49–457.A-F. Subsection M of ARS 49–457 provided for the initiation of BMP implementation through the commencement of an education program by June 10, 2000.

On September 4, 1998, the State submitted ARS 49–457 to EPA for inclusion in the Arizona SIP as meeting the RACM requirements of CAA section 189(a)(1)(C). On June 29, 1999, EPA approved ARS 49–457 as meeting the RACM requirements of the CAA. 64 FR 34726.[5]

Pursuant to ARS 49–457, the Agricultural BMP Committee adopted the agricultural general permit and associated definitions, effective May 12, 2000, at Arizona Administrative Code (AAC) R18–2–610, ''Definitions for R18–2–611,'' and 611, ''Agricultural PM–10 General Permit; Maricopa PM10 Nonattainment Area'' (collectively, general permit rule). On July 11, 2000, the State submitted AAC R18–2–610 and 611 to EPA as a revision to the Arizona SIP.[6]

On June 29, 2001, EPA proposed to approve ACC R18–2–610 and 611 under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and 189(a)(1)(C). EPA also concluded that its proposed approval of ACC R18–2–610 and 611 meets the requirements of CAA section 110(l). 66 FR 34598.

[1] ''Maricopa,'' ''Maricopa County'' and ''Phoenix'' are used interchangeably throughout this final rule to refer to the nonattainment area.

[2] There are two PM–10 NAAQS, a 24-hour standard and an annual standard. 40 CFR 50.6.

[3] ''Submittal of State Implementation Plan revision for the Agricultural Best Management program in the Maricopa County PM_{10} Nonattainment Area'' from Jacqueline E. Schafer, Arizona Department of Environmental Quality (ADEQ), to Laura Yoshii, EPA, June 13, 2001. See also the proposal for today's rulemaking at 66 FR 34598, 34599–34600 (June 29, 2001).

[4] *See* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

[5] For further information on this legislation and its relationship to the history of PM–10 planning in the Phoenix area, see EPA's proposed action. 66 FR 34598, 34599.

[6] In evaluating this submittal, EPA relied on information submitted on June 13, 2001 by the State as part of its serious area PM–10 plan for Phoenix: ''Submittal of State Implementation Plan revision for the Agricultural Best Management program in the Maricopa County PM_{10} Nonattainment Area'' from Jacqueline E. Schafer, ADEQ, to Laura Yoshii, EPA, June 13, 2001.

III. Comments on Proposed Rule and EPA Responses

EPA received two comment letters on its proposed action. The comments were submitted by Dan Thelander, Chairman, Governor's Agricultural Best Management Practices Committee and Joy E. Herr-Cardillo, Arizona Center for Law in the Public Interest (ACLPI). Mr. Thelander expressed the BMP Committee's support for EPA's proposed approval of the general permit and listed the factors and limitations that the Committee addressed during the development of the general permit. ACLPI, in a July 30, 2001 letter, opposes EPA's proposed action. EPA responds to ACLPI's comments below.

Comment: ACLPI contends that the general permit rule fails to meet the requirement of CAA section 172(c)(1) that SIPs for nonattainment areas ''shall provide for the implementation of all reasonably available control measures.'' ACLPI claims that the rule fails to meet this requirement because the BMP Committee identified a variety of clearly available and feasible control measures that are included in the rule as BMPs, but only requires commercial farmers to implement one BMP from each of three categories. As a result, ACLPI claims, the farmer determines which BMP will be implemented without any limiting parameters; and only one BMP is required under each category even where the implementation of more than one would be technologically and economically feasible, a result clearly prohibited by the CAA and EPA policy.

Response: As relevant to today's action, Arizona's obligation under the CAA is to provide for the implementation of RACM for the agricultural source category.[7] In order to meet this obligation, the State had to determine what requirement would be not only technologically and economically feasible but also reasonable for controlling this source category in the Phoenix area.

This determination was particularly challenging given the variety, complexity and practical realities of farming in the Phoenix area. In its proposed action on the general permit rule and accompanying technical support document (TSD), EPA explained the multi-year/multi-party process for developing the BMPs ultimately adopted by the BMP Committee. *See* 66 FR 34598, 34601. As a result of the diversity and constraints of farming operations, the Committee concluded that farmers need flexibility to tailor PM–10 controls to their particular circumstances and that mandating a single, specific control for each individual farm activity would be unreasonable. The Committee did, however, determine that it could subdivide farming operations in Maricopa into three distinct categories for the purposes of developing the appropriate controls. As a result, the Committee created a menu of control options from which the farmer must select a *minimum* of one for each of the tillage and harvest, cropland and noncropland categories.

EPA concurs with the Committee's assessment and consequently proposed that the requirement to implement at least one control from a list of control options for each of three categories of operations constitutes a reasonable control requirement for the agricultural sector in the Phoenix area.

A requirement that an individual source select one control method from a list, but allowing the source to select which is most appropriate for its situation, is a common and accepted practice for the control of dust. For example, in its PM–10 federal implementation plan (FIP) for Phoenix, EPA promulgated a RACM rule applicable to, among other things, unpaved parking lots, unpaved roads and vacant lots. The rule allows owners and operators to choose one of several listed control methods (pave, apply chemical stabilizers or apply gravel). 40 CFR 52.128(d). In the case of the FIP, those subject to the fugitive dust rule were given a choice of control methods in order to accommodate their financial circumstances. See also South Coast Air Quality Management District (SCAQMD) Rule 403 (providing for alternative compliance mechanisms for the control of fugitive dust from earthmoving, disturbed surface areas, unpaved roads etc.); and SCAQMD Rule 1186 (requiring owners/operators of certain unpaved roads the option to pave, chemically stabilize, or install signage, speed bumps or maintain roadways to inhibit speeds greater than 15 mph). EPA proposed to approve these SCAQMD rules as meeting the RACM and/or BACM requirements of the CAA on August 11, 1998 (63 FR 42786) and took final action approving them on December 9, 1998 (63 FR 67784).[8]

Allowing sources the discretion to choose from a range of specified options is particularly important for the agricultural sector because of the variable nature of farming. As a technical matter, neither EPA nor the State is in a position to dictate what precise control method is appropriate for a given farm activity at a given time in a given locale. The decision as to which control method from an array of methods is appropriate is best left to the individual farmer. Moreover, the economic circumstances of farmers vary considerably. As a result, it is imperative that flexibility be built into any PM–10 control measure for the agricultural source category whether that measure is required to meet the RACM or BACM requirements of the Act.

Comment: ACLPI states that the CAA expressly provides that all RACM must be implemented by December 10, 1993, citing CAA sections 172(c)(1) and 189(a)(1)(C). Citing *Delaney* v. *EPA,* 898 F. 2d 687, 691 (9th Cir. 1990), ACLPI contends that since that deadline has passed, RACM must be implemented ''as soon as possible.'' ACLPI states that the general permit rule does not require implementation of a single BMP until December 31, 2001 and that this is clearly too little too late under the CAA.

Response: EPA addressed this issue in its proposed approval of the general permit rule by explaining that CAA section 189(a)(1)(C), as interpreted by the Agency under the current circumstances, requires the implementation of RACM as soon as practicable. EPA further explained that the Agency addressed Arizona's requirements regarding the timing of the implementation of the BMPs in its final approval of ARS 49–457. 64 FR 34726 (June 29, 1999). It is that enabling legislation that dictates the December 31, 2001 deadline. The general permit rule simply carries out its mandate by reiterating the statutory deadline. 66 FR 34598, 34600. Therefore, ACLPI, if it wished to contest the issue of whether the December 31, 2001 deadline meets the *Delaney* test, should have challenged that rule on that basis. Nevertheless, EPA briefly explains the reasoning for its conclusion below.

In 1996, the State of Arizona conducted a field study (known as the microscale study) of PM–10 sources at various monitoring sites in Phoenix. Following the study, the results were modeled and formed the basis for the State's ''Plan for Attainment of the 24-hour PM–10 Standard-Maricopa County Nonattainment Area,'' May 1997 (microscale plan). It was at that time that the State first discovered that

[7] Nevertheless, as EPA stated in the proposed rulemaking, EPA believes that the general permit rule far exceeds the RACM requirements of the CAA. *See* 66 FR 34598, 34603.

[8] See also EPA's approval of Maricopa County Environmental Services Department (MCESD) Rule 310 as meeting the RACM/BACM requirements (62 FR 41856, August 4, 1997) and EPA's proposal to approve updated Rule 310 and MCESD Rule 310.01 as meeting the same requirements (65 FR 19964, April 13, 2000).

agricultural activities did in fact constitute significant sources of PM–10 in Phoenix, and thus required measures to control them. Because it did not provide for the expeditious implementation of reasonably and best available control measures for these agricultural sources, EPA disapproved the microscale plan for that purpose. 62 FR 41856 (August 4, 1997).

One year after disapproving the microscale plan, EPA issued a final FIP that addressed, among other things, PM–10 emissions from agricultural sources in Phoenix. In the FIP, EPA promulgated an enforceable commitment, codified at 40 CFR 52.127, to adopt, and begin implementing RACM for agricultural fields and aprons by June 2000. 63 FR 41326, 41350 (August 3, 1998).

In developing the FIP, EPA initially evaluated rules in the South Coast Air Basin, the only existing agricultural control measures for PM–10 in the country. However, agricultural sources, unlike many stationary sources which can have many common design features, whether located in California or New Jersey, vary by factors such as regional climate, soil type, growing season, crop type, water availability, and relation to urban centers. Therefore each PM–10 agricultural strategy is necessarily based on local circumstances. With respect to Phoenix and the South Coast, EPA determined that the two areas differ in a number of key characteristics. Based on this initial screening, EPA decided that it would not be responsible to propose the SCAQMD rules at that time because the Agency could not reasonably conclude that their implementation would in fact result in air quality benefits for the Maricopa nonattainment area.

As a result of this conclusion, EPA initiated a stakeholder process to develop RACM in the form of BMPs for Phoenix that eventually included ADEQ, MCESD, the Natural Resources Conservation Service of the U.S. Department of Agriculture, the Maricopa Association of Governments, the Maricopa Farm Bureau, Arizona Farm Bureau Federation, the University of Arizona and others. Following numerous meetings and discussions, EPA concluded that the most feasible approach for the FIP would be the Agency's commitment to develop and implement the BMPs on an expeditious schedule. For a more detailed discussion of EPA's efforts to develop RACM for agricultural sources in Phoenix, see EPA's FIP proposal at 15920, 15936 (April 1, 1998) and the accompanying technical support document.

As discussed above, on June 29, 1999, EPA withdrew the FIP commitment and approved in its place ARS 49–457 which embodies a commitment to adopt by rule by June 10, 2000 a general permit specifying BMPs. The statute also provides for the initiation of a public education program by June 10, 2000 and sets a final deadline of December 31, 2001 for farmers to comply with the BMPs. In its proposed approval of ARS 49–457, EPA reiterated its reasons for concluding that the implementation schedule was as expeditious as practicable:

> In general, EPA believes that because agricultural sources in the United States vary by factors such as regional climate, soil type, growing season, crop type, water availability, and relation to urban centers, each PM–10 agricultural strategy is uniquely based on local circumstances. Furthermore, EPA determined that the goal of attaining the PM–10 standards in Maricopa County with respect to agricultural sources would be best served by engaging all interested stakeholders in a joint comprehensive process on the appropriate mix of agricultural controls to implement in Maricopa County. EPA stated its belief that this process, despite the additional time needed to work through it, will ultimately result in the best and most cost-effective controls on agricultural sources in the County.
>
> In the FIP notices, EPA also explained its intention to meet its RACM commitment by developing and promulgating BMPs. Given the number of potential BMPs, the variety of crops types, the need for stakeholder input, and the time necessary to develop the BMPs into effective control measures, EPA believes that the adoption and implementation schedule in the FIP is as expeditious as practicable and meets the Act's 189(a)(1)(C) requirement.

63 FR 71815, 71817 (December 30, 1998). EPA concluded that the commitment in ARS 49–457 was superior to that in the FIP because it contains more substance and greater procedural detail, and provides a final implementation deadline. Id.[9]

The BMPs have now been adopted and EPA is today approving the general permit rule into the Arizona PM–10 SIP for Phoenix. Thus the December 31, 2001 final implementation deadline will shortly be federally enforceable. Given that (1) agricultural sources had never been regulated anywhere in the country except southern California; (2) agricultural sources vary considerably based on a number of factors; and (3) EPA and ADEQ lacked expertise in farming conditions and practices, EPA believes that under five years from ground zero to final implementation is a considerable accomplishment and meets the *Delaney* test.

Comment: ACLPI, quoting from the ''Technical Support Document for Quantification of Agricultural Best Management Practices,'' Final Draft, URS Corporation and Eastern Research Group, Inc., November 1, 2000, charges that because the general permit rule fails to require any specific control measures, and leaves it entirely to the permittee to determine which BMPs will be implemented, there is no way that the State can know or meaningfully predict what the effect of the rule will be. ACLPI claims that, as a result, any estimated emissions reduction is entirely speculative and, thus, inadequate under the CAA.

Response: The PM–10 emission reductions attributable to the BMPs are not at issue in this rulemaking. Here, EPA is merely determining whether the general permit rule meets the general SIP requirements of CAA section 110(a) and whether that rule represents, pursuant to CAA section 189(a)(1)(C) a ''reasonably available'' level of control and is scheduled to be implemented as expeditiously as practicable. EPA will consider the quantification of the emission reductions from the general permit rule in its forthcoming actions on the State's reasonable further progress and attainment demonstrations in its serious area plan submittals.

Comment: ACLPI comments that the State has proposed to revise the SIP to include the general permit rule as both a control and a contingency measure. Citing CAA section 172(c)(9) and a proposed EPA action on a Washington SIP, ACLPI states that it makes no sense to denominate the rule as a contingency measure.

Response: This comment is also beyond the scope of today's rulemaking because EPA is not acting on the general permit rule as meeting the Act's contingency measure requirements. EPA will address this issue in its forthcoming actions on the State's serious area PM–10 plan for the Phoenix area.

IV. Final Action

For the reasons discussed above and in the proposed rulemaking, EPA is approving, under CAA section 110(k)(3), ACC R18–2–610 and 611, the general permit rule, as meeting the requirements of CAA sections 110(a) and 189(a)(1)(C). Moreover, EPA has concluded that its approval of ACC R18–2–610 and 611 meets the requirements of section 110(l) because the general permit rule strengthens the Arizona PM–10 SIP for the Maricopa County nonattainment

[9] In its final approval of ARS 49–457, EPA also responded to ACLPI's comment claiming that the implementation schedule is not sufficiently expeditious. 64 FR 34726, 34729.

area by providing specific BMPs in place of the commitment to adopt BMPs in ARS 49–457. The general permit rule is also consistent with the development of an overall plan capable of meeting the CAA's PM–10 attainment requirements.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 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 CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 10, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(98) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(98) Plan revisions were submitted on July 11, 2000 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Administrative Code R18–2–610 and R18–2–611 effective May 12, 2000.

* * * * *

(B) [Reserved]

[FR Doc. 01–25549 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50X–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 51d

RIN 0930–AA09

Substance Abuse and Mental Health Services Administration; Mental Health and Substance Abuse Emergency Response Criteria

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Interim final rule.

SUMMARY: Section 3102 of the Children's Health Act of 2000, Pub. L. 106–310, amends section 501 of the Public Health Service (PHS) Act (42 U.S.C. 290aa) to add a new subsection (m) entitled ''Emergency Response.'' This newly enacted subsection 501(m) authorizes the Secretary to use up to, but no more than, 2.5% of all amounts appropriated under Title V of the PHS Act, other than those appropriated under Part C, in each

fiscal year to make ''noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities.''

Because Congress believed the Secretary needed the ability to respond to emergencies, it exempted any grants, contracts, or cooperative agreements authorized under this section from the peer review process otherwise required by section 504 of the PHS Act. See section 501(m)(1) of the PHS Act. Instead, the Secretary is to use an objective review process by establishing objective criteria to review applications for funds under this authority.

Pursuant to Public Law 106–310, the Secretary is required to establish, and publish in the **Federal Register**, criteria for determining when a mental health or substance abuse emergency exists. In this interim final rule, the Secretary sets out these criteria, as well as the intended approach for implementing this new mental health and substance abuse emergency response authority. The Secretary invites public comments on both the criteria and the approach described in this interim final rule.

DATES: This regulation is effective on October 11, 2001. Written comments must be received on or before December 10, 2001.

ADDRESSES: Written comments should be sent to Judith B. Braslow, Deputy Associate Administrator for Policy and Program Coordination, Substance Abuse and Mental Health Services Administration (SAMHSA), Room 12C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Submit comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th St. NW, Washington DC 20503, Attention: Desk Officer for SAMHSA.

FOR FURTHER INFORMATION CONTACT: Judith B. Braslow, Deputy Associate Administrator for Policy and Program Coordination, Substance Abuse and Mental Health Services Administration (SAMHSA), (301)443–4111.

SUPPLEMENTARY INFORMATION:

Background

The Department of Health and Human Services (the Department) has been called upon in recent years to play an increasingly active leadership role in responding to the behavioral health needs that arise as the result of both natural and human-caused emergencies and disasters. To date, the grant assistance rendered by the Substance Abuse and Mental Health Services Administration (SAMHSA) has been limited primarily to crisis counseling services in the aftermath of Presidentially declared disasters. Through an interagency agreement with the Federal Emergency Management Agency (FEMA), SAMHSA's Center for Mental Health Services (CMHS) provides technical assistance, training, consultation, and grant monitoring for the Crisis Counseling Assistance and Training Program (CCP), which is authorized through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 100–707, Section 416, and implementing regulations (44 CFR 206.171). This jointly-administered program allows States to apply for Federal support for services to ameliorate the mental and emotional crises and their subsequent psychological and behavioral conditions resulting from a major disaster. The services provided through the FEMA/CMHS Crisis Counseling Assistance and Training Program remain a cornerstone of the Federally-supported mental health response to Presidentially-declared disasters. However, Congress recognized the need to expand emergency services to include both mental health and substance abuse needs, whether or not a Presidential disaster is declared under the above authority.

To help address these needs the Secretary, through SAMHSA, was given the mandate to develop a new emergency grant program under its recent reauthorization legislation, which was signed into law on October 17, 2000, Pub. L. 106–310. Section 3102 of this law adds a new subsection, entitled ''Emergency Response'' to section 501 of the Public Health Service (PHS) Act. This newly enacted subsection enables the Secretary to use a small portion of funds appropriated each fiscal year to make ''noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities.'' This Interim Final Rule establishes procedures by which the Department may provide these funds.

This new authority permits the Department to respond in emergency situations when behavioral health needs overwhelm State, Tribal or local resources, and other resources are unavailable. Because of the urgent necessity of assuring a Federal response capacity in emergency situations, the Secretary is issuing an interim final rule, which will allow the Secretary, through SAMHSA, to respond immediately under emergency circumstances.

In implementing this new authority, the Department is placing an emphasis on coordination among Federal funding entities. In order to avoid duplication of services, the Department will coordinate closely with other Federal agencies that may provide funding support for behavioral health services in emergency situations. These other funding sources include the Readiness, Response and Recovery Directorate within the Federal Emergency Management Agency (FEMA), the Safe and Drug Free Schools Program within the U.S. Department of Education, the Office for Victims of Crime (OVC) within the U.S. Department of Justice, the National Transportation Safety Board (NTSB) within the U.S. Department of Transportation, the Emergency Response Program within the Environmental Protection Agency (EPA), the Bureau of Indian Affairs (BIA) within the U.S. Department of the Interior, the Animal and Plant Health Inspection Service within the U.S. Department of Agriculture, and the Indian Health Service (IHS) within the U.S. Department of Health and Human Services. The funds identified for use under this Interim Final Rule are considered ''funds of last resort'' and may not be used to supplant or replace other existing funds. Therefore, we view this new authority as an important adjunct to the existing authority to make ''Mental Health Crisis Counseling Grant'' awards to States because we are able to fund different types of services beyond crisis counseling.

Summary of Regulation

Emergency Criteria

This Interim Final Rule identifies noncompetitive, objective conditions and criteria the government will use to expedite the allocation of funds. In establishing the criteria used to determine whether an emergency exists, we have described the following minimum elements: (1) Existing State, Tribal and local systems for mental health and/or substance abuse services are overwhelmed or unable to meet the existing mental health or substance abuse needs of the local community at issue; and (2) this inability to meet the mental health and/or substance abuse service needs of a local community is the direct consequence of a clear precipitating event. This precipitating event must have a sudden, rapid onset and a definite conclusion, such as a natural disaster (such as a hurricane, tornado, storm, flood, earthquake, fire, drought, or other natural catastrophe), a

technological disaster (such as a chemical spill, a major industrial accident, or a transportation accident), or a criminal act (such as a domestic act of terrorism, a hostage situation, or an incident of mass violence including school shootings and riots) and result in significant death, injury, exposure to life-threatening circumstances, hardship, suffering, loss of property, or loss of community infrastructure (e.g., loss of treatment facilities, staff, public transportation and/or utilities, or isolation from services); and (3) no other local, State, Tribal or Federal funding is available to adequately address the specific level of need resulting from the precipitating event and resulting emergency mental health and/or substance abuse service needs of the impacted community.

Eligible Applicants

Eligible applicants are limited to public entities, which are defined in the rule as any State, any political subdivision of a State, any Federally recognized Indian tribal government or tribal organization. Eligibility is restricted to public entities as required by the authorizing legislation.

Types of Awards

Eligible applicants may apply to the Secretary for either of two types of substance abuse and mental health emergency response grants: Immediate awards and Intermediate awards. The former are designed to be funded up to $50,000, or such greater amount as determined by the Secretary on a case-by-case basis, and are to be used over the initial 90-day period commencing as soon as possible after the precipitating event; the latter awards require more documentation, including a needs assessment, other data and related budgetary detail. The Intermediate awards have no predefined budget limit. Typically, Intermediate awards would be used to meet systemic mental health and/or substance abuse needs during the recovery period following the Immediate award period. Such awards may be used for up to one year, with a possible second year supplement based on submission of additional required information and data.

Application Procedure

Applications for Immediate awards must be submitted on a form that has been approved by the Office of Management and Budget (OMB), and include the following information: a certification by the State's chief executive officer that a mental health or substance abuse emergency exists, as well as a written statement setting out the basis for the certification; a brief program plan describing needs; an estimate of the number of people to be served and the geographical area to be served; a description of the types of services to be provided; a budget justifying the amount of the request; other required certifications included in the application; and such other pertinent information the Secretary may require.

The Department is requiring that the certification of the mental health or substance abuse emergency is made by the State's chief executive officer, rather than from a local government, based on the governor's experience and expertise in disaster declarations gleaned from the FEMA grants. In addition, the Department believes that it is important to have high-level certification so that any available State funds can be allocated to the emergency in accordance with the conditions of this grant. However, it is important to note that although the certification must be obtained from the chief executive office, local governments are eligible to seek the grant and must sign the application as the responsible fiscal party.

The Department encourages applicants to submit the application to the single state agency for Alcohol and Drug abuse and/or the State mental health program for comments.

Applications for Intermediate awards must be submitted on a form that has been approved by the OMB, and include the following information: if the applicant has not applied previously for an Immediate award, a certification by the State's chief executive officer that a mental health or substance abuse emergency exists, as well as a written statement setting out the basis for the certification, an application submission date within three months of the date of the event that precipitated the mental health or substance abuse emergency (unless waived by the Secretary), a detailed and comprehensive assessment of need, demographics specific to the number of people to be served, a description of the services that were provided up to the date of the submission of the Intermediate award application, the geographical area to be served, a detailed implementation program plan and related time line, including a description of outreach to special population groups affected by the crisis, a budget justifying the amount of the request for personnel, equipment, supplies, travel, training, data collection and any technical assistance required, and any information that has changed since an Immediate application was submitted, if one was submitted.

Objective Criteria for Application Evaluation

Applications for both Immediate and Intermediate grants will be evaluated using the following objective criteria: (1) Documentation of need, (2) plan of services, and (3) organizational capability. In assessing documentation of need, the applicant needs to demonstrate that the mental health and/or substance abuse needs are a direct result of the precipitating event; identify any high risk groups or populations with special concerns that may impact the delivery of services (*e.g.,* children, adolescents, older adults, ethnic and cultural groups, lower income populations); and clearly document that no other local, State, Tribal or Federal funding sources are available to address the need. An adequate plan of services must clearly identify the types of services to be provided (*e.g.,* outreach, crisis counseling, public education on stress management and crisis mental health, public education on substance abuse prevention, information and referral services, short term substance abuse or mental health prevention and/or treatment services); strategies for targeting those identified as needing services, including high risk groups or populations with special concerns identified in the needs assessment; appropriate training to be provided to staff to assure that services are appropriate to the crisis situation and the plans for community recovery; quality control methods in place to assure appropriate services to the target population; staff support mechanisms that are available; and plans for coordination of services with key local, State, Tribal and Federal partners involved in addressing the precipitating event (*e.g.,* emergency management agencies, law enforcement, education agencies, public health agencies, agricultural extension agencies, environmental agencies, and other agencies active in crisis response). In assessing organizational capability, the applicant needs to demonstrate a history of service delivery to the target population within the defined service area for the program. The budget submitted must provide sufficient justification and demonstrate that it is consistent with the documentation of need and plan of services. Finally, SAMHSA may consult with other Federal agencies responsible for responding to crisis incidents, to ensure that these are ''funds of last resort.''

The Department is soliciting formal comments on this Interim Final Rule in order to assure that the proposed criteria, procedures and requirements

are responsive and address the needs, issues and concerns of potential grantees, and the public at large.

Justification for Interim Final Rule

The Department has decided to issue this document as an Interim Final Rule with an immediate effective date as well as a comment period of 60 days after publication in the **Federal Register**. It is the Department's view that good cause exists that notice and comment are ''impracticable, * * * or contrary to the public interest.'' 5 U.S.C. 553(b)(B). We make this finding for the following reasons:

The purpose of the statute is to provide funding for noncompetitive grants to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities. In light of the current emergency situations with respect to the terrorist attacks, it has been determined that a delay for the purpose of comment and the effective date would be contrary to the public interest. Although we are making the rule effective immediately without first obtaining public comment, we are providing for a 60-day comment period after publication. Thus, should we receive any significant comments that would cause us to revise this rule in any way, we will be able to do so.

Executive Order 12866: Economic Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety distributive and equity effects). We have determined that the rule is not a ''significant regulatory action'' under Section 3(f) of the Executive Order. This rule does not have an annual effect on the economy of $100 million or more, create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or raise novel legal or policy issues. Therefore, this interim final rule does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order and thus has been exempted from review by the Office of Management and Budget under that Order.

Regulatory Flexibility

The Regulatory Flexibility Act (5 U.S.C. chapter 6) requires that regulatory actions be analyzed to determine whether they will have a significant impact on a substantial number of small entities. We have determined that this is not a ''major'' rule under the Regulatory Flexibility Act of 1980, and that it will not have an effect on the States or on the distribution of power and responsibilities among the various levels of government.

Unfunded Mandates

The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule contains no Federal mandates for State, tribal, or local governments or for the private sector.

Executive Order 13132: Federalism Implications

Executive Order 13132, Federalism, requires that Federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. We reviewed the rule as required under the Order and determined that it does not have any federalism implications. This rule will not have an effect on the States or on the distribution of power and responsibilities among the various levels of government.

Paperwork Reduction Act of 1995

This Interim Final Rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3507(d)). The title, description and respondent description of the information collections are shown in the following paragraphs with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Emergency Response Grants Regulations—42 CFR part 51

Description: This rule implements Section 501(m) of the Public Health Service Act (42 U.S.C. 290aa), which authorizes the Secretary to make noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities. The rule establishes criteria for determining that a substance abuse or mental health emergency exists, the minimum content for an application, and reporting requirements for recipients of such funding.

Description of Respondents: State, local or tribal governments

Response Burden Estimates: This program will be an approved user of the PHS–5161 application form, approved by OMB under control number 0920–0428. The quarterly financial status reports in 42 CFR 51d.10(a)(2) and (b)(2) are as permitted by 45 CFR 92.41(b); the final program report, financial status report and final voucher in 42 CFR 51d.10(a)(3), 51d.10(b)(3), and 51d.10(b)(4) are in accordance with 45 CFR 92.50(b). Information collection requirements of 45 CFR part 92 are approved by OMB under control number 0990–0169. The following table presents annual burden estimates for the information collection requirements of this regulation.

42 CFR citation and type of application	Number of respondents	Responses/respondent	Burden per response(Hrs.)	Total burden
51d.4(a) and 51d.6(a)(2) Immediate awards—application	3	1	3	[1](9)
51d.4(b) and 51d.6(a)(2)—Intermediate Awards—application	3	1	10	[1](30)
51d.10(a)(1)—Immediate awards—mid-program report as part of Intermediate award application	3	1	2	6
51d.10(c)—Final report content	3	1	3	9
Total	6			15

[1] This burden is carried under OMB control number 0920–0428.

As required by section 3507(d) of the PRA the Secretary has submitted a copy of the information collection requirements in the interim final rule to OMB for its review. The Secretary has requested emergency review and approval of this information collection and OMB has approved it under control number 0930–0229 through 03/31/2002.

Comments on the information collection requirements are specifically solicited in order to: (1) Evaluate whether the collection of information is necessary for the proper performance of DHHS's functions, including whether the information will have practical utility; (2) evaluate the accuracy of DHHS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB (address above). Comments to OMB are best assured of having their full effect if OMB receives them by November 13, 2001. This does not affect the deadline for the public to comment to DHHS on the proposed regulation.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires us to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175.

Today's rule does not significantly or uniquely affect the communities of Indian tribes and tribal organizations. The rule specifically permits Indian tribes and tribal organizations to apply for emergency mental health and substance abuse funding in ways that are similar to the way States and local governments apply, but more directly tailored to the functioning of the tribes. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with our policy to promote communications between the Department and tribes and tribal organizations, we specifically solicit additional comment on this proposed rule from tribal officials.

List of Subjects in 42 CFR Part 51d

Administrative practice and procedure, Grant programs-health, Health facilities, Emergency medical services, Disaster assistance, Mental health programs, Drug abuse, Privacy, Reporting and recordkeeping requirements.

Dated: September 20, 2001.

Tommy G. Thompson,

Secretary.

For the reasons stated above, the Department of Health and Human Services adds to Subchapter D of Title 42 CFR, a new part 51d to read as follows:

PART 51d—MENTAL HEALTH AND SUBSTANCE ABUSE EMERGENCY RESPONSE PROCEDURES

Sec.

51d.1 To what does this subpart apply?
51d.2 Definitions.
51d.3 Who is eligible for an award under this subpart?
51d.4 What information is required in the application?
51d.5 How is an emergency determined to exist?
51d.6 How will funding applications be evaluated and awarded?
51d.7 What are the limitations on how award funds may be used?
51d.8 Which other HHS regulations apply to these awards?
51d.9 What other conditions apply to these awards?
51d.10 What are the reporting requirements?

Authority: 42 U.S.C. 290aa(m).

§ 51d.1 To what does this subpart apply?

The regulations in this subpart apply to grants that enable public entities to respond to needs in local communities created by mental health or substance abuse emergencies, as authorized under section 501(m) of the Public Health Service Act (42 U.S.C. 290aa(m)).

§ 51d.2 Definitions.

As used in this part:

Federally recognized Indian Tribal government means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Native village as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

Immediate award means a short term award of up to $50,000, or such greater amount as determined by the Secretary on a case-by-case basis, to address the immediate needs resulting from a mental health or substance abuse emergency. Such funding may be provided for a period of up to 90 days.

Intermediate award means an award intended to meet the more ongoing needs resulting from a mental health or substance abuse emergency than is possible under an Immediate award. Intermediate awards may fund up to one year of services, although in some exceptional circumstances, and to the extent that funding is available, such funding may be continued for an additional period of up to one year.

Presidential disaster declaration means a declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121 *et seq.*

Public entity means any State, any political subdivision of a State, any

Federally recognized Indian tribal government or tribal organization.

Secretary means the Secretary of Health and Human Services (HHS) or any other officer or employee of that Department to whom the authority involved has been delegated.

State means one of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Tribal organization means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities.

§ 51d.3 Who is eligible for an award under this subpart?

An applicant must be a public entity as defined by this subpart. Applicants are eligible for either or both Immediate and Intermediate awards.

§ 51d.4 What information is required in the application?

(a) *Application for Immediate awards:* The application is to contain the following information:

(1) A certification by the State's chief executive officer, or, for the purposes of a Federally recognized Indian tribal government, the principal elected official, or such officer's or official's designee, that a mental health or substance abuse emergency exists, as well as a written statement setting out the basis for the certification;

(2) A brief program plan describing needs;

(3) An estimate of the number of people to be served and the geographical area to be served;

(4) A description of the types of services to be provided;

(5) A budget justifying the amount of the request;

(6) Required certifications; and

(7) Such other pertinent information as the Secretary may require.

(b) *Application for Intermediate awards:* The application is to be submitted on an OMB-approved application form and contain the following:

(1) If the applicant has not applied previously for an Immediate award, a certification by the State's chief executive officer, or, for the purposes of a Federally recognized Indian tribal government, the principal elected official, or such officer's or official's designee, that a mental health or substance abuse emergency exists, as well as a written statement setting out the basis for the certification;

(2) An application submission date within three months of the date of the event that precipitated the mental health or substance abuse emergency, as certified in accordance with 51d.4(a)(1) or (b)(1), except that upon the request of a State, the Secretary may provide a waiver of this application submission deadline if the Secretary determines there is good cause to justify the waiver;

(3) A detailed and comprehensive assessment of need;

(4) Demographics specific to the estimated number of people to be served;

(5) A description of the services that were provided up to the date of the submission of the Intermediate award application;

(6) The geographical area to be served;

(7) A detailed implementation program plan and related time line, including a description of outreach to special population groups affected by the crisis;

(8) A budget justifying the amount of the request for personnel, equipment, supplies, travel, training, data collection and any technical assistance required; the budget shall include an identification of the resources the applicant is able to commit to the project, if any, including any in-kind contributions;

(9) Any information that has changed since an Immediate application was submitted, if one was submitted; and

(10) such other pertinent information as the Secretary may require.

(c) *Signature on Award Applications.* The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, all applicable regulations, and any additional conditions of the grant.

§ 51d.5 How is an emergency determined to exist?

(a) In making a decision as to whether a mental health or substance abuse emergency exists for purposes of section 501(m) of the PHS Act, the Secretary, using discretion, will consider all relevant factors, but at a minimum the following must exist:

(1) Existing State, Tribal and local systems for mental health and/or substance abuse services are overwhelmed or unable to meet the existing mental health or substance abuse needs of the local community at issue; and

(2) This inability to meet the mental health and/or substance abuse service needs of a local community is the direct consequence of a clear precipitating event. This precipitating event must:

(i) Have a sudden, rapid onset and a definite conclusion, such as:

(A) A natural disaster (including, but not limited to, a hurricane, tornado, storm, flood, earthquake, fire, drought, or other natural catastrophe); or

(B) A technological disaster (including, but not limited to, a chemical spill, a major industrial accident, or a transportation accident); or

(C) A criminal act with significant casualties (including, but not limited to, a domestic act of terrorism, a hostage situation, or an incident of mass violence including school shootings and riots); and

(ii) Result in significant:

(A) Death,

(B) Injury,

(C) Exposure to life-threatening circumstances,

(D) Hardship,

(E) Suffering,

(F) Loss of property, or

(G) Loss of community infrastructure (*e.g.,* loss of treatment facilities, staff, public transportation and/or utilities, or isolation from services); and

(3) No other local, State, Tribal or Federal funding is available to adequately address the specific level of need resulting from the precipitating event and resulting emergency mental health and/or substance abuse service needs of the impacted community.

(b) In making a determination that a mental health or substance abuse emergency exists, the Secretary will consider the certification and written statements provided in accordance with § 51d.4(a)(1) or (b)(1), and other information independently available to the Secretary.

(c) Once the Secretary determines that a mental health or substance abuse emergency exists, the Secretary may exercise discretion to make awards to enable public entities to respond to the emergency, within the limits of funds available.

§ 51d.6 How will applications be evaluated and awarded?

(a) In assessing applications for funding, the Secretary will utilize the following criteria.

(1) *Documentation of Need.* Applicant has demonstrated mental health and/or substance abuse needs directly resulting from the precipitating event. The precipitating event is clearly identified along with information regarding its impact. Applicant has identified any

high risk groups or populations with special concerns that may impact the delivery of services (*e.g.,* children, adolescents, older adults, ethnic and cultural groups, lower income populations). This documentation of need shall include the extent of physical, psychological and social problems observed, and a description of how the estimate of the number of people to be served was made. Applicant has clearly documented that no other local, State, Tribal or Federal funding sources are available to address the need.

(2) *Plan of Services.* Applicant has a clear plan of services to address documented needs within a defined geographic area and in a specified time period. The plan of services is appropriate to the type of grant requested (*e.g.,* Immediate or Intermediate) and specifically addresses the needs of any high risk groups or populations with special concerns identified in the assessment of need. The plan of services clearly identifies the following:

(a) The types of services to be provided (*e.g.,* outreach, crisis counseling, public education on stress management and crisis mental health, public education on substance abuse prevention, information and referral services, short term substance abuse or mental health prevention and/or treatment services);

(b) Strategies for targeting those identified as needing services, including high risk groups or populations with special concerns identified in the needs assessment;

(c) Appropriate training to be provided to staff to assure that services are appropriate to the crisis situation and the plans for community recovery;

(d) Quality control methods in place to assure appropriate services to the target population;

(e) Staff support mechanisms that are available;

(f) Plans for coordination of services with key local, State, Tribal and Federal partners involved in addressing the precipitating event (*e.g.,* emergency management agencies, law enforcement, education agencies, public health agencies, and other agencies active in crisis response); and

(g) An estimate of the length of time for which said services requiring Federal funding will be needed, and the manner in which long-term cases will be referred for continued assistance after Federal funds have ended.

(3) *Organizational Capability.* Applicant is a public entity with demonstrated organizational capacity to deliver services as described in the plan of services. The applicant should also have a demonstrated history of service delivery to the target population within the defined service area for the program. The budget submitted shall provide sufficient justification and demonstrate that it is consistent with the documentation of need and plan of services. This shall include a description of the facilities to be utilized, including plans for securing office space if necessary to the project.

(b) In determining the appropriateness and necessity of funding, the Secretary may consult with other Federal agencies responsible for responding to crisis incidents, including the Readiness, Response and Recovery Directorate within the Federal Emergency Management Agency (FEMA), the Safe and Drug Free Schools Program within the U.S. Department of Education, the Office for Victims of Crime (OVC) within the U.S. Department of Justice, the National Transportation Safety Board (NTSB) within the U.S. Department of Transportation, the Emergency Response Program within the Environmental Protection Agency (EPA), the Bureau of Indian Affairs (BIA) within the U.S. Department of the Interior, the Animal and Plant Health Inspection Service within the U.S. Department of Agriculture, the Indian Health Service (IHS) within the U.S. Department of Health and Human Services, and other Federal agencies with jurisdiction over specific types of crisis response.

§ 51d.7 What are the limitations on how award funds may be used?

Unallowable Expenses: The following expenses will not be reimbursed under section 501(m) of the PHS Act:

(1) Major construction costs;

(2) Childcare services, unless provided by the institution or entity providing mental health or substance abuse treatment and integral to the treatment program;

(3) Services outside of the geographic area specified in the application, except to the extent that the precipitating event requires physical relocation of either affected parties or facilities;

(4) Any mental health or substance abuse services not directly related to the mental health or substance abuse emergency;

(5) Any expenses that supplant ongoing local, State, Tribal or Federal expenditures; and

(6) Any other costs unallowable by Federal law or regulation.

§ 51d.8 Which other HHS regulations apply to these awards?

Several other HHS regulations apply to grants under this part. These include, but are not limited to:

42 CFR part 50, subpart D—Public Health Service grant appeals procedure

45 CFR part 16—Procedures of the Departmental Grant Appeals Board

45 CFR part 74—Administration of grants

45 CFR part 75—Informal grant appeals procedures

45 CFR part 76—Debarment and suspension from eligibility for financial assistance

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 81—Practice and procedure for hearings under part 80 of this title

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance

45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefitting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to state and local governments

§ 51d.9 What other conditions apply to these awards?

Award funding made under this authority is to be supplemental in nature. Consistent with the criteria in § 51d.5 and the certification in § 51d.4(a)(1), such funds will only be made available if no other local, State, Tribal or Federal source is available to adequately address the emergency mental health and/or substance abuse service needs of the impacted community.

§ 51d.10 What are the reporting requirements?

(a) For immediate awards:

(1) A mid-program report only if an Intermediate award application is being prepared and submitted. This report shall be included as part of the Intermediate award application,

(2) Quarterly financial status reports of expenditures to date, due 30 days

following the end of the reporting period, as permitted by 45 CFR 92.41(b),

(3) A final program report, a financial status report, and a final voucher 90 days after the last day of Immediate award services, in accordance with 45 CFR 92.50(b).

(b) For intermediate awards:

(1) Quarterly progress reports, due 30 days following the end of the reporting period, as permitted by 45 CFR 92.40(b),

(2) Quarterly financial status reports of expenditures to date, due 30 days following the end of the reporting period, as permitted by 45 CFR 92.41(b),

(3) A final program report, to be submitted within 90 days after the end of the program services period, in accordance with 45 CFR 92.50(b),

(4) A financial status report, to be submitted within 90 days after the end of the program services period, in accordance with 45 CFR 92.50(b),

(5) Such additional reports as the Secretary may require.

(c) The following shall be specifically addressed in final program reports:

(1) Description of services provided,

(2) Number of individuals assisted,

(3) Amount of funding expended and for what purposes,

(4) Personnel costs,

(5) Training costs,

(6) Technical consultation costs,

(7) Equipment costs,

(8) Travel and transportation costs, and

(9) A narrative describing lessons learned and exemplary practices, and a description of the transition plan, for how services will be funded or provided when Federal funds have been exhausted.

[FR Doc. 01–25451 Filed 10–10–01; 8:45 am]

BILLING CODE 4110–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–2000–8057]

RIN 2127–AH87

Anthropomorphic Test Dummy; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This document amends the neck lateral calibration specifications for the SID/HIII dummy. This dummy is employed in side impact pole tests which assess the effectiveness of dynamically-deployed head impact protection systems. In these tests, the subject vehicle is towed sideways into a pole in such a way that the center of gravity of the head of a seated SID/HIII dummy is aligned with the pole. Data collected from these tests are used to evaluate the performance of dynamically-deployed head impact protection systems.

This final rule responds to a petition for rulemaking filed by the Alliance of Automobile Manufacturers. That petition indicated that the neck lateral bending calibration corridor then specified for the SID/HIII dummy was defined incorrectly. After reviewing the petition, other data and comments submitted in response to the agency's prior notice of proposed rulemaking, the agency is revising the neck corridor specifications.

DATES: The amendment is effective on December 10, 2001.

Petitions for reconsideration of the final rule must be received by November 26, 2001.

ADDRESSES: Petitions for reconsideration should refer to the docket number and notice number of the notice and be submitted to: Administrator, room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Stan Backaitis, Office of Crashworthiness Standards at 202–366–4912.

For legal issues, you may call Otto Matheke, Office of the Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

A. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 201, Head Impact Protection, provides a number of alternative performance requirements for manufacturers of vehicles with dynamically deployed interior head protection systems. One of these alternatives uses a test in which a vehicle is propelled sideways at a speed of 29 km/h (18 mph) into a 254 mm (10 inch) diameter rigid pole. A Part 572 Subpart M anthropomorphic test dummy is placed in the outboard front seat on the struck side of the vehicle.

The specifications for the Subpart M dummy, known as SID/HIII, were established by a final rule published in the **Federal Register** on August 4, 1998 (63 FR 41466). The SID/HIII is based on two other dummies: (1) the Part 572, Subpart F anthropomorphic test device (Side Impact Dummy or SID) that is used in testing under FMVSS 214, Side Impact Protection, and (2) the Part 572, Subpart E anthropomorphic test device (Hybrid III or HIII) that is used in testing under FMVSS 208, Occupant Crash Protection. The SID/HIII combines the head and neck of the Hybrid III with the torso and lower extremities of the Side Impact Dummy through the use of a redesigned neck to torso adapter bracket.

As the performance of the dummy is critical in any test, the specifications for the SID/HIII include calibration tests used to validate the characteristics of the individual device. One of these tests is the neck lateral bending corridor. It establishes maximum and minimum values for the dummy neck that it must meet when subjected to a calibration test in lateral impact direction.

B. Petition for Rulemaking

On July 28, 1999, the Alliance of Automobile Manufacturers (Alliance) submitted a Petition for Technical Correction indicating that the specified lateral impact neck corridor for the SID/HIII dummy does not reflect the neck stiffness of the Hybrid III dummy as originally specified by the SAE Side Impact Dummy Task Force (SIDTF) in the minutes of the Task Force meeting of April 15, 1989. According to the Alliance, subsequent to the April 15, 1989 meeting, the SIDTF made a transcription error when it drew up lateral calibration specifications for the Hybrid III neck. The Alliance stated that the erroneous calibration specifications were carried forward and incorporated by the SAE in the BioSID user manual in 1989. As the BioSid neck and the Hybrid III neck are identical in design but not in performance specifications, and the BioSid user manual was the only publication available to the public containing the lateral neck calibration values, the erroneous values were used by NHTSA in rulemaking for the SID/HIII dummy.

The agency proposed the SID/HIII dummy on December 8, 1997 and added it to Part 572 as Subpart M on August 4, 1998. As added to Part 572, the SID/HIII dummy incorporated the erroneous neck specifications that were contained in the BioSID user manual. As a result of this error, the lateral calibration corridor specified a neck that was stiffer in bending in the lateral direction than in the flexion and extension directions. Existing biomechanical data indicate that the human neck is not stiffer in the lateral direction, but actually has similar bending stiffness in both directions.

The Alliance petition of July 28, 1999, based on recommendations from the SAE Dummy Test and Equipment Subcommittee (DTES), suggested that the lateral neck calibration corridor be revised so the allowable neck bending stiffness moment for the SID/HIII in the lateral direction would be limited to a range between 73 N-m (54 ft-lbs) and 97 N-m (72 ft-lbs).

After receiving the Alliance petition, the agency reviewed the data and methodology used by that organization to determine the adequacy of the recommended change to the lateral neck calibration corridor. NHTSA's analysis of the corridor suggested by the Alliance, revealed inconsistencies between the Alliance proposed corridor and the corridor specifications recommended by the DTES after the DTES discovered and revised the earlier error. The agency found that the corridor suggested by the Alliance was broader than could be justified by biomechanical data and would likely result in necks that would be too stiff as well as have a wide degree of variability. Following discussions between agency representatives and the Alliance regarding these problems, the Alliance submitted a letter to the agency on January 12, 2000, indicating that it wished to revise its petition of July 28, 1999, and substitute new corridor specifications. The specifications suggested by the Alliance on January 12, 2000, along with the current specifications for the SID/HIII are presented below:

	Current SID/HIII	Alliance suggestion
Maximum rotation (degrees)	64–78	66–82
Decay time from max rotation to 0 (ms)	50–70	58–67
Time between max moment and max rotation (ms)	0–20	2–15
Max moment at occipital condyles (N-m)	88–108	73–88
Decay time from max moment to 0 (ms)	40–60	49–63

C. Notice of Proposed Rulemaking

After consideration of the Alliance petition and the revised specifications suggested by the Alliance on January 12, 2000, the agency issued a notice of proposed rulemaking (NPRM) that was published in the **Federal Register** on November 29, 2000 (65 FR 71081). In that notice, NHTSA proposed amending the lateral neck calibration corridor for the SID/HIII dummy.

NHTSA's proposal was based on the review of the calibration data submitted by the Alliance and the agency's own calibration tests on a number of Hybrid III necks. NHTSA's own test program indicated that many of the specifications submitted by the Alliance on January 12, 2000, were valid. The agency's testing also indicated that the upper limits for the time between maximum moment and maximum rotation and the decay time from max rotation to zero rotation suggested by the Alliance should be increased by 1 ms from 15 ms to 16 ms and from 63 to 64 ms, respectively. NHTSA proposed that the neck lateral calibration corridor for the SID/HIII dummy be amended to specify the following values:

	NHTSA proposal
Maximum rotation (degrees)	66–82
Decay time from max rotation to 0 (ms)	58–67
Time between max moment and max rotation (ms)	2–16
Max moment at occipital condyles (N-m)	73–88
Decay time from max moment to 0(ms)	49–64

D. Comments Received in Response to the NPRM

Those submitting comments in response to the NPRM supported the proposed change in the neck calibration corridor. The agency received comments from the original petitioner, the Alliance, and one manufacturer, General Motors (GM). The Alliance simply indicated that it supported the proposed change. GM also indicated that it supported the proposal.

E. Final Rule

NHTSA is adopting the neck calibration corridor proposed in the November 29, 2000 NPRM. The agency notes that the comments submitted in response to the NPRM indicate support for adopting the proposal without any further modification. NHTSA has also concluded that the neck calibration corridor values proposed in the NPRM are the appropriate values and therefore adopts them without further change.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has been determined not to be significant under the Department's regulatory policies and procedures.

This document amends 49 CFR part 572 by modifying previous specifications for calibrating the dummy's neck to ensure that accurate and reliable data are generated in testing. The final rule affects only those businesses that choose to manufacture or test with the dummy. It does not impose any requirements on anyone.

We believe that the economic impacts of this final rule are limited to the costs of recalibrating and perhaps modifying existing dummy necks. We estimate that these one-time costs are limited to less than $100 per dummy.

Because the economic impacts of this proposal are so minimal, a full regulatory evaluation is not warranted.

B. Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) I hereby certify that the final rule does not have a significant economic impact on a substantial

number of small entities. This final rule modifies existing specifications for a dummy test device used by manufacturers if they decide to employ an optional test procedure under Standard 201. As noted above, the one-time costs associated with the changes to the neck lateral calibration corridor are minimal. Further, this rule primarily affects passenger car and light truck manufacturers which are not small entities under 5 U.S.C. 605(b). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). The agency estimates that there are at most five small manufacturers of passenger cars in the U.S. and no small manufacturers of light trucks, producing a combined total of at most 500 cars each year. These small manufacturers, if they choose to perform the optional side impact pole test that employs this particular test device, will have to use the neck lateral calibration corridor when validating the dummy for use in testing. As noted above, the agency believes that any costs associated with the use of the calibration corridor are minimal. Further, most small entities do not perform full scale crash tests themselves, but instead rely on vehicle manufacturers or test laboratories to perform such tests. Both manufacturers and test laboratories are likely to have recalibrated dummy necks readily available at no increased cost when performing testing for small manufacturers.

For these reasons, NHTSA believes that this final rule does not have a significant impact on any small business.

C. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act and determined that it does not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This final rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. In addition, annual expenditures will not exceed the $100 million threshold.

F. Executive Order 12778 (Civil Justice Reform)

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this final rule.

H. 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) directs us to use voluntary consensus standards in its regulatory activities unless doing 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, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The neck lateral calibration corridor that is the subject of this document was developed under the auspices of the SAE Dummy Test and Equipment Subcommittee. The following voluntary consensus standards have been used in developing the neck lateral calibration corridor: SAE J211 Recommended Practice for Crash Tests Instrumentation, SAE J1460 Human Mechanical Response Characteristics, and ISO/TR 9790–2—Road Vehicles—Anthropomorphic Side Impact Dummy—Part 2: Lateral Neck Impact Response Requirements to Assess Biofidelity of Dummy.

I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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 us.

This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and does not have a disproportionate effect on children. The final rule changes the calibration values for a test dummy neck. Other than ensuring that the test dummy more accurately replicates the adult human neck in side impacts, the final rule has no impact on children.

List of Subjects in 49 CFR Part 572

Motor vehicle safety.

In consideration of the foregoing, NHTSA amends 49 CFR Part 572 as follows:

PART 572—ANTHROPOMORPHIC TEST DUMMIES

1. The authority citation for Part 572 continues to read as follows:

Authority: 49 U.S.C. 332, 30111, 30115, 30117; and 30166 delegation of authority at 49 CFR 1.50.

2. Sections 572.113(b)(2) (b)(3) and (b)(4) are revised to read as follows:

* * * * *

§ 572.113 Neck assembly.

* * * * *

(b) * * *

(2) The maximum rotation of the midsagittal plane of the head shall be 66 to 82 degrees with respect to the pendulum's longitudinal centerline. The decaying head rotation vs. time curve shall cross the zero angle between 58 to 67 ms after reaching its peak value.

(3) The moment about the x-axis which coincides with the midsagittal plane of the head at the level of the occipital condyles shall have a maximum value between 73 and 88 Nm. The decaying moment vs. time curve shall first cross zero moment between 49 and 64 ms after reaching its peak value. The following formula is to be used to calculate the moment about the occipital condyles when using the six-axis neck transducer:

$$M = Mx + 0.01778\ Fy$$

Where Mx and Fy are the moment and force measured by the transducer and expressed in terms of Nm and N, respectively.

(4) The maximum rotation of the head with respect to the pendulum's longitudinal centerline shall occur between 2 and 16 ms after peak moment.

* * * * *

Issued on October 4, 2001.

L. Robert Shelton,

Executive Director.

[FR Doc. 01–25427 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register

Vol. 66, No. 197

Thursday, October 11, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–74]

Nuclear Energy Institute; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated September 6, 2001, which was filed with the Commission by the Nuclear Energy Institute (NEI). The petition was docketed by the NRC on September 11, 2001, and has been assigned Docket No. PRM–50–74. The petition requests that the NRC amend its regulations regarding Emergency Core Cooling System (ECCS) Evaluation Models to allow licensees to voluntarily adopt the most current industry consensus standard for decay heat power, as well as any subsequent NRC-endorsed revisions to this standard.

DATES: Submit comments by December 26, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking Web site at *http://ruleforum.llnl.gov.* This site allows you to upload comments as files in any format, if your web browser supports the function. The petition and any public comments received are available on the site. For information about the interactive rulemaking Web site, contact Carol Gallagher at (301) 415–5905 or via e-mail at *cag@nrc.gov.*

The petition and copies of comments received may be inspected, and copied for a fee, at the NRC Public Document Room, (first floor) 11555 Rockville Pike, Rockville, Maryland.

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room (PERR) on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–7163 or Toll-free: 1–800–368–5642. E-mail: *MTL@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking dated September 6, 2001, submitted by the Nuclear Energy Institute (the petitioner). The petition was docketed by the NRC on September 11, 2001, and has been assigned Docket No. PRM–50–74.

The Petitioner

The Nuclear Energy Institute (NEI), petitioning on behalf of the nuclear energy industry, requests that the NRC amend its regulations relating to the standards to be used for the estimation of decay heat power in licensees' emergency core cooling evaluation models.

The Petitioner's Request

The petitioner requests that the NRC amend Appendix K to 10 CFR part 50, ECCS Evaluation Models, to allow licensees to voluntarily adopt the latest industry consensus standard on decay heat rates, ANS/ANSI–5.1–1994, a standard developed by the American Nuclear Society (ANS) and approved by the American National Standards Institute (ANSI). The petitioner also asks that licensees be given the option to adopt, without further rulemaking, any subsequent revisions to this standard that the NRC endorses.

History of the Issue Addressed in the Petition

The Standard Cited in the Current Regulation

In Appendix K to 10 CFR part 50, Section I.A.4., *Fission Product Decay,* currently reads:

> The heat generation rates from radioactive decay of fission products shall be assumed to be equal to 1.2 times the values for infinite operating time in the ANS Standard (Proposed American Nuclear Society Standards—''Decay Energy Release Rates Following Shutdown of Uranium-Fueled Thermal Reactors.'' Approved by Subcommittee ANS–5, ANS Standards Committee, October 1971).

The petitioner notes that this proposed ANS standard for decay heat was submitted to ANSI by ANS in 1971, but claims that ANSI, after approving minor revisions to the standard, tabled action on the standard in October 1973. The petitioner maintains that, because ANSI took no subsequent action on the proposed 1971 ANS standard, it retains the status of a proposed rather than an adopted industry consensus standard to this day.

The petitioner states that the proposed 1971 ANS standard was based on the curve recommended by K. Shure for infinite irradiation of uranium and for cooling times from 0 to 10^9 seconds. According to the petitioner, this approach was simplistic in that it employed a single curve to represent the decay heat power of all uranium-fueled thermal reactors. The petitioner believes that this approach ignores the fact that many phenomena make decay heat power unique to each fuel isotope. These phenomena, explains the petitioner, were assumed to be included within the appropriately large uncertainties that were adopted by the ANS–5.1 Working Group on the basis of the comparison of data available at the time.

Subsequent ANS Decay Heat Standards

The petitioner states that, in October 1978, the ANS Nuclear Power Plant Standards Committee (NUPPSCO) approved a standard entitled ''Decay Heat Power in Light Water Reactors.'' According to the petitioner, this standard was developed to fulfill a need for evaluations of fission reactor performance based upon improved knowledge of decay heat power in the fuel elements. The petitioner notes that, although this new standard replaced the standard proposed in 1971, the NRC has not endorsed the updated standard in appendix K to 10 CFR Part 50.

According to the petitioner, NUPPSCO approved a standard in August 1994 entitled ''Decay Heat Power in Light Water Reactors,'' which incorporated new measurements of decay heat that had been published after adoption of the 1978 standard. The petitioner states that the 1994 standard also drew upon improved nuclear databases, which resulted in more precise summation calculations of decay heat. According to the petitioner, comparisons of elements of the 1978 standard with results of the new measurements and the new summation calculations had been published in a 1991 report, which proposed improvements to the existing (1978) standard. In response to this report, tabular data in tables entitled ''Data for Standard Decay Heat Power'' and associated uncertainties were re-evaluated for three fuel isotopes—U^{235}, U^{238}, and Pu^{239}—and newly evaluated for Pu^{241}. The petitioner notes that the 1994 revision to ANS–5.1, which included the results of these new evaluations, has not been endorsed by the NRC in Appendix K to 10 CFR 50.

The Petitioner's Proposed Amendment

The petitioner proposes that Appendix K to 10 CFR Part 50 be amended to give licensees the option to adopt the 1994 standard (ANS/ANSI–5.1–1994), and to allow licensees to adopt any subsequent revisions to the standard endorsed by the NRC. The petitioner's proposed amendment to Appendix K.I.A.4. reads (verbatim) as follows:

4. *Fission Product Decay.* The heat generation rates from radioactive decay of fission products shall be either (a) assumed to be equal to 1.2 times the values for infinite operation time published in the 1971 ANS Standard (Proposed American Nuclear Society Standards—''Decay Energy Release Rates Following Shutdown of Uranium-Fueled Thermal Reactors.'' Approved by Subcommittee ANS–5, ANS Standards Committee, October 1971). This standard has been approved for incorporation by reference by the Director of the Federal Register. A copy of the standard is available for inspection at the NRC Library, 11545 Rockville Pike, Rockville, Maryland 20852–2738. The fraction of the locally generated gamma energy that is deposited in the fuel (including the cladding) may be different from 1.0; the value used shall be justified by a suitable calculation; or (b) taken from the 1994 ANS Standard (American Nuclear Society Standards—''Decay Heat Power in Light Water Reactors.'' Approved by ANS Nuclear Power Plant Standards Committee ANS–5.1 and American National Standards Institute, Inc., August 1994); or (c) taken from any subsequent revisions to the ANS Decay Heat standard that are endorsed by the NRC.

The Petitioner's Justification for the Amendment

Because the petitioner's proposed amendment of appendix K to 10 CFR part 50 makes adoption of the 1994 standard, or any subsequent revision to it, optional for licensees, the petitioner declines to provide a cost-benefit analysis for its proposal. However, the petitioner sets out the following four arguments in support of the proposed amendment.

The 1994 Standard Incorporates More Precise Results, Is More Explicit, and Uses a Statistical Approach To Address Uncertainty

According to the petitioner, the uncertainty bands for the proposed 1971 standard currently endorsed by the NRC were chosen on the basis of data published between 1950 and 1963. The current regulation specifies that fission product decay rates be calculated by multiplying the values for infinite operating time in the proposed 1971 ANS Standard by a factor of 1.2. The petitioner states that the ANS Standards Subcommittee 5 has concluded that this factor appears to have been based upon the ANS uncertainty for cooling time (i.e., time after shutdown) less than or equal to 10^3 seconds.

The petitioner notes that, in contrast, the 1994 ANS standard expresses uncertainty statistically as one standard deviation in a normal distribution. The petitioner notes that the 1994 standard explicitly addresses and incorporates a conservative multiplying factor of 1.02 for the increase over U^{235} decay heat power from U^{238} fission products at typical U^{238} fission rates. The petitioner notes that this multiplication factor was determined in 1974 by the ANS–5.1 Working Group, which was comprised of researchers, industry representatives, and knowledgeable NRC personnel. According to the petitioner, the basis for the advanced statistical approach used in the 1994 standard was derived from numerous contemporary data measurements, providing essentially equivalent results. The petitioner states that the revised 1994 standard for LOCA (loss of coolant accident) applications includes cooling time up to 10^4 seconds and incorporates more precise results than the proposed 1971 standard currently endorsed by the NRC, including detailed evaluation of the influence of neutron capture in fission products for the shutdown range, and cooling times up to 10^9 seconds.

Federal Law Requires NRC To Utilize Technical Standards Developed by Voluntary Consensus Standard Bodies

The petitioner states that, pursuant to Management Directive 6.5, the NRC should amend appendix K to 10 CFR part 50 to endorse the most current industry consensus standard for decay heat power. The petitioner notes that the National Technology Transfer and Advancement Act of 1995 endorses the utilization of consensus technical standards by Federal agencies. The petitioner further notes that the NRC recently exercised Management Directive 6.5 by publishing a proposed rule (66 FR 40626; August 3, 2001) that would amend NRC regulations to incorporate by reference the latest edition and recent addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code.

The Amendment Would Allow Licensees Greater Operational Flexibility Without Impacting Safety

The petitioner claims that its amendment would allow licensees to gain operating margin for emergency core cooling system (ECCS) equipment based on the more realistic decay heat assumptions in the 1994 standard. According to the petitioner, this would result in more effective utilization of resources in operating and maintaining ECCS equipment, and might also allow for higher extended power uprates. The petitioner contends that safety would not be impacted because the acceptance criteria for ECCS equipment would not be changed.

The Amendment Would Obviate the Need for Future Rulemakings To Codify Methods and Practices Found Acceptable to the NRC

The petitioner's proposed amendment would give licensees the option to adopt future NRC-approved revisions to the ANS standard without the NRC having to undertake rulemakings to codify these subsequent revisions.

The Petitioner's Conclusion

The petitioner maintains that its proposed amendment of appendix K to 10 CFR part 50 would modernize the regulation by endorsing a contemporary consensus standard that incorporates results from recent data measurements and summation calculations.

The petitioner further argues that the proposed amendment is consistent with NRC's Strategic Performance Goals. The NRC's strategic performance goals are: (1) To maintain safety, protection of the environment, and the common defense and security; (2) to increase public confidence; (3) to make NRC activities and decisions more effective, efficient, and realistic; and (4) to reduce unnecessary regulatory burden on stakeholders.

The petitioner claims that its amendment would enhance nuclear safety by basing decay heat curves and uncertainties on up-to-date data measurements for specific fuel isotopes, allowing more accurate decisions involving relative risk. According to the petitioner, the amendment would also increase public confidence because the bases and data relied upon in the latest ANS consensus standard are technically accurate and reproducible. The petitioner maintains that adopting its proposal would provide the NRC with sound and realistic technical bases for make accurate decisions about decay heat power. Better decision-making, says the petitioner, would allow the NRC staff to more effectively allocate resources to other safety significant issues. Finally, the petitioner claims that its proposed amendment would reduce unnecessary technical burden on licensees, allowing them, in turn, to expend their resources on other issues.

The petitioner states that, because the amendment would merely codify the latest consensus standard on decay heat, a direct final rule would be the most appropriate and cost-effective means of implementation.

Dated at Rockville, Maryland, this 4th day of October, 2001.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–25565 Filed 10–10–01; 8:45 am]

BILLING CODE 7590–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1633

Standard To Address Open Flame Ignition of Mattresses/Bedding; Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Advance Notice of Proposed Rulemaking (ANPR).

SUMMARY: The Commission is considering issuing a flammability standard that would address open flame ignition of mattresses/ bedding. The Commission currently has a flammability standard that addresses ignition of mattresses by cigarettes. However, mattress/bedding fires ignited by small open flames are a significant problem not addressed by the existing standard. In 1995, the Commission staff began a project on mattress fires, and the information obtained from that research is reflected in the ANPR. This ANPR also addresses two subsequently-filed petitions from the Children's Coalition for Fire-Safe Mattresses (''CCFSM'') requesting that the Commission issue an open flame standard similar to the full-scale test set forth in California Technical Bulletin 129 or an open flame standard similar to the component test set forth in British Standard 5852. The Commission invites comments concerning the risk of injury identified in this notice, the regulatory alternatives being considered, and other possible alternatives. The Commission also invites submission of any existing standard or statement of intention to modify or develop a voluntary standard to address the flammability risk of mattress/bedding fires ignited by small open flames.

DATES: Comments and submissions must be received by December 10, 2001.

ADDRESSES: Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301)504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Mattress ANPR.''

FOR FURTHER INFORMATION CONTACT: Margaret Neily, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0508, extension 1293.

SUPPLEMENTARY INFORMATION

A. Background

The Commission currently has a flammability standard for mattresses that addresses ignition by cigarettes. 16 CFR part 1632. Smoldering ignition of mattresses/bedding (usually caused by cigarettes) has declined since the standard took effect in 1973. However, the open flame ignition of mattresses/ bedding continues to cause a significant number of deaths and injuries, especially to children. The most common open flame sources are lighters, candles and matches. The Commission staff has been evaluating data concerning such fires for several years to determine how best to address open flame ignition of mattresses/ bedding.

In 1995, CPSC conducted a field investigation study to learn more about cigarette-ignited fires and open flame fires. The report, issued in 1997, showed that about 70% of the open flame fires involved child play and that 68% of the open flame deaths were to children playing with lighters, matches, or other open flame sources. The mattress was ignited directly by open flame in about 24% of the cases. However, bedding was the first item to ignite in about 60% of the cases. In the latter scenario, the fire had already developed to a considerable size before the mattress became involved. A similar study conducted by the National Association of State Fire Marshals (''NASFM'') in 1997 confirmed these findings.

A CPSC Chairman's Roundtable, conducted in February 1998, was intended to develop approaches to address these fires and fire deaths. The Roundtable concluded that technical studies were needed and that a public education effort should be considered. The industry's Sleep Products Safety Council (''SPSC''), an affiliate of the International Sleep Products Association (''ISPA''), sponsored a research program at the National Institute of Standards and Technology (''NIST'') to provide the technological basis for future performance requirements that could be included in a standard for mattresses and/or bedclothes. The mattress industry also began developing an expanded public education program in cooperation with other interested organizations.

On March 28, 2000, Whitney Davis, director of the Children's Coalition for Fire-Safe Mattresses (''CCFSM'') submitted four petitions to the Commission concerning mattress

flammability. The petitions proposed four options: (1) An open flame standard similar to the full-scale test set forth in California Technical Bulletin 129; (2) an open flame standard similar to the component test set forth in British Standard 5852; (3) a warning label for mattresses warning of polyurethane foam fire hazards, and (4) a permanent, fire-proof mattress identification tag. The petitions are discussed in greater detail in section G.

The Commission is considering a flammability standard that would address mattress fires ignited by small open flames. To be effective the standard must reflect the actual use of mattresses. Mattresses generally are not used alone, but are covered by bedding or bedclothes, such as sheets, blankets and comforters. The presence of these materials significantly affects the character of the fire. In some incidents the small open flame may ignite the mattress directly. But it is more common that the smaller flame source initially ignites the bedding, and these materials serve as a larger ignition source for the mattress. Thus, an effective standard must consider the interplay between the mattress and the bedding.

B. The Product

According to the International Sleep Products Association (''ISPA''), 1999 sales of mattresses were an estimated $2.8 billion. ISPA represents about 725 wholesalers, retailers, and manufacturers of conventional mattresses and foundations, accounting for over 80% of total U.S. sales of these products.

The expected useful life of mattresses is about 14 years. Based on estimates from ISPA and previous staff studies, the Commission's Product Population Model estimates about 240 million mattresses may have been in use in residential, commercial, and institutional applications at the end of 1999.

The top four producers operate about one-half of the 800 production facilities in the U.S. and account for over 50% of the total U.S. production of mattresses. The remainder of the production facilities are operated by smaller manufacturers that tend to be family-owned firms supplying mattresses and foundations to a regional market. While renovated mattresses account for as much as 25% of those in use in some parts of the country, the total extent of such renovated mattress use is unknown. Mattresses produced for institutional and commercial use are available to consumers by special order.

C. Risk of Injury

In 1998, mattress or bedding items were first to ignite in about 18,100 residential fires that resulted in 390 deaths, 2,160 injuries, and $208.3 million in property damage. Over the five-year period from 1994 through 1998, children under age 15 represented over 75% of the deaths in fires ignited by candles, matches, and lighters, and incurred over one third of the injuries from these fires. The most common ignition sources for the incidents involving deaths of these children were candles, matches and lighters. Among victims 15 years of age and older, smoking materials were the most common ignition sources causing death. In 1998, smoking materials accounted for 5,300 fires, 230 deaths, 660 injuries, and $61.3 million in property damage.

Since mattress fires often involve the ignition source of burning bedding, initially ignited by a smaller source, a standard incorporating an ignition source representing burning bedding could address deaths and injuries from fires caused by smoking materials, traditional small open flame sources, as well as other heat sources. Because few materials can resist such a large ignition source, the typical approach of preventing ignition of a mattress through a product performance standard is not reasonable. However, limiting the fire intensity and preventing flashover in mattress/bedding fires could result in a reduction in the number of casualties due to such fires. Flashover occurs when a fire becomes so intense that all exposed surfaces ignite nearly simultaneously, and quickly spreads through the structure. While victims intimate with the ignition may still be at risk due to their direct contact with the burning mattresses and bedclothes, preventing flashover may reduce the number of casualties to a portion of the other victims inside as well as those located outside the room of fire origin.

D. Statutory Provisions

Section 4 of the Flammable Fabrics Act (''FFA'') authorizes the Commission to initiate proceedings for a flammability standard when it finds that such a standard is ''needed to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage.'' 15 U.S.C. 1193(a). That section also sets forth the process by which the Commission can issue a flammability standard. The Commission first must issue an advance notice of proposed rulemaking (''ANPR'') which: (1) Identifies the fabric or product and the nature of the risk associated with the fabric or product; (2) summarizes the regulatory alternatives under consideration; (3) provides information about existing relevant standards and reasons why the Commission does not preliminarily believe that these standards are adequate; (4) invites interested persons to submit comments concerning the identified risk of injury, regulatory alternatives being considered, and other possible alternatives; (5) invites submission of an existing standard or portion of a standard as a proposed regulation; and (6) invites submission of a statement of intention to modify or develop a voluntary standard to address the risk of injury. 15 U.S.C. 1193(g).

If, after reviewing comments and submissions responding to the ANPR, the Commission determines to continue the rulemaking proceeding, it will issue a notice of proposed rulemaking. This notice must contain the text of the proposed rule along with alternatives the Commission has considered and a preliminary regulatory analysis. 15 U.S.C. 1193(i). Before issuing a final rule, the Commission must prepare a final regulatory analysis, and it must make certain findings concerning any relevant voluntary standard, the relationship of costs and benefits of the rule, and the burden imposed by the regulation. *Id.* 1193(j). The Commission also must provide an opportunity for interested persons to make an oral presentation before the Commission issues a final rule. *Id.* 1193(d).

E. Existing Open Flame Standards

The staff has reviewed 13 existing tests or standards relevant to open flame hazards associated with mattresses/bedding. State and local government tests and standards include Technical Bulletin (''TB'') 129, TB 121, and TB 117 from California, the Michigan Roll-up Test, and Boston Fire Department (''BFD'') 1X–11 from Boston. The staff reviewed other standards from the American Society for Testing and Materials standards (ASTM E–1474 and ASTM E–1590), Underwriters Laboratories (UL 1895 and UL 2060), the National Fire Protection Association (NFPA 264A and NFPA 267) and the United Kingdom (British Standard (''BS'') 6807 and BS 5852).

Several of these standards specify tests which are duplicates or modifications of each other. To simplify the discussion of these existing standards, tests are grouped in two broad categories: Full-scale fire tests of mattresses (sometimes including bedding items) and small-scale component tests of mattress materials.

Important aspects of the standards are briefly summarized below.

Full-scale Tests: A full-scale test is generally considered the most reliable in measuring product performance, especially when the product contains multiple materials in a complex construction such as a mattress or mattress/bedding combination. Nine of the tests reviewed are full-scale burn tests of mattresses that can produce large fires. There are only about twelve laboratories in the United States that have test facilities capable of safely conducting these tests and properly controlling emissions produced. These tests are costly, ranging from $2,000–5,000 per test; and CPSC does not have this type of facility.

TB 129, TB 121, BFD IX–11, ASTM E–1590, NFPA 267, UL 1895, and UL 2060 use gas burners simulating a newspaper fire in a wastebasket, newsprint in a metal container, or burning bedding as the ignition source. The mattress is sometimes tested in combination with a foundation and bedding. Bedclothes are generally optional and unspecified (chosen by the tester). The ignition sources are applied to the side or underneath the mattress. The acceptance criteria, when specified, are intended to minimize the size/intensity of the fire and related hazards rather than prevent ignition. The standards limit the peak rate of heat release and/or total heat release, maximum temperature above the mattress, carbon monoxide concentration, and mass loss.

BS 6807, a voluntary British standard, provides multiple ignition source options for a full-scale test of a mattress or mattress/foundation combination. The top or underside of the mattress is exposed, depending on the specific ignition source. Ignition/non ignition is determined from the exposure to a cigarette, butane flame, wood crib, or bedclothes chosen by the tester.

The Michigan Roll-up Test was designed to test jail pads that had been rolled up and intentionally ignited by inmates. The pad or mattress is rolled and tied, stuffed with newsprint, leaned against a bed frame, and ignited. No test criteria are specified.

Small-scale tests: The staff reviewed four smaller scale standards, all of which are used for evaluating mattress components rather than the full mattress. One serious drawback of component tests is their inability to accurately predict the real life performance of the full product, a complex combination of mattress, foundation and bedclothes.

TB 117 is mandatory in California for polyurethane foam used in mattresses. The test requires the average flame spread time of 5 inch specimens to be 10 seconds or more.

ASTM E–1474 and NFPA 264A measure the heat release rate of a small specimen of a mattress component material exposed to 35 kilowatts per square meter (kW/m^2) from the burner of a Cone Calorimeter.

BS 5852 is a British standard, mandatory for mattress filling materials (typically foam) used in single-filling mattresses. A horizontal/vertical crevice of foam covered with a standard flame-resistant (FR) polyester fabric is exposed to an ignition source. Options include a cigarette, butane flames, and wood cribs of varying sizes with increasing thermal outputs. Maximum smoldering/flaming time and mass loss are specified.

Several of these standards, small and large scale, may ultimately offer the best choices for a test method, test conditions, magnitude and nature of the ignition source, technical rationale, acceptance criteria, and so forth. However, more data are necessary to determine the most appropriate test. As a group, these standards lack clear links to the specific hazard of ignition from burning bedding materials typical of residential fire incidents, which is especially important for establishing effective acceptance criteria. A better understanding of the fire scenario, the magnitude of the hazard to be addressed, the contribution of burning bedding, and the effectiveness of product changes is needed. With this information, preparation of a reasonable, effective performance standard to reduce deaths and injuries is possible; and mattress materials and constructions suitable for the residential mattress market can be developed.

F. Technical Research and Test Development

From the CPSC and ISPA/NASFM studies of mattress fire incidents and the roundtable discussions, it became clear that a better understanding of the problem, desired performance objectives, and technical means to meet the objectives were needed. As discussed above, existing standards and tests were inadequate and new technical research was needed to support and develop an effective test method and standard. In 1998, in consultation with CPSC staff, SPSC began sponsoring the necessary research at NIST to define and measure the hazard from open flame ignition of mattresses from burning bedding. The first phase of the research was completed in June 2000, and work on Phase 2 has begun and is scheduled for completion later in 2001. CPSC is sponsoring NIST to develop a complementary, smaller scale test method to address practical issues of enforcement and product development. The small-scale test method development will continue into 2002. These programs are summarized below.

1. Phase One

The Flammability Assessment Methodology for Mattresses-Phase 1, involved four main objectives: (1) Initial evaluation of bedding products, (2) characterization of heat impact on a mattress, (3) design of gas burners, and (4) tests of mattresses/bedclothes with burners.

Because the bedclothes are most likely to be the item first ignited and serve as a magnifier for the original, small open flame source, NIST characterized the fire behavior of bedclothes typically used in residential settings. Tests of twelve combinations of bedclothes (sheets, pillows, comforters, and blankets) produced peak heat release rates that ranged from 50 kW to about 200 kW; all substantially higher than a match or lighter. Peak heat release rate is basically a measure of the intensity of the fire produced by these items.

NIST measured the heat impact imposed on the surface of a mattress by six bedding combinations covering a range of performance, from moderate to most intense ignition threat. Measurements of heat flux, duration and affected location were taken. Distinctly different burning conditions existed on the top and side of the mattress, the top being more severe.

NIST then designed two gas burners to consistently simulate the typical heat impact imposed on a mattress top and side by burning bedding products. This is necessary for providing controlled and reproducible test results. The heat flux of the top surface burner is 65 kW/m^2 with a duration time of either 45 seconds or 70 seconds. The heat flux of the side surface burner is 50 kW/m^2 with a duration time of either 25 seconds or 50 seconds. These measurements were used to establish appropriate burner intensities and exposure times when applied to the mattress.

The burners were tested on five different types of mattresses to ensure their ability to produce results that correlated with actual tests of burning bedding. One mattress represented current residential technology. The other four mattresses were constructed with different types of potentially fire resisting components, including barrier fabrics, modified fibers, and treated foams. Correlation was good except for one mattress construction that exhibited internal over-pressurization with the

ignited bedding. Internal over-pressurization occurs when a flammable gas mixture builds up within the mattress causing rupturing of the mattress seams and allowing fire to penetrate the interior. Mattresses with this behavior should be avoided or designed to resist rupturing during a fire.

The research conducted during Phase 1 provided extremely useful information regarding fires involving mattresses and the interaction with bedclothes. Burning bedclothes by themselves were shown to produce large fires, reaching heat release rates up to 200 kW. A 200 kW fire is a much larger fire than a match, candle or lighter ignition source but not large enough to create flashover conditions. Mattresses without bedclothes, however, were shown to produce fires large enough to cause room flashover, adding to the complexity of the hazard. The gas burners appear to successfully simulate most burning bedding conditions and show how mattress materials and construction techniques can improve mattress fire behavior.

2. Phase Two

Phase 2 of the NIST/SPSC research will determine the ability of small-scale mattresses to predict burning behavior of twin size and larger bedding systems. Phase 2 will also provide an analytical basis for estimating the performance characteristics of the mattress needed to address and reduce the hazard.

Most available fire test data relate to twin size mattresses. To understand the effects of mattress size, it will be necessary to obtain data on larger size mattresses. The research will evaluate the effects of scale from king size to a 2′ × 2′ mini-mattress, a size commonly used by manufacturers as a selling tool. If the heat release rate behavior or other measure (*e.g.* weight or mass loss) seen in smaller mattresses correlates with that of larger size mattresses, the feasibility of conducting safe, convenient mattress tests and producing fire safe products increases. Additional tests will evaluate how the lateral dimensions of mattresses affect fire intensity and how different size mattresses affect a specified room environment.

Several factors will be considered in order to estimate the peak rate of heat release from a mattress that would substantially reduce the fire hazard. These include: (1) The effect of bed size and room size on fire size, (2) the proximity of other furnishings around the bed fire and the ignition threat of surrounding objects, and (3) the location of persons with respect to the location of fire origin. Three tiers of hazard for victims of mattress/bedding fires have been identified using National Fire Incident Reporting System (NFIRS) data: (1) Outside the room of origin, (2) within the room of origin but not in contact with mattress fire and, (3) direct contact with mattress fire. Through analysis of the various tests, NIST will explore the relationship between fire size and the number of fatalities and determine what reduction in bed fire intensity will significantly reduce fatalities based on the three hazard tiers.

Phase 2 has been expanded to include tests of bedclothes (quilts, comforters, pillows) constructed with a variety of flame-resistant filling and cover materials to assess the effect of material changes on the flammability behavior.

3. Small-scale Screening Test

To be conducted concurrently with Phase 2, CPSC (with funding support from the U.S. Fire Administration) has contracted with NIST to develop a bench scale screening test to be used as a surrogate for full-scale tests of mattresses exposed to burning bedding or equivalent gas burners. Although the most reliable measures of mattress performance are full-scale tests, they are expensive and require specialized facilities. A bench scale test could be used by CPSC for compliance screening and by manufacturers for screening designs/materials. A similar concept is used in the mattress standard (16 CFR part 1632) for substitution of tickings and materials used at the tape edge. Test specimens will be from actual production mattresses. Based on the performance of a variety of materials, designs, and constructions, the test will be designed to be more stringent than the full-scale test to avoid problems (such as approving a mattress construction that fails the full-scale test and must be recalled later).

G. The Petitions

CCFSM's petitions (Petitions FP 00–1, FP 00–2, FP 00–3, and FP 00–4) proposed four options to address open flame ignition of mattresses: (1) An open flame standard similar to the full-scale test set forth in California Technical Bulletin 129; (2) an open flame standard similar to the component test set forth in British Standard 5852; (3) a label warning of polyurethane foam hazards and (4) a permanent, fire-proof mattress identification tag. The petitioner also requested that the Commission impose fines and take other actions to enforce the existing mattress flammability standard against renovated mattresses. This request was not docketed as a petition because it concerned action that cannot be taken through rulemaking.

The petitioner noted that the existing mattress flammability standard addresses deaths and injuries associated with cigarette ignition of mattresses, not small open flame ignition. The petitioner observed that the greater amount of polyurethane foam used in today's mattresses provides increased fuel for mattress fires. He argued there is a significant need for a standard that would address open flame ignition of mattresses.

In one petition (FP 00–1) the petitioner requested that the Commission issue a standard based on a full-scale test like that in California TB 129, discussed above. In another petition (FP 00–2) the petitioner requested that the Commission issue a standard based on a component test like that in BS 5852, discussed above. The Commission has determined to grant both of these petitions requesting standards. The Commission also voted to deny the remaining two petitions. A label warning of the flammability of polyurethane foam may not accurately reflect the flammability of a finished mattress, particularly as it may actually be used with bedding. As for the requested fire-proof identification tag, although it might help identify a mattress after a fire, it would not affect a mattress's flammability performance.

The Commission will consider both full-scale and component tests in the course of rulemaking to determine the most effective standard to address mattress fires ignited by small open flames. As explained above, the Commission staff is involved in extensive research that is examining the characteristics of mattress/bedding fires and evaluating all relevant tests that could form the basis for a standard.

H. Response to Comments on the Petitions

On June 12, 2000, the Commission published a request in the **Federal Register** for public comments on these petitions. 65 FR 36890. Nine comments were submitted by a fire safety expert and various industry associations. Most of these comments were on the general issue of open flame ignition of mattresses rather than the specific petition recommendations. The major issues raised by the comments and responses to them are discussed below.

1. General Comments

Comment: Some commenters were concerned that standard tests recommended by the petitions do not reflect real hazards typical of residential mattress fire scenarios. Some stated that

NIST's work examining mattresses and bedclothes is a preferable basis for a standard.

CPSC Response: Real-life residential bedding fires involve a complex system of materials, typically a mattress and foundation with a collection of bedclothes which may include any number of sheets, blankets, comforters, pillows, quilts and decorative items. The bedclothes add to the complexity of the hazard. Often, the mattress is essentially exposed to burning bedding, a much larger ignition source than the flame from a match, candle or lighter that may have been the original source of ignition. Two of the petitions request test methods to address the hazard of residential mattress fires (FP00–1 and FP00–2). The ability of the requested test methods to address real-life residential mattress fires is unclear at this time. An appropriate test method should effectively address the hazard as it exists in real-life fire scenarios, representing all materials present, the typical ignition source, and the point of ignition.

The current study being conducted by NIST is a scientifically based research program designed to address the open flame ignition of mattresses and bedclothes under conditions that closely resemble real-life residential fire scenarios. The study is focused on understanding the dynamics of fires involving mattresses and bedclothes assemblies and on developing appropriate and technologically practicable methodology that can effectively address the hazard.

Comment: Some commenters stated that any new regulation should not compromise cigarette resistance. Commenters stated that any new regulation should provide a standard with a simple test that can be widely used. It should have the attributes of a good standard.

CPSC Response: The Commission agrees that any new regulation regarding mattress flammability should be closely assessed for possible impacts on the benefits of the existing regulation. While full-scale mattress tests may provide the most definitive measures of mattress fire behavior, they are costly, dangerous, and cannot be widely conducted. A valid bench or small-scale test that is practical and cost effective is a necessary component of a performance standard when many tests are needed. A simple bench scale test would enable manufacturers to conduct some of their own testing, allowing them to proceed more easily with product and design innovation an address safety concerns regarding their facilities and employees. A bench scale test that uses products obtained at retail would also be useful for regulatory and compliance purposes. The Commission agrees that any new standard would need to be representative of the real-life fire hazard, and the methodology should be reasonable, technologically practicable and based on sound comprehensive research.

2. Petition FP 00–1 Suggesting California TB 129

Comment: One commenter noted that TB 129 provides a direct measure of the danger posed by the mattress tested and is excellent for assessing product performance. Another commenter, however, observed that the type of ignition source and point of ignition used in the test are not appropriate for residences. Two commenters noted that TB 129 tests are expensive and can only be conducted by a fire test laboratory with large-scale heat release measurement capabilities.

CPSC Response: TB 129 was developed to address hazards associated with ignition of mattresses in public institions. It is not clear that TB 129 provides a test method that is a true and direct measure of the danger posed by a typical residential mattress fire. The CPSC staff has concerns about the lack of bedclothes and mattress foundations in the test, the intensity of the specified ignition source, and the required side ignition point. It is also true that full-scale open flame mattress tests, like TB 129, require specialized fire test facilities and are dangerous and costly to conduct.

3. Petition FP 00–2 Suggesting BS 5852

Comment: One commenter stated that British Standard 5852 has been effective in significantly reducing deaths and injuries from upholstery fires.

CPSC Response: Limited data are available for assessing the effectiveness of BS 5852 in reducing deaths and injuries, particularly for assessing losses from mattress fires. The UK Department of Trade and Technology's report evaluting benefits of the 1988 regulations states that the data on mattresses is less clear than the data for upholstered furniture. Mattress regulations require the filling materials to meet the regulations for polyurethane foams, but do not specify fire resistant requirements for mattress fabric coverings or tickings. Moreover, the report did not consider variables such as a decrease in smoking, increase in consumer awareness, increased use of smoke alarms, and increase in use of FR products.

Comment: One commenter reported on full-scale tests of UK mattresses which, mostly ignited by a match, show reduced fire intensity. It is not necessary to ensure resistance to burning bedding because the British experience using complying foams has been good and complying foams do not cause big fires with larger ignition sources.

CPSC response: Full-scale tests of British mattresses composed of treated foam components may exhibit a resistance to small open flames, such as matches, lighters and candles when compared to mattresses composed of untreated foam. Recent tests, however, show that British mattresses are clearly inadequate when presented with the intense flames and higher heat fluxes typically caused by burning bedding. Several full-scale tests of British mattresses were included in the mattress flammability study conducted at the NIST. While the British mattresses may take several minutes to reach their peak rate of heat release, the peak rate of heat release observed for the mattresses alone (without bed clothing) was significantly above the level necessary to cause flashover. Testing of mattresses complying with British regulations with bed clothing resulted in an even higher peak rate of heat release, clearly showing that bedding continues to be a major contributor to the fire hazard causing serious flaming of the foam.

Comment: Commenters indicated that BS 5852 is easy to run and relatively inexpensive. However, it is a composite test, does not assess heat release and does not account for bed clothing in the residential fire scenario.

CPSC response: The Commission agrees that BS 5852 is a relatively inexpensive and easy to run test method, but at the same time, is concerned that the test does not measure heat release rates or account for the more severe ignition source from burning bedding.

Comment: One commenter suggested that a simple test, like BS 5852, that can be used very widely is the most appropriate for a national regulation.

CPSC Response: The Commission agrees that an easy-to-run test is appropriate. It is unclear, however, if the most appropriate test is BS 5852.

4. Petition FP 00–3, Mattress Combustability Warning Labels

Comment: One commenter noted that Sleep Product Safety Council product labels have been used on finished mattresses since 1989. The commenter stated that the petition suggests a label that is extreme and does not represent the performance of the finished product in a real life fire situation.

CPSC Response: The Commission agrees that the label recommended by the petition does not represent the hazard presented by the finished product in a real life fire situation. Polyurethane foam is just one of many components used to construct a mattress. Since it is unclear what relation the fire behavior of an individual component has to the likely fire performance of a completed product, the Commission agrees that the suggested warning is not appropriate for the final mattress product.

5. Petition FP 00–4, Fire-proof Mattress Identification Tags

Comment: One commenter argues that an ID tag would have no impact on the propensity of a mattress to ignite or the intensity of the resulting fire.

CPSC response: Petition FP 00–4 requests that all mattresses have an identification tag designed to survive a fire permanently attached to the innerspring unit. The Commission agrees that such a tag is unlikely to have any impact on reducing mattress fires or the propensity of a mattress to ignite when exposed to an open flame. Such a tag is not visible to consumers to influence their behavior, and the tag has no influence on the mattress's ability to resist ignition or its performance once ignited. An ID tag could be desirable for identifying mattresses involved in fires to improve the utility of collected fire data and support further regulatory actions. However, the tag cannot be justified in terms of directly reducing death or injury from fires.

I. Invitations to Comment

In accordance with section 4(g) of the FFA, the Commission invites comments on this notice. Specifically, the Commission invites the following types of comments.

1. Comments concerning the risk of injury identified in this notice, the regulatory alternatives discussed above, and other alternatives to address the risk of injury;
2. An existing standard or portion of a standard as a proposed rule;
3. A statement of intention to modify or develop a voluntary standard to address the risk of injury identified in the notice along with a description of a plan to modify or develop the standard.

In addition, the Commission is interested in obtaining further information about the following issues.

1. Materials that could improve mattress performance in open flame tests.
2. Any adverse consequences that an open flame standard might have on cigarette ignition of mattresses/bedding.
3. The appropriate scope of the standard, that is, particular items that should be included or excluded.

Dated: October 4, 2001.

Todd Stevenson,

Consumer Product Safety Commission.

List of Relevant Documents

1. Briefing memorandum from Margaret Neily, Project Manager, Directorate for Engineering Sciences, to the Commission, ''Options to Address Open Flame Ignition of Mattress/Bedding and Petitions from the Children's Coalition for Fire Safe Mattresses,'' August 16, 2001.
2. Memorandum from Signe Hiser, EPHA, to Margaret Neily, Engineering Sciences, Residential Fires in Mattresses and Bedding 1980 ''1998,'' June 11, 2001.
3. Memorandum from Terrance R. Karels, EC, to Margaret L. Neily, ES, ''Mattress Petitions,'' June 15, 2001.
4. Memorandum from Allyson Tenney, ES, to Margaret Neily, Project Manager, ''Current Research Program to Evaluate Open flame Mattress Flammability,'' April 25, 2001.
5. Memorandum from Allyson Tenney, ES, to Margaret Neily, Project Manager, ''Response to Comments Received on Petitions FP 00–1 through FP 00–4, Requesting Standards, Labeling and Identification Tags for Mattresses,'' April 25, 2001.
6. Memorandum from Carolyn Meiers, ESHF, to Margaret Neily, Project Manager, ''Petition to Provide Rulemaking Regarding Mattress Combustibility Warning Labels,'' March 16, 2001.

[FR Doc. 01–25442 Filed 10–10–01; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[WY–029–FOR]

Wyoming Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the ''Wyoming program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming proposes revisions to rules about surface water hydrology, coal mine waste impoundments, alluvial valley floors, and Threatened and Endangered Plant Species. Wyoming intends to revise its program to be consistent with the corresponding Federal regulations, and improve operational efficiency.

DATES: We will accept written comments on this amendment until 4:00 p.m., m.d.t. November 13, 2001. If requested, we will hold a public hearing on the amendment on November 8, 2001. We will accept requests to speak until 4:00 p.m., m.d.t. on October 26, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director
Casper Field Office
Office of Surface Mining Reclamation and Enforcement
100 East ''B'' Street, Room 2128
Casper, WY 82601–1918

Dennis Hemmer, Director
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, WY 82002
Telephone: 307/777–7682

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307/261–6550. Internet: Gpadgett@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program.
II. Description of the Proposed Amendment.
III. Public Comment Procedures.
IV. Procedural Determinations.

I. Background on the Wyoming Program

Section 503(a) of the Surface Mining and Reclamation Act (the Act) permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * * '' and ''rules and regulations issued by the Secretary'' pursuant to the Act. 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program,

including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

II. Description of the Proposed Amendment

By letter dated July 20, 2001, Wyoming sent us a proposed amendment to its program, (administrative record No. WY–34–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to a December 23, 1985, letter (WY–34–7) and a February 21, 1990, letter (WY–34–8) that we sent to Wyoming in accordance with 30 CFR 732.17, in response to the required program amendments at 30 CFR 950.16(d), (e), (h), (i), (ii)(2), (jj), and to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of Wyoming's Coal Rules and Regulations that Wyoming proposes to revise are: Chapter 2, Section 2(a)(vi)(M)(III), Ground-water information; Chapter 2, Sections 2(b)(xi)(D)(II)(1) and (2), Groundwater monitoring plan; and Chapter 4, Section 2(w), Hydrologic-balance protection. In addition, Wyoming has submitted rationale supporting its existing policy and for not making the changes required in the codified program deficiencies at 30 CFR 950.12(a)(4), 30 CFR 950.16(ii)(2), and 30 CFR 950.16(jj).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), OSM requests your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Wyoming program.

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Casper Field Office.

Electronic Comments

Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption.

Please also include "Attn: SPATS No. WY–029–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at 307/261–6550.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on October 26, 2001. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given the opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that

State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

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

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 2, 2001.

Peter A. Rutledge,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 01–25542 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AK76

Loan Guaranty: Prepurchase Counseling Requirements

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) loan guaranty regulations that set forth underwriting standards for VA guaranteed loans. We propose to require first-time homebuyers to complete homeownership counseling. We also propose to add the completion of financial or homeownership counseling as a compensating factor for certain veterans who do not fully meet VA's underwriting standards. We believe these changes are necessary to ensure that homebuyers are satisfactory credit risks.

DATES: Comments must be received on or before December 10, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AK76.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: R. D. Finneran, Assistant Director for Loan Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: This document proposes to amend the underwriting standards for VA guaranteed loans found in 38 CFR part 36. We propose to require first-time homebuyers to complete homeownership counseling. We also propose to add the completion of financial or homeownership counseling as a compensating factor for certain veterans who do not fully meet VA's underwriting standards. These proposed changes are designed to help ensure that veterans obtaining VA guaranteed loans are satisfactory credit risks as required by 38 U.S.C. 3710 (b)(3).

Requirement for Homeownership Counseling for First-Time Homebuyers

On March 25, 1999, the VA's Office of the Inspector General (IG) issued an audit report entitled Attributes of Defaulted VA Home Loans (Report No. 9R5–B10–047). In this report, the IG noted that there was a higher and earlier incidence of defaults for active duty military borrowers. The report recommended establishing a prepurchase counseling requirement for all active duty military homebuyers.

After reviewing this report, the Veterans Benefits Administration (VBA) did not fully agree with that recommendation.

Based on our experience, we find that first-time homebuyers are more likely to encounter financial difficulties due to lower incomes, less experience in managing personal finances and credit, and a lack of understanding the financial responsibilities and

obligations of homeownership. This is consistent with VBA data indicating that, between Fiscal Year (FY) 1993 and FY 2000, the foreclosure rates for first-time homebuyers was 4.23 percent, while the foreclosure rates for veterans with previous homeownership experience was 2.88 percent (the data are available from the individual listed under **FOR FURTHER INFORMATION CONTACT**). Accordingly, VBA believes the data relied on by the IG regarding active duty military result in part from the fact that a significant number of active duty military personnel obtaining VA housing loans are first-time buyers.

Further, we do not think that it is equitable to subject military personnel with prior satisfactory homeownership experience to a requirement not imposed on veterans already separated from service.

We discussed these concerns informally with the IG, and the IG concurred with the provisions of this proposed rule.

Accordingly, we propose that as a condition of obtaining a VA-guaranteed home loan, a first-time homebuyer must complete a homeownership counseling course.

We also propose that the course, at a minimum, address the following subjects: the essentials of becoming a homebuyer, debt management, home maintenance, and available assistance for the homeowner who has trouble making payments. This is the essential information that we believe first-time buyers need to know in order to be prepared for the financial responsibilities of home ownership.

We also propose that the homebuyer complete the course within twelve months preceding the date of the loan. This will help ensure that the veteran understands these issues at the time of purchase.

We have indicated in the proposed rule that the course should take approximately three hours. We believe that this is a sufficient time period for understanding the necessary concepts.

We also propose that the course may be individualized, in a classroom setting, computer-based, or a correspondence course. This will provide maximum flexibility and allow veterans in remote areas to obtain the necessary counseling.

For informational purposes we noted that such courses can be obtained from: the U.S. Department of Housing and Urban Development (HUD), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), educational institutions and entities used by state or local government housing programs.

The proposed rule requires that the veteran submit to the lender a certificate of completion from the counseling provider. This will ensure that the counseling was obtained.

Compensating Factor

Under the current regulations for underwriting standards for VA guaranteed loans (38 CFR 36.4337(c)), the veteran must meet both a debt-to-income ratio and a residual income analysis. In those cases where a veteran does not fully meet both standards, but the veteran falls within parameters specified in the regulations, the lender may approve the loan or submit the loan to VA for prior approval if the lender fully justifies the decision. The lender's justification must cite specific compensating factors that justify its decision. This document proposes to amend the regulations by adding completion of financial or homeownership counseling within the past 12 months as a compensating factor.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3501–3520), this proposed rule includes information collection provisions in 38 CFR 36.4337. In accordance with section 3507(d) of the Act and 5 CFR 1320.11, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AK76.''

Title: Prepurchase Counseling Requirements.

Summary of collection of information: In proposed 38 CFR 36.4337(i), VA would require that, as a condition of obtaining a VA-guaranteed home loan, a first-time homebuyer, within 12 months preceding the date of the loan, submit to their lender a certificate of completion of a homeownership counseling course.

Description of need for information and proposed use of information: Pursuant to 38 U.S.C. 3710, VA has a statutory duty to determine that any veteran who obtains a VA-guaranteed home loan is a satisfactory credit risk. Our experience indicates that first-time homebuyers are more likely to encounter financial difficulties due to lower incomes, less experience in managing personal finances and credit, and a lack of understanding the financial responsibilities and obligations of homeownership. VA anticipates that requiring all first-time homebuyers complete a course in homeownership counseling will make first-time homebuyers more aware of the responsibilities of homeownership and the importance of meeting financial obligations. In our experience, individuals with such knowledge are better credit risks.

Description of likely respondents: Veterans who are first-time homebuyers.

Estimated number of respondents: 101,955.

Estimated frequency of responses: Once.

Estimated total annual reporting and recordkeeping burden: 8,496 hours.

Estimated average burden per collection: 5 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the

deadline for the public to comment on the proposed rule.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Executive Order 12866

The Office of Management and Budget has reviewed this proposed rule under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would affect only individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance Program number is 64.114.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs-Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: July 10, 2001.

Anthony Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is proposed to be amended as set forth below.

PART 36—LOAN GUARANTY

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

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

2. Section 36.4337 is amended by:

a. Redesignating paragraphs (i) through (n) as paragraphs (j) through (o), respectively.

b. In paragraphs (a), (b), and (e) introductory text, removing ''(j)'' and adding, in its place, ''(k)''.

c. In newly redesignated paragraph (k)(4), removing ''(j)(3)'' and adding, in its place, ''(k)(3)''; and in paragraph (k)(5), removing ''(j)(3) and (j)(4)'' and adding, in its place, ''(k)(3) and (k)(4)''.

d. In newly redesignated paragraph (l)(3), removing ''(k)(2)'' and adding, in its place, ''(l)(2)''.

e. Revising paragraph (c)(5).

f. Adding a new paragraph (i).

The revision and addition read as follows:

§ 36.4337 Underwriting standards, processing procedures, lender responsibility, and lender certification.

* * * * *

(c) * * *

(5) The following are examples of acceptable compensating factors to be considered in the course of underwriting a loan:

(i) Excellent long-term credit;

(ii) Conservative use of consumer credit;

(iii) Minimal consumer debt;

(iv) Long-term employment;

(v) Significant liquid assets;

(vi) Downpayment or the existence of equity in refinancing loans;

(vii) Little or no increase in shelter expense;

(viii) Military benefits;

(ix) Satisfactory homeownership experience;

(x) Completion of financial or homeownership counseling program within twelve months preceding the date of the loan;

(xi) High residual income;

(xii) Low debt-to-income ratio;

(xiii) Tax credits of a continuing nature, such as tax credits for child care; and

(xiv) Tax benefits of homeownership.

* * * * *

(i) *Homeownership counseling.* As a condition of obtaining a VA-guaranteed home loan, a first-time homebuyer, within twelve months preceding the date of the loan, must complete a homeownership counseling course addressing, at a minimum, the following subjects: the essentials of becoming a homebuyer, debt management, home maintenance, and available assistance for the homeowner who has trouble making payments. The course should take approximately three (3) hours and may be individualized, in a classroom setting, computer-based, or a correspondence course. Courses meeting this criteria are available from: the U.S. Department of Housing and Urban Development (HUD), the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), educational institutions, and entities used by state or local government housing programs. The veteran shall submit to the lender a certificate of completion from the counseling provider.

* * * * *

[FR Doc. 01–25459 Filed 10–10–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[TX–002; FRL–7079–1]

Clean Air Act Proposed Full Approval Operating Permits Program for the State of Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval.

SUMMARY: The EPA proposes full approval of the Operating Permit Program submitted by the Texas Natural Resource Conservation Commission (TNRCC or Commission) based on the revisions submitted on June 12, 1998, and June 1, 2001, which satisfactorily address the program deficiencies identified in EPA's June 7, 1995, and June 25, 1996, Interim Approval (IA) Rulemakings. In addition, today's document takes no action on additional provisions submitted June 1, 2001, which relate to general operating permits, public participation, compliance assurance monitoring, and periodic monitoring. The EPA will take appropriate action on these items in a separate Federal Register action.

DATES: The EPA must receive your written comments on this proposal no later than November 13, 2001. You must address your comments to the contact indicated below.

ADDRESSES: Please address your written comments on this action to Ms. Jole C. Luehrs, Chief, Air Permitting Section, Attention: Mr. Stanley M. Spruiell, at the EPA Region 6 Office listed below. You may review copies of the State's submittal and other supporting information during normal business hours at the following locations. If you wish to examine these documents, you should make an appointment with the appropriate office at least 24 hours before visiting day.

EPA, Region 6, Air Permitting Section (6PD–R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

TNRCC, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Spruiell, Air Permitting Section (6PD–R), EPA, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas

75202–2733, telephone (214) 665–7212 or e-mail at *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document ''we,'' ''us,'' or ''our'' means EPA.

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I. What Is the Operating Permit Program?

Title V of the Clean Air Act (the ''Act'') Amendments of 1990 required all States to develop Operating Permit Programs that meet certain Federal criteria. In implementing the title V Operating Permit Programs, permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the Act. The focus of the title V Operating Permit Program is to facilitate compliance and improve enforcement by issuing each source a permit that consolidates all of the applicable requirements of the Act into a federally enforceable document. This consolidation of all applicable requirements enables the source, the public, and the permitting authority to readily determine which of the Act's requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution as defined by title V and certain other sources specified in the Act or in EPA's implementing regulations. This includes all sources regulated under the acid rain program, regardless of size, which must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year (tpy) or more of volatile organic compounds (VOC), carbon monoxide (CO), lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM–10); those that emit 10 tpy of any single hazardous air pollutant (HAP) specifically listed under the Act; or those that emit 25 tpy or more of a combination of HAP. In areas that are not meeting the National Ambient Air Quality Standards for ozone, CO, or PM–10, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tpy or more of VOC or NO_X.

II. What Is Being Addressed in This Document?

Where a title V Operating Permit Program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 CFR part 70, we granted interim approval (IA) contingent on the State revising its program to correct the deficiencies. Because Texas' Operating Permit Program substantially, but not fully, met the requirements of part 70, we granted a source category-limited IA to the program in a rulemaking published on June 25, 1996 (61 FR 32693). A source category-limited Operating Permits Program is limited to certain specified sources.[1] This approval was scheduled to expire July 27, 1998, by which time the State would have been required to have received full approval. However, we subsequently promulgated nationally applicable rulemakings that extended all State Operating Permit Program IAs to December 1, 2001. *See* 63 FR 40054, July 27, 1998, and 65 FR 32035 (May 22, 2000).

The IA notice stipulated numerous conditions that had to be met in order for the State's program to receive full approval. Texas submitted revisions to its interim approved Operating Permit Program dated June 12, 1998, and June 1, 2001. Texas also submitted supplementary information to EPA on August 22, 2001, August 23, 2001, and September 20, 2001. These submittals are described below. This FR notice describes changes that have been made to Texas' Operating Permit Program which correct the IA deficiencies.

June 12, 1998. Texas submitted regulations to us which promulgated a new Operating Permit Program to cover all sources. Its previous Operating Permits Program covered only sources with certain SIC codes.[2] These regulations were adopted on October 15, 1997, and were promulgated in the *Texas Register* on October 31, 1997. This submittal corrected some but not all IA deficiencies. To date, we have not acted on the June 12, 1998, submittal.

June 1, 2001. Texas submitted the following revisions to its operating permits regulations:

- Regulations promulgated in the *Texas Register* on February 26, 1999, concerning general operating permits.
- Regulations promulgated in the *Texas Register* on September 24, 1999, concerning the State's procedural rules on public participation;
- Regulations promulgated in the *Texas Register* on September 1, 2000, concerning general operating permits and compliance assurance monitoring; and,
- Regulations adopted May 9, 2001, and promulgated in the *Texas Register* on May 25, 2001, which correct the remaining IA deficiencies.

In today's action, we are proposing to approve revisions as identified below which the TNRCC adopted October 15, 1997 (submitted June 12, 1998) and May 9, 2001 (submitted June 1, 2001) which correct Texas' IA deficiencies. We will take appropriate action on the remaining provisions of the June 1, 2001, submittal in a separate FR action.

Following the June 1, 2001, submittal, Texas submitted supplementary information as follows:

August 22, 2001. A letter from Mr. Jeffrey A. Saitas, P.E., Executive Director, TNRCC, to Mr. Gregg Cooke, Regional Administrator, Environmental Protection Agency, Region 6. This letter

[1] In Texas, this program only covered sources with a Standard Industrial Classification (SIC) code of 1311, 1321, 4911, 4922, 4293, and 5171.

[2] Footnote 1, supra.

included Texas' four year cost projection for its Operating Permits Program.

August 23, 2001. The TNRCC submitted a notice to EPA (letter from Mr. Jeffrey A. Saitas, P.E., Executive Director, Texas Natural Resource Conservation Commission, to Mr. Carl E. Edlund, Director, Multimedia Planning and Permitting Division) informing EPA that it would not be using its upset rules to satisfy the emergency provisions of 40 CFR 70.6(g), and thus removed these provisions from its June 1, 2001, submittal.

September 20, 2001. Texas provided supplemental information to clarify the procedures that it will follow to incorporate the provisions of its MNSR permits into its title v operation permits.

We propose to grant full approval of the Texas Operating Permits Program based upon our determination that Texas has corrected the deficiencies identified in the IA program. The following sections of this preamble summarize each IA deficiency, the revisions that Texas has submitted, and our basis for determining that the deficiency has been corrected.

We have also prepared a Technical Support Document which contains our complete evaluation and analysis of the IA deficiencies and our basis for finding that each deficiency has been corrected.

III. What Are the Program Changes That We Propose To Approve?

As stipulated in the June 7, 1995 (60 FR 30037), and June 25, 1996 (61 FR 32693), Federal Register Documents, full approval of Texas' title V Operating Permit Program was made contingent upon the following rule changes to correct the IA deficiencies identified therein.

A. MNSR/Part 70 Integration

In the June 7, 1995, document, EPA pointed out that chapter 122 did not properly address MNSR as an applicable requirement. Specifically, we noted that the definition of ''applicable requirement'' in section 122.10 excluded MNSR as an applicable requirement and was inconsistent with the Federal definition of applicable requirements in 40 CFR 70.2. We also identified the following sections of chapter 122 as directly related to and a part of the MNSR/part 70 integration issue: permit application (sections 122.130–122–139), permit revisions (sections 122.210–122.221), and permit content (sections 122.141–122.145) (60 FR at 30039).

On May 9, 2001, Texas made the following revisions to chapter 122 pertaining to MNSR:

- *Section 122.10(2)—Definition of Applicable Requirement.* Texas revised the definition of ''applicable requirement'' to add the following as applicable requirements: (1) all of the requirements of chapter 106, subchapter A (Permits by Rule—General Requirements), and (2) the requirements of chapter 116 (Control of Air Pollution by Permits for New Construction or Modification). These provisions are Texas' regulations for authorizing the construction of new and modified sources, including MNSR. By adding these provisions as applicable requirements, Texas now recognizes MNSR as an applicable requirement. By revising the definition of applicable requirement, Texas also corrected EPA concerns regarding permit revisions (sections 122.210—122.221). Texas also revised the following sections of Chapter 122 relating to permit applications and permit content to require inclusion of MNSR in these areas:
- *Section 122.132(e)(11)—Permit Applications.* As revised, this section provides that for any application for which TNRCC has not authorized initiation of public notice by the effective date of the revisions (June 3, 2001), the applicant must include any preconstruction authorizations that are applicable to emission units at the site.
- *Section 122.142(b)(3)—Permit Content.* As revised, this section provides that each title V permit for which TNRCC has not authorized initiation of public notice by the effective date of the revisions (June 3, 2001), shall contain any preconstruction authorization that is applicable to the emission units at the site.

Therefore, Texas has properly addressed MNSR as an applicable requirement.

On June 20, 1996, EPA promulgated a revision to part 70 that provided a mechanism to grant Interim Approval (IA) for programs that did not include MNSR requirements. 61 FR 31443, 31448. Texas was granted IA of its Operating Permits Program using this mechanism (61 FR at 32695). Under this mechanism, Texas is required to revise its rules to include MNSR as an applicable requirement in order to receive full program approval, and institute proceedings to reopen part 70 permits to incorporate excluded MNSR permits as terms of part 70 permits (40 CFR 70.4(d)(3)(ii)(D)). As noted above, Texas has revised its rules to include MNSR.

On May 9, 2001, Texas adopted section 122.231(c). This provision provides that TNRCC will, before December 1, 2001, institute proceedings to reopen part 70 permits to incorporate MNSR permits as terms of the part 70 permits no later than renewal of the permit if the TNRCC had authorized the initiation of public notice for the permit by the effective date of the rule (June 3, 2001). These reopenings do not have to follow full permit issuance procedures nor the notice requirements of section 122.231(e), but may instead follow the permit revision procedure in effect under the State's approved part 70 program for incorporation of MNSR permits. This abbreviated procedure is authorized by 40 CFR 70.4(d)(2)(ii)(D). For the remaining applications which the TNRCC has not authorized initiation of public notice by the effective date of the revisions (June 3, 2001), the applicant must include any preconstruction authorizations that are applicable to emission units at the site.

On September 20, 2001, TNRCC clarified that it will follow the procedures described below for incorporating MNSR into its permits:

1. *Newly-issued title V permits.* The TNRCC will incorporate MNSR permits and permits by rule (PBR) into all newly issued title V permits. The title V permit will clearly state: (1) that the terms and conditions of MNSR permits and PBR identified and cross-referenced in the title V permit are included as applicable requirements; (2) the MNSR permits and PBR are incorporated by reference into the title V permit by identifying the MNSR permit by its permit number, or the PBR by its section number; and (3) the title V permit states that terms and conditions of the MNSR permits and PBR are included in the title V permit and subject to part 70 requirements.

Since June 3, 2001 (the effective date of revisions to Chapter 122 adopted May 9, 2001), TNRCC has been required to implement this requirement by incorporating the MNSR permits and permits by rule (PBR) into all title V permits for which the initiation of public notice was not authorized by June 3, 2001.

2. *Reopening existing title V permits.* In accordance with 40 CFR 70.4(d)(3)(ii)(D), TNRCC will institute proceedings to reopen previously issued title V permits and draft title V permits for which TNRCC issued or authorized the initiation of public notice prior to June 3, 2001. The TNRCC will begin these proceedings no later than December 1, 2001. The TNRCC will accomplish this reopening through direct notification in writing to each individual permit holder, during stakeholder meetings, and through the TNRCC website. Another follow-up letter will be sent to each permit holder when it is time to reopen the permit

holder's permit to incorporate the MNSR permits and PBRs. This is consistent with the general notice published in the *Texas Register* preamble during the proposal and final adoption of the revisions (26 *Texas Register* 890, 892 (January 26, 2001); 26 *Texas Register* 3747, 3775–76 (May 25, 2001).

For existing permits nearing renewal (*i.e.,* those with less than two years remaining until renewal), TNRCC will reopen such permits at renewal to incorporate the MNSR permits. For permits not close to renewal (*i.e.,* those with two or more years remaining until renewal), TNRCC will reopen the permits to incorporate the MNSR permits within three to four years of initial issuance, which is more expeditious than renewal. As provided by 40 CFR 70.4(d)(3)(ii)(D), Texas' proceedings to reopen these permits need not follow full permit issuance procedures nor the notice requirement of 40 CFR 70.7(f)(3), but may instead follow the permit revision procedure in effect under the State's approved part 70 program for incorporation of MNSR permits. The approved procedure for incorporating MNSR permits is TNRCC's procedure for minor modification of title V permits. These provisions are set forth in sections 122.215 and 112.217, which satisfy the provisions for minor permit modification procedures in 40 CFR 70.7(e)(2).

3. All MNSR permits and PBR included or referenced in title V permits will include all monitoring, reporting, and recordkeeping requirements of part 70. If an MNSR permit or PBR is determined to be deficient in any of these regards, TNRCC will add the necessary provisions to ensure that the requirements of part 70 concerning periodic monitoring (40 CFR 70.6(a)(3)(i)(B)) and monitoring that is sufficient to assure compliance(40 CFR 70.6 (c)(1)) are met. These provisions are set forth in sections 122.142.

4. The TNRCC will ensure that for anyone who asks to see a title V permit, the file clerk will provide the entire permit file to that person. The table of contents to the title V permit also will indicate the location within the title V permit of the MNSR preconstruction authorization numbers (file numbers). If the requestor wants to see all portions of the title V permit, including the MNSR files, then the entire title V permit file, with all its parts, will be provided.

The TNRCC has informed EPA that it can accept reasonably late comments when there are problems with accessing the title V permit including the MNSR portions. The extension of time would be evaluated on a case by case basis. In addition, the public notice will clarify that the TNRCC Regional office file will include the Title V permit and the MNSR portions. The TNRCC also agreed that it would facilitate access to the entire file to those who cannot get to the TNRCC Regional office. The public notice will explain where and how to make known any difficulties that a member of the public may have had in getting to the Regional office where the MNSR permits are located. In response to public comments, including reasonably late comments described above, TNRCC will make requested changes to a title V permit if TNRCC deems such change to be necessary to ensure that the permit meets the requirements of chapter 122.

5. The TNRCC will also modify title V permits when changes occur that require new MNSR permits or PBR, or modifications to existing MNSR permits. Modification of the title V permit will incorporate the MNSR requirements that apply to the change following the appropriate permit revision procedures. This will be accomplished following the permit modification procedures in the approved State part 70 program which include requirements for significant, minor, or administrative permit modification procedures in chapter 122, whichever apply to the particular change. Notwithstanding the above, changes eligible for off-permit treatment, or operational flexibility, may follow the procedures for off-permit changes or operational flexibility under the approved State part 70 program.

Based on the foregoing, we have determined that the above procedures meet the requirements for reopening permits to incorporate MNSR requirements. Therefore, this deficiency has been corrected.

B. Emergency Provisions

In the June 7, 1995, document, EPA stated that section 122.143 was inconsistent with emergency provisions of 40 CFR 70.6(g)(3). Section 122.143 referenced chapter 101, which contained notification requirements for major upsets. Chapter 101 provided the following:

> The owner or operator of a facility must notify the Executive Director of TNRCC as soon as possible of any major upset condition which causes or may cause an excessive emission that contravenes the intent of the statute or the regulations. If the information required in the notification is unknown at the time of the initial notification, then the owner or operator must provide such information as soon as possible, and submit a written report with such information not later than two weeks from the onset of the upset condition. This allowance for time of agency notification by the permittee is inconsistent with 40 CFR 70.6(g)(3) which requires the permittee to submit notice of the emergency to the permitting authority within two working days.

60 FR at 30043–30044.

In the 1998 submittal, TNRCC adopted section 122.145(3)(A), which provided that ''reports of deviations from any unauthorized emissions, upset or maintenance, and start-up and shutdown shall be submitted in accordance with sections 101.6, 101.7 and 101.11 of this title (relating to Upset Reporting and Recordkeeping Requirements; Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements; and Exemptions from Rules and Regulations).'' However, as EPA noted in its February 26, 2001, letter to TNRCC providing comments in the proposed chapter 122 revisions, sections 101.6, 101.7, and 101.11 are not consistent with the emergency provisions in 40 CFR 70.6(g) for the following reasons: (1) the regulations do not define ''emergency'' consistent with 40 CFR 70.6(g)(1); (2) the regulations improperly provided for exemption from permit requirements rather than an affirmative defense; (3) the regulations only provided for prompt reporting of certain upsets; and (4) an upset provision in a State Implementation Plan (SIP) cannot substitute for the emergency reporting and related affirmative defense provisions of part 70.

On May 9, 2001, TNRCC revised Section 122.145. The TNRCC did not make any changes in response to EPA's comments. However, TNRCC deleted section 122.145(3) because it claimed that it was redundant with the upset and maintenance reporting requirements in chapter 101 (26 *Texas Register* at 3751). As adopted May 9, 2001, and submitted June 1, 2001, the Texas regulations do not meet the emergency provisions in 40 CFR 70.6(g) for the reasons set forth above.

However, as stated in the preamble for our proposed rulemaking on August 31, 1995, there is no requirement for a State to adopt the emergency provisions in 40 CFR 70.6(g) (60 FR 45530, 45559). Following our discussions with TNRCC concerning this statement, TNRCC notified us by letter dated August 23, 2001, that it would not use its upset rules to satisfy the part 70 emergency provisions, and thus removed these provisions from its June 1, 2001, submittal. Based upon TNRCC's withdrawal of its upset rule from its title

v submittal, this deficiency no longer exists. Accordingly, the Texas title V program no longer provides an emergency defense; however, the Texas SIP provisions in chapter 101 do continue to provide for reporting of upsets and malfunctions. These provisions do provide that exceedance of emission limits during properly-reported upsets and malfunctions may be excused from civil penalties.

C. Operational Flexibility

In the June 7, 1995, document, EPA stated that the part 70 regulations require an Operating Permits Program to allow for operational flexibility. The EPA noted that section 122.221 was inconsistent with 40 CFR 70.4(b)(12) which allows changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed emissions allowed under the permit. The Texas permit regulation did not define or include these operational flexibility requirements. Therefore, it was not clear what type of changes could be processed through the State's operational flexibility provision (60 FR at 30044).

In the 1998 submittal, TNRCC deleted its operational flexibility provisions previously contained in the 1993 version of section 122.221. However, deletion of the operational flexibility provisions did not correct the deficiency because the part 70 regulations require an Operating Permit Program to allow for operational flexibility.

On May 9, 2001, Texas adopted a new section 122.222 to provide operational flexibility, consistent with 40 CFR 70.4(b)(12), and to specify requirements for off-permit changes, consistent with 40 CFR 70.4(b)(14). Texas also adopted a definition for ''FCAA section 502(b)(10) changes'' in section 122.10(11) that is identical to the definition of ''section 502(b)(10) changes'' in 40 CFR 70.2. Therefore, this deficiency has been corrected.

D. Definition of Major Source

In the June 7, 1995, and the June 25, 1996, documents, we noted that the definition of ''major source'' in section 122.10 was inconsistent with the definition of ''major source'' as defined in 40 CFR 70.2. Both definitions identify 27 stationary source categories which are required to include a source's fugitive emissions in determining whether a source is major. In Texas' definition, category 27 was defined as ''any other stationary source category which as of August 7, 1980, is being regulated under section 111 or section 112 of the Act.'' This definition was inconsistent with 40 CFR 70.2, which requires fugitive emissions to be counted for all source categories regulated by section 111 or section 112 of the Act, not just those which existed as of August 7, 1980 (60 FR at 30041 and 61 FR at 32695).

In the 1998 submittal, TNRCC revised the definition of major source in section 122.10(14) as follows: ''any stationary source category regulated under FCAA section 111 (relating to Standards of Performance for New Stationary Sources) or section 112 for which EPA has made an affirmative determination under FCAA, section 302(j) (relating to Definitions).'' Texas did not change the definition in the 2001 submittal.

Texas' revised definition still does not match 40 CFR 70.2 for the reasons set forth above. However, EPA has subsequently stated that it failed to follow the necessary procedures under section 302(j) of the Act in adopting the current definition in part 70 (60 FR at 45547–45548).

Moreover, the Agency has a final rulemaking under development to revise the major source definition to no longer require sources in categories subject to section 111 or 112 standards promulgated after August 7, 1980, to count fugitive emissions for purposes of part D or section 302. The revised definition will match the definition in part 71, which requires fugitive emissions to be counted for ''any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or section 112 of the Act.'' 40 CFR 71.2.

Texas' regulation is consistent with the revised definition and the part 71 definition because both cover the same universe of sources. The Texas requirement to count fugitive emissions applies to sources ''for which EPA has made an affirmative determination under FCAA section 302(j)'' whereas the part 71 definition applies to sources which were ''subject to section 111 or 112 standards promulgated as of August 7, 1980.'' Because August 7, 1980, was the date of EPA's last ''affirmative determination under section 302(j),'' the Texas requirement is consistent with the part 71 requirement. Based on the foregoing, we no longer consider this to be a deficiency.

E. Definition of Regulated Pollutant

In the June 7, 1995, document, EPA pointed out that section 122.10 did not define ''regulated air pollutant'' as required by part 70, instead adopting a definition of ''air pollutant'' that is inconsistent with part 70. The definition of ''air pollutant'' included any pollutant listed in section 112(b) or section 112(r) of the Act and subject to a standard promulgated under section 112 of the Act. The term ''air pollutant'' is also used in the Texas definitions for ''potential to emit'' and ''major source.'' This was inconsistent with the part 70 regulation, in which applicability is based on a source's potential to emit any air pollutant, including those listed pursuant to section 112, rather than on pollutants which are subject to a promulgated standard (60 FR at 30040–30041).

In the 1998 submittal, Texas revised the definition of air pollutant in section 122.10 as follows: ''(F) any pollutant subject to a standard promulgated under FCAA, section 112 (relating to Hazardous Air Pollutants) or other requirements established under section 112, including section 112(g) and (j). However a pollutant shall not be considered an air pollutant under this chapter solely because it is subject to standards or requirements under section 112(r).'' However, because Texas' revised definition excluded listing under section 112(r) as an indicia of regulated air pollutants, the definition of ''air pollutant'' was still inconsistent with the definition of ''regulated air pollutant'' in 40 CFR 70.2.

In the 2001 submittal, Texas revised the definition of ''air pollutant'' in section 122.10(1)(F) to include any pollutant subject to requirements under the Federal Clean Air Act, section 112(r). The 2001 changes track the language of ''regulated air pollutant'' in 40 CFR 70.2 and therefore corrects this deficiency.

F. Treatment of Research and Development (R&D) Facilities

In the June 7, 1995, document, EPA observed that Texas treated R&D facilities through the definition of ''site'' in section 122.10 in a manner inconsistent with the definition of ''major source'' in 40 CFR 70.2, and the applicability provisions of 40 CFR 70.3(b). Texas defined ''site'' in section 122.10 to allow R&D operations to be treated as a separate site from any manufacturing facility with which they are collocated (60 FR at 30040).

In the 1998 submittal, Texas revised the definition of ''site'' to provide that R&D facilities will be considered a separate site from any collocated manufacturing facility except for those R&D facilities that produce products for commercial sale. The definition of ''site'' in the 1998 submittal continued to inappropriately exempt R&D activities from being aggregated with other collocated sources when the R&D activities have the same 2-digit SIC code

as the other collocated sources. In addition, the definition of site inappropriately exempted R&D activities from source aggregation when the R&D activity has a different 2-digit SIC code from a collocated source, and the R&D activity is a support facility for the collocated source. Although the Texas rule exempted R&D activities which did not produce commercial products, a support relationship may exist under the current part 70 rule in circumstances where no commercial product is produced. For example, the R&D activity could produce raw materials that are used by a collocated manufacturing source to produce final products where the raw materials are not sold, but the final products are.

In the 2001 submittal, Texas amended the definition of site in section 122.10(30) to clarify that, for purposes of operating permit applicability, R&D operations and collocated manufacturing facilities would be considered a single site if they have the same two-digit SIC code or the R&D operation is a support facility for the manufacturing facility. This revision is consistent with the definition of major source contained in 40 CFR 70.2 and corrects the deficiency.

G. Fugitive Emissions Not Included in Permit Application

In the June 7, 1995, document, EPA stated that the permit application must include fugitive emissions from units not subject to an applicable requirement, as required by 40 CFR 70.3(d). Chapter 122 did not meet this requirement (60 FR at 30043). In the June 25, 1996, document, EPA maintained that TNRCC must require sources to quantify fugitive emissions from units covered by an applicable requirement. For fugitive emission units that are not covered by an applicable requirement, EPA stated that a general description of the emissions would suffice (61 FR at 32696).

In the 2001 submittal, Texas added section 122.132(e)(10), specifying that fugitive emissions would be included in permit applications and permits in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. Section 122.132(e)(10) is consistent with 40 CFR 70.3(d) and meets the requirements of part 70. This revision corrects the deficiency.

H. Permit Additions

In the June 7, 1995, Notice, EPA noted that sections 122.215—122.217 required that certain permit revisions be processed as ''permit additions.'' The criteria for ''permit additions'' appeared to be the same as the Federal criteria for some types of changes noted under minor permit modification provisions (40 CFR 70.7) and for some changes allowed as ''off permit'' changes under 40 CFR 70.4(b)(14). The EPA stated that the permit addition procedures set forth in sections 122.215—122.217 were not equivalent to the minor permit modification procedures in part 70 (60 FR at 30042).

In the 1998 submittal, the State deleted the permit addition procedures and replaced them with procedures for minor permit revisions (new sections 122.213—122.217). However, the State failed to correct the underlying deficiencies in the permit addition procedures when it promulgated its minor permit revision procedures in 1997.

In 2001, Texas revised its minor permit revision regulations to be consistent with 40 CFR 70.7(e)(2). These changes included:

- Repeal of existing sections 122.215 and adoption of a new section 122.215;
- Amendments to section 122.216 and 122.217;
- Adoption of a section 122.218; and
- Repeal of existing section 122.219 and adoption of a new section 122.219.

Texas will submit sections 122.215—122.218 as revisions to its SIP. These sections will complement the provisions of chapter 101, subchapter H, Emissions Banking and Trading, which has been submitted as a SIP revision. Additional details of these changes are discussed in the TSD.

As discussed above, sections 122.215—122.219 as adopted by TNRCC meet the requirements of part 70.

I. Prohibition of Case-By-Case Determinations as Minor Permit Revisions

In the June 7, 1995, document, EPA pointed out that section 122.215 (Permit Additions) did not require case-by-case reasonably available control technology (RACT) changes to be processed as significant permit modifications. This regulation allowed TNRCC to process case-by-case RACT determinations as minor permit revisions. 40 CFR 70.7(e)(2)(i)(A)(3) prohibits the use of minor permit modification provisions to make ''case-by-case'' RACT equivalency determinations. Therefore, the Texas provision is not equivalent to the part 70 regulations (60 FR at 30042).

In the 1998 submittal, the State deleted the permit addition procedures and replaced it with procedures for minor permit revisions. However, the State failed to correct this deficiency in the permit addition procedures when it promulgated its minor permit revision procedures.

In 2001, Texas repealed section 122.215 and added a new Section 122.215 incorporating all criteria in 40 CFR 70.7(e)(2)(i)(A)(1)–(5) for minor permit revisions. This includes 40 CFR 70.7(e)(2)(i)(A)(3), which specifies that minor revisions may only be used for changes that do not require or change a case-by-case determination of an emission limitation or standard. This would include a case-by-case RACT determination. Therefore, case-by-case RACT determinations would be incorporated into a permit with a significant permit revision and must satisfy all procedural requirements for significant permit revisions, such as public notice, EPA review, public petition, and affected State review. Therefore, Texas has corrected this deficiency.

J. Prohibition on Operating Changes Until Source Has Submitted Minor Permit Application

In the June 7, 1995, document, EPA noted that Section 122.216 allowed applications for permit additions to be submitted to TNRCC no later than 90 days after the owner or operator has obtained or qualified for a preconstruction authorization. This regulation also provided that after the source received its preconstruction permit, it could make the requested operating change before submitting the operating permit application within the 90-day time frame (60 FR at 30042). However, 40 CFR 70.7(e)(2)(v) provides that no owner or operator may make an operating change if such operating change would require a modification of a term or condition of the original part 70 permit until the source has submitted an application for the minor permit modification. Accordingly, a State may allow the source to make the change proposed in its minor permit modification application only after the source files that application.

In the 1998 submittal, the State deleted the permit addition procedures and replaced them with procedures for minor permit revisions. However, the State failed to correct this deficiency in the permit addition procedures when it promulgated its minor permit revision procedures.

In 2001, Texas amended section 122.217(a)(2) to require a permit holder to submit an application for a minor permit revision to the Executive Director, as opposed to a notice. Under the amendment, a permit holder will be required to submit the application prior to making the operational changes

described in such application. The submitted revisions now require such changes to meet the requirements in sections 122.215—122.218 which contain TNRCC's requirements for minor permit revisions. The revisions to section 122.217(a)(2) meet the requirements of 40 CFR 70.7(e)(2)(v) and correct the deficiency.

K. EPA and Affected State Notification and Review, EPA Objection, and Permitting Authority Deadline To Issue or Deny Permit Additions

In the June 7, 1995, document, EPA stated that the permit addition procedures outlined in Section 122.217 were not equivalent to the procedures specified in 40 CFR 70.7(e)(2) because of the lack of EPA's ability to review and comment on permit additions, and the lack of a permitting authority deadline to issue or deny a permit addition. The EPA stated that this regulation must be amended to allow timely EPA review, and require that TNRCC issue or deny the permit modification within 90 days of receipt of an application or 15 days after the end of the Administrator's 45-day review period, whichever is later (60 FR at 30042).

In the 1998 submittal, the State deleted the permit addition procedures and replaced them with procedures for minor permit revisions. However, the State failed to correct this deficiency in the permit addition procedures when it promulgated its minor permit revision procedures.

In 2001, Texas adopted section 122.217(e), which requires TNRCC to notify EPA and affected States of a requested minor permit revision within five working days of receipt of a complete application. Also, Texas amended Section 122.217(g) to require the Executive Director to take final action on a permit revision application no later than 90 days after receipt of a complete application, or 15 days after the end of the EPA review period. Furthermore, section 122.217(g) would no longer allow the Executive Director to take final action on a permit revision application before the resolution of any EPA objection. This amendment would require the Executive Director to resolve any issues resulting from an EPA objection and issue or deny the application for permit revision within 15 days. The revisions to section 122.217 meet the requirements of 40 CFR 70.7(e)(2)(iii) and (iv), and are approvable.

L. Source Applicability of Part 70

In the June 7, 1995, document, EPA stated that section 122.120(4)(A)–(C), which addressed the applicability of part 70 and the Texas federal operating permit program, was inconsistent with 40 CFR 70.3(a). We noted that section 122.120(4) could potentially exempt any source, even a major source, from the requirement to obtain a part 70 permit. 60 FR at 30039–30040. In the 1998 submittal, Texas revised section 122.120(4) to clarify that the rule is not exempting major sources from applicability to chapter 122. In addition, Texas revised section 122.120(4)(C) to clarify that any non-major source in a source category designated by EPA, not just a section 111 and section 112 source, is subject to the operating permits program. Texas has corrected this deficiency.

M. Definition of Title I Modification

In the June 7, 1995, document, EPA noted that Texas' definition of ''title I modification'' in section 122.10 did not include changes reviewed under a minor source preconstruction review plan (MNSR), nor did it include changes that trigger the application of National Emission Standards for Hazardous Air Pollutants (NESHAP) established pursuant to section 112 of the Act prior to the 1990 Amendments. 60 FR at 30041. In the 1998 submittal, Texas deleted the definition of title I modification from section 122.10. The elimination of the definition is consistent with part 70, which does not contain a definition of title I modification. This deficiency has been corrected.

N. Compliance Schedule Requirements

In the June 7, 1995, document, EPA stated that section 122.132(b)(3)(B) was not as stringent as 40 CFR 70.5(c)(8)(iii)(C) because it did not require the compliance schedules to be at least as stringent as ''any judicial consent decree or administrative order to which the source is subject.'' 60 FR at 30041. Section 122.132(b)(3) sets forth the requirements for compliance plans for those units out of compliance. In the 1998 submittal, Texas revised section 122.132(b)(3)(B) (now section 122.132(e)(4)(C)(iii)) to read as follows: ''a compliance schedule (resembling and at least as stringent as any compliance schedule contained in any judicial consent decree or administrative order to which the source is subject), including remedial measures to bring the emission unit into compliance with the applicable requirements.'' This deficiency has been corrected.

O. Application Shield for Significant Modifications

In the June 7, 1995, document, EPA stated that section 122.138 incorrectly allowed an application shield for significant permit modifications. We pointed out that the application shield provision in 40 CFR 70.7(b) only applies to ''a timely and complete application for permit issuance (including for renewal),'' not to applications for significant permit modifications. 60 FR at 30041. In the 1998 submittal, Texas deleted the reference to ''significant permit modification'' from the application shield provisions of section 122.138. This deficiency has been corrected.

P. Changes Allowed Under Administrative Permit Amendments

In the June 7, 1995, document, EPA objected to section 122.211(5), which provided that a change at a site may qualify as an administrative permit amendment if the change is similar to those in section 122.211(1)-(4). 60 FR 30041. This is contrary to 40 CFR 70.7(d)(1)(vi), which allows the incorporation of changes similar to the listed provisions to be administrative amendments only if ''the Administrator has determined as part of the approved part 70 program'' that the changes are similar.'' In the 1998 submittal, Texas revised its former section 122.211(5), now redesignated as section 122.211(6), to read as follows: ''to allow for the incorporation of changes similar to those in paragraphs (1)–(5) of this section and approved by EPA.'' We believe that this corrects this deficiency and is consistent with part 70, so long as the State secures EPA approval pursuant to rulemaking and a similar change qualifying for an administrative amendment becomes a part of the state's approved part 70 program regulations. The TNRCC understands and acknowledges that it must obtain EPA approval. With this understanding, this deficiency has been corrected.

Q. Renewal of General Permits

In the June 7, 1995, document, EPA stated that 40 CFR 70.4 requires the State to issue acid rain permits for a fixed term of five years, and all other permits for a period not to exceed five years, except for permits issued for solid waste incineration units combusting municipal waste subject to provisions under section 129(e) of the Act. These permits can have a fixed permit term of twelve years. However, section 382.0543(a) of the Texas Health and Safety Code provides that an operating permit is subject to renewal at least

every five years. This is acceptable for solid waste incineration units combusting municipal waste. The statute does not, however, limit the general permit term to a maximum of five years. 60 FR at 30043. In the 1998 submittal, Texas adopted section 122.501(f) which provides that ''general operating permits must be renewed, consistent with the procedural requirements in subsection (a) of this section, at least every five years after the effective date.'' Subsection (a) repeats the procedure for issuance of the general permit. Therefore, Texas has corrected this deficiency.

R. Public Notice To Include Emissions Change

In the June 7, 1995, document, EPA stated that 40 CFR 70.7(h) requires, except for modifications qualifying for minor permit modification procedures, that the public notice requirements for all permit proceedings must include the ''emissions change involved in any permit modification.'' Section 122.153 did not specify this requirement. 60 FR at 30042. The EPA reiterated this comment in the June 25, 1996, document. 61 FR at 32696. In the 1998 submittal, Texas repealed section 122.153 and adopted section 122.320. Section 122.320(b)(5) requires public notice for all significant permit revisions to include ''the air pollutants with emission changes.'' This change is consistent with § 70.7(h)(2), and corrects this deficiency.

S. Interpretation Shield

In the June 7, 1995, document, EPA expressed concerns that section 122.145(e) contained ambiguities surrounding the ''interpretation shield.'' We identified three specific items that the State must address through a written commitment prior to obtaining final approval. These items included: interpretations made under section 122.145(e) must be limited to applicability issues only; EPA must have the opportunity to review and veto every section 122.145(e) action; and interpretations must be based on the most recent EPA guidance and any TNRCC written guidance pre-approved by EPA. 60 FR at 30043. In the 1998 submittal, Texas deleted the ''interpretation shield'' concept outlined in section 122.145(e), and replaced it with section 122.148, which is consistent with the permit shield described in 40 CFR 70.6(f). Texas' response addresses this deficiency.

T. Off-Permit Changes

In the June 7, 1995, document, EPA stated that the permit addition procedures specified in Section 122.215 would allow companies to make changes that EPA does not consider ''off-permit,'' as provided by 40 CFR 70.4(b)(14). We cited Texas'' narrow definition of ''applicable requirement'' excluding minor new source review as the problem. 60 FR at 30039 and 30044. In the 1998 submittal, Texas eliminated the permit addition revision process outlined in section 122.215 and replaced it with a minor permit revision process. The elimination of the permit addition revision process is consistent with part 70 and corrects the deficiency.

IV. Permit Fee Demonstration and Adequate Personnel Funding

The Permit Fee Demonstration was not changed as a result of the revisions to chapter 122. In regard to Adequate Personnel and Funding, EPA pointed out in the June 7, 1995, document that since EPA had not received a complete projection of program costs for four years after approval (40 CFR 70.4(b)(8)), this would be required for full approval. 60 FR at 30044. 40 CFR 70.4(b)(8) requires states to provide a statement that adequate personnel and funding have been made available to develop, administer, and enforce the program. Furthermore, 40 CFR 70.4(b)(8)(v) specifies that the statement must include an estimate of the permit program costs for the first four years after approval, and a description of how the state plans to cover those costs.

On August 22, 2001, Texas submitted a complete four-year projection. In its fee demonstration, Texas documented that it requires an average of $34,274,000 per year to cover the cost of the title V program. Texas projects that it will collect an average of approximately $36,840,000 per year in fees from title V sources. This demonstration indicates that the title V fees that Texas anticipates will be collected are sufficient to cover the program costs with an adequate margin of safety. The TNRCC has the authority to adjust the emissions fee as necessary using its rulemaking authority (Texas Health & Safety Code Section 382.0621). The demonstration submitted by Texas meets the requirements of 40 CFR 70.4(b)(7) and (8).

V. Did Texas Submit Other Title V Program Revisions?

The June 1, 2001, submittal included other changes that Texas made to chapter 122. These changes were made after we granted IA of Texas' operating permits program and do not address the IA deficiencies. Because the following changes do not address the IA issues, they do not affect our decision to grant full approval of Texas operating permits program.

The additional revisions to chapter 122 relate to General Operating Permits (promulgated February 26, 1999), Public Participation (promulgated September 24, 1999) and Compliance Assurance Monitoring and Periodic Monitoring (promulgated September 1, 2000).

We have received comments from citizens concerning these additional provisions in response to our **Federal Register** document published December 11, 2000. The citizens identified areas where they believe these provisions are deficient. We will respond to the citizen comments as described in section VIII.C of this preamble which provides additional information on the citizen comment letters. As discussed therein, we will respond by December 1, 2001, either by publishing a notice of deficiency if we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency.

We are taking no action on the above described provisions until we have completed our review of the citizen comments. We will take appropriate action on the additional provisions following our review of the citizen comments and the resolution of any deficiencies that we may identify.

VI. Audit Privilege Law

Section 502(d) of the Act authorizes States to implement a title V operating permit program. The statute also sets forth the minimum elements of a State permit program, including the requirement that the permitting authority have adequate authority to assure that sources comply with all applicable requirements, as well as authority to enforce permits, including recovering minimum civil penalties and appropriate criminal penalties. 42 U.S.C. 7661a(b)(5)(A) and (E). Pursuant to title V, EPA promulgated regulations specifying the minimum required elements of State Operating Permit programs, found at 40 CFR part 70. These regulations explicitly require States to have certain enforcement authorities, including authority to seek injunctive relief to enjoin a violation, to bring suit to restrain persons where a facility is posing an imminent and substantial endangerment to public health or welfare, and suit to recover appropriate criminal and civil penalties. *See* 40 CFR 70.11. Section 113(e) of the Act sets forth penalty factors for EPA or a court to consider in assessing penalties for civil or criminal violations of the Act, factors which necessarily

apply to penalties for violations of title V permits.

In the June 25, 1996 Notice, EPA stated that Texas would have to demonstrate that the passage of Texas House Bill 2473 (1995), the Texas Environmental, Health and Safety Audit Privilege Act (Audit Privilege Act) did not limit TNRCC's ability to adequately administer and enforce the federal operating permit program. 61 FR at 32697. The Audit Privilege Act created an immunity from civil, administrative, and criminal penalties for environmental violations discovered through an audit as defined by the Act. The Audit Privilege Act also created a privilege for information associated with audits which prohibits their disclosure in administrative, civil, or criminal actions for violations of environmental law. The EPA was concerned that the Audit Privilege Act may extend penalty immunity to facilities which commit repeat violations and violations which may cause harm to human health and the environment, and make no provision for recoupment of penalties for economic benefit, as required by section 113(e) of the Act. To the extent that the Audit Privilege Act provides immunity from civil penalties that does not permit consideration of these factors, appropriate civil penalties cannot be assessed by a state.

The EPA was also concerned that the Audit Privilege Act may prevent the State from obtaining appropriate criminal penalties. Evidence necessary to prove that a crime has been committed may be protected by privilege which may inhibit or prevent the State from assessing appropriate criminal penalties. The State must have the ability to obtain appropriate criminal penalties where an audit report reveals evidence of prior criminal conduct on the part of managers or employees. Another problematic aspect of the Audit Privilege Act was the disparity between its provisions limiting disclosure of audit report information by employees and others, and sections 113 and 322 of the Clean Air Act, which specifically protects whistle-blowers from retaliation and provide awards for persons who furnish information that leads to a criminal conviction or civil penalty. The Texas Audit Privilege Act did not, by its terms, create or impose special sanctions on informants, but it asserted that a ''Party to a confidentiality agreement * * * who violates that agreement is liable for damages caused by the disclosure * * * '' In addition, sanctions were created with regard to government officials who disclose privileged information. The EPA was concerned that both of these provisions may have a negative impact on disclosures well beyond the intended reach of the privilege. Confidential informants are an important source of leads for State and Federal enforcement programs.

The EPA and TNRCC negotiated a set of technical amendments to the Audit Privilege Act, Texas Rev. Civ. Stat. Ann. Art. 4447cc (Vernon Supp. 1998), with the purpose of removing any barriers to state assumption of federal programs. These amendments did the following: (1) Eliminated the application of immunity and privilege provisions to criminal actions; (2) eliminated the application of immunity where a violation results in a serious threat to health or the environment, or where the violator has obtained a substantial economic benefit that gives it a competitive advantage; (3) made it clear that Texas laws will not subject individuals to sanctions for reporting any violations of environmental law to a law enforcement agency; and (4) clarified that the privilege does not impair access to information required to be made available under federal or state law. The TNRCC also assured EPA that the Audit Privilege Act does not impair the State's authority or ability to obtain injunctive relief, issue emergency orders, or taint its ability to independently obtain or use evidence of a violation. The 75th Texas Legislature enacted Texas House Bill 3459 (1997) to adopt the amendments agreed upon without any other significant changes in the law. The amendments to the Audit Act have been in effect since September 1, 1997.

Based on the amendments to the Audit Privilege Act and TNRCC's assurances, EPA has concluded that the TNRCC retains adequate authority to enforce the requirements of any authorized or delegated program (which would include title V), and thus the Audit Privilege Act would not be a barrier to approval of Federal programs. Letter to Mr. Barry R. McBee, TNRCC from Mr. Steven A. Herman, Assistant Administrator dated March 19, 1997. However, in the June 25, 1996, document, EPA stated that all interested parties will have opportunity to comment on the acceptability of this law for full title V approval. 61 FR at 32696. Therefore, EPA is providing the public the opportunity to comment on the acceptability of the Audit Privilege Act.

VII. Miscellaneous Full Approval Issues

In the June 25, 1996 Notice, EPA stated the following:

> Significant changes to Texas laws were made by the Texas legislature in 1995. These statutory changes raise issues of concern which the State must address before full approval can be granted. The State has an obligation to address all the relevant, recently enacted laws and demonstrate how they meet title V and part 70.
>
> This final agency action today does not waive the EPA's right to raise statutory concerns and any attendant regulatory revisions the EPA deems necessary to the State and identify inconsistencies with those legislative changes which must be corrected for full approval. The EPA will present its position on the laws to TNRCC prior to the 1997 legislative session, during TNRCC's corrective rulemaking, and its FRN proposing action on the State's submittal for full approval. Therefore, interested parties will have full opportunity to comment on the merits of the EPA's position on the acceptability of the Texas 1995 laws (such as the Texas Senate Bill 14, ''Takings Impact Assessment,'', among others) for full title V program approval.

61 FR at 32697.

In addition, concerns were raised about TNRCC's laws and procedures governing the public availability of emissions data. Id. at 32698. This concern was raised after the public comment period ended for the proposed interim approval.

When EPA made these statements, it did not anticipate that over five years would pass between interim approval and full approval. The Texas Legislature has meet three times since this statement was made. On June 25, 1998, Texas requested revised interim approval for its operating permits program. Shortly thereafter, on August 10, 1998, Texas supplemented its submittal with a supplemental Attorney General's (AG) statement. This supplemental AG statement addressed, among other things, Texas Senate Bill 14 referenced above. The EPA never acted on Texas' request for revised interim approval because it was challenged on the May 22, 2000 rulemaking that extended the IA period of 86 operating permits programs until December 1, 2001. The EPA settled the lawsuit and the settlement prohibits further extensions of the interim approval deadline. Thus, if EPA does not grant full approval of Texas' operating permits program by December 1, 2001, a Federal operating permit program will be automatically implemented in Texas. *See* 65 FR 77024, 77025 (December 8, 2000).

In addition, EPA also gave citizens the opportunity to identify deficiencies they perceive to exist in Texas' operating permits program, including alleged substantive deficiencies and implementation deficiencies. 65 FR 77376 (December 11, 2001). EPA

received comments outlining numerous alleged deficiencies with the Texas program.

VIII. What Is Involved in This Proposed Action?

A. Proposed Action

In this action, we are proposing full approval of the operating permits program submitted by the State of Texas. The program was submitted by Texas to us for the purpose of complying with federal requirements found in title V of the Act and in part 70, which mandate that States develop, and submit to us, programs for issuing operating permits to all major stationary sources, and to certain other sources with the exception of Indian Lands. We have reviewed this submittal of the Texas operating permits program and are proposing full approval.

B. Indian Lands and Reservations

In its operating permits program submittal, Texas does not assert jurisdiction over Indian lands or reservations. To date, no tribal government in Texas has authority to administer an independent title V program in the State. On February 12, 1998, EPA promulgated regulations under which Indian tribes could apply and be approved by EPA to implement a title V operating permits program (40 CFR part 49). For those Indian tribes that do not seek to conduct a title V operating permits program, EPA has promulgated regulations (40 CFR part 71) governing the issuance of Federal operating permits in Indian country. 64 FR 8247, February 19, 1999.

C. Citizen Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the IA period of 86 operating permits programs untilDecember 1, 2001. (65 FR 32035). The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

Several citizens commented on what they believe to be deficiencies with respect to the Texas title V program. The EPA takes no action on those comments in today's action and will respond to them by December 1, 2001. As stated in the **Federal Register** document published on December 11, 2000 (65 FR 77376), EPA will respond by December 1, 2001 to timely public comments on programs that have obtained IA; and EPA will respond by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

IX. Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by State law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355(May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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

List of Subjects in 40 CFR Part 70

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

Authority: 42 U.S.C. 7401–7671q.

Dated: October 2, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–25592 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket Nos. 00–258 and 95–18, IB Docket No. 99–81; DA 01–2313]

Introduction of New Advanced Mobile and Fixed Terrestrial Wireless Services; Use of Frequencies Below 3 GHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In this document, the Commission extends the period for comment and reply comment in the proceeding that was initiated to explore the possible use of frequency bands below 3 GHz to support the introduction of new advanced mobile and fixed terrestrial wireless services (advanced wireless services) including third generation (3G) and future generations of wireless systems. The Commission extends the period for comment at the request of the Cellular Telecommunications & Internet Association (CTIA) in order to allow sufficient time to establish the most complete and well-delivered record possible on which to base an ultimate decision.

DATES: Comments are due on or before October 19, 2001, and Reply Comments are due on or before November 5, 2001.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John Spencer, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Order Extending Comment Period in ET Docket Nos. 00–258 and 95–18, and IB Docket No. 99–81, DA 01–2313, adopted October 4, 2001, and released October 4, 2001. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

1. The Commission extends the comment period established in the Further Notice of Proposed Rulemaking in this proceeding (66 FR 47618, September 13, 2001) from October 11, 2001, to October 19, 2001, and the reply comment period from October 23, 2001, to November 5, 2001.

Ordering Clause

2. The request of CTIA to extend the deadline for filing comments in this proceeding, filed September 25, 2001, is granted to the extent indicated, pursuant to § 1.46 of the Commission's rules, 47 CFR 1.46.

Federal Communications Commission.

Kathleen O'Brien Ham,

Deputy Chief, Wireless Telecommunications Bureau.

[FR Doc. 01–25640 Filed 10–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21, 73 and 76

[CS Docket Nos. 98–82 and 96–85, MM Docket Nos. 92–264, 94–510, 92–51 and 87–154, FCC 01–263]

The Commission's Cable Horizontal and Vertical Ownership Limits and Cable, Broadcast and MDS Attribution Rules

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This document examines and solicits comment on the Commission's cable horizontal and vertical limits and aspects of its attribution rules as affected by the recent D.C. Circuit decision in *Time Warner Entertainment Co.* v. *FCC,* 240 F.3d 1126 (D.C. Cir. 2001). The D.C. Circuit reversed and remanded the Commission's horizontal and vertical limits, and vacated two aspects of its attribution rules.

DATES: Comments are due on or before December 26, 2001, and reply comments are due on or before January 25, 2002.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Daniel Hodes, Kiran Duwadi, Ava Holly Berland, Andrew Wise, Cable Services Bureau, (202) 418–7200, TTY (202) 418–7365 or via Internet at *dhodes@fcc.gov, kduwadi@fcc.gov, hberland@fcc.gov, awise@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Further Notice of Proposed Rulemaking* (''*FNPRM*'') in CS Docket Nos. 98–82, 96–85, MM Docket Nos. 92–264, 94–150, 92–51, 87–154, FCC 01–263, adopted September 13, 2001, and released September 21, 2001. The complete text of this *FNPRM* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B402, Washington, DC, 20554, telephone (202) 863–2893, facsimilie (202) 863–2898, or via Internet at qualexint@aol.com, or may be viewed via Internet at http://www.fcc.gov/csb/. This document is also available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Brian Millin at (202) 418–7426, TTY (202) 418–7365, or send an email to access@fcc.gov.

Synopsis of Notice of Inquiry

1. As part of the 1992 Cable Act, Congress added section 613(f) to the Communications Act of 1934. The principal objective of section 613(f) was to enhance competition in the acquisition and distribution of video programming by cable and non-cable systems. Congress expressed a preference for competition over regulation in achieving this objective, believing that the presence of alternative cable and non-cable multi-channel video programming distributors (''MVPDs'') would constrain the cable operators'' market power in the acquisition and distribution of multi-channel programming, as well as improve their service and programming quality and curb their subscription rate increases. However, at the time, given the absence of effective competition to, and the trend toward increased horizontal concentration and vertical integration in, the cable industry, Congress believed structural limits were necessary. Congress thus enacted section 613(f), which directs the Commission to establish limits: (1) on the number of subscribers a cable operator may serve through its owned or affiliated cable systems (horizontal limit); and (2) on the number of channels a cable operator may devote to its owned or affiliated programming (vertical limit).

2. In response to the congressional directive, the Commission adopted a horizontal ownership limit that barred a cable operator from owning or having an attributable interest in cable systems that reach more than 30 percent of subscribers served by all multichannel video programming distributors (''MVPDs'') nationwide. The Commission also adopted a vertical

limit that prohibited a cable operator from carrying affiliated programming on more than 40 percent of its channels. The Commission's vertical limit only applied to channel capacity up to 75 channels. Thus, for a cable operator that had more that 75 channels, the vertical limit required the operator to reserve 45 channels for non-affiliated programming. Finally, the Commission adopted attribution rules, which defined the level of ownership interests implicated by the horizontal and vertical limits.

3. The DC Circuit in *Time Warner* reviewed the Commission's cable horizontal and vertical limits. The DC Circuit essentially found that in establishing these limits, the Commission did not adequately take into account the evolving and increasingly competitive MVPD marketplace, did not draw the necessary connections between the limits and the harms the limits were designed to address, and did not sufficiently support its limits with a full record of empirical or theoretical evidence. The DC Circuit thus reversed and remanded the horizontal and vertical limits to the Commission.

4. The DC Circuit in *Time Warner* further reviewed the Commission's cable attribution rules. Whereas the DC Circuit upheld the Commission's general cable attribution benchmarks, the court vacated two of the Commission's rules. Specifically, the DC Circuit vacated the Commission's elimination of the single majority shareholder exemption, which did not attribute minority interests in any cable company in which a single shareholder held more than 50 percent of the outstanding voting stock. The DC Circuit also vacated the Commission's application of the limited partnership insulation rule, that barred an insulated limited partner from selling video programming to the general partner cable company. The DC Circuit found that the Commission did not provide adequate justification for both actions.

5. The *FNPRM* seeks to implement section 613(f) and to respond to the DC Circuit's concerns, by taking a fresh look at the Commission's cable ownership rules affected by the *Time Warner* decision. The *FNPRM* examines the requirements of Section 613(f) and the underlying legislative history, reviews the relevant markets, as those markets existed in and have evolved since 1992, and considers general regulatory approaches. The *FNPRM* asks commenters to support or contradict these and/or alternative approaches with empirical or theoretical evidence, as well as address the benefits and harms posed by each approach. The *FNPRM* does not attempt to propose any specific numerical caps and/or mathematical formulations to compute limits. Rather, the objective of the *FNPRM* is to ask the relevant questions and develop a complete record that ultimately will support a regulatory approach, which fully addresses and takes into account cable operators' market power in today's dynamic communications marketplace.

6. With respect to the horizontal limit, the *FNPRM* seeks to implement Section 613(f) by examining the state of competition, and cable operators' market power, in the MVPD marketplace. The *FNPRM* considers two possible regulatory approaches, the open field approach and the threshold/safe harbor approach, as well as invites commenters to suggest alternative approaches. The open field approach, which is the basis for the Commission's horizontal limit reviewed by the D.C. Circuit, restricts market share by capping the size of the largest cable operators to ensure that programming networks have viable alternatives if denied access by large cable operators, individually or collectively. The *FNPRM* asks commenters to address various issues related to the open field approach, such as the level of subscriber reach programming networks needed for viability, the adequacy of a cap in terms of gauging market power, the actual or predictable presence of collusive anti-competitive behavior amongst large cable operators, and the impact of non-cable outlets such as Direct Broadcast Satellite (''DBS''). In contrast, the threshold/safe harbor approach considers the state of effective competition in the MVPD marketplace, and only enforces regulatory ownership limits if it is determined that such competition has not been achieved. The *FNPRM* asks commenters to address various issues related to the threshold/safe harbor approach, such as the appropriate measurement of effective competition and market power in the MVPD industry (both in terms of acquisition ''upstream'' and distribution ''downstream'' markets), and the regulatory response if effective competition falters or is not achieved.

7. With respect to the vertical limit, the *FNPRM* seeks to implement section 613(f) by examining significant market trends, such as the increase in channel capacity through the deployment of advanced technologies and system upgrades, the decrease in vertically integrated cable offerings, and the increase in competition from cable and more importantly non-cable sources, such as DBS. The *FNPRM* asks commenters to address whether these market trends mitigate the congressional concern underlying section 613(f) that cable operators will discriminate against unaffiliated programming networks by favoring affiliated over non-affiliated programming. Specifically, the *FNPRM* asks commenters to address whether current and anticipated market conditions warrant the modification, exemption or the possible elimination of the vertical limit.

8. Finally, the *FNPRM* also considers the Commission's conclusions regarding elimination of the single majority shareholder exception and the application of the no-sale aspect of the limited partner's insulation criteria and seeks comment regarding these two provisions of the attribution rules. The *FNPRM* seeks to examine the underlying rationale of the Commission's prior conclusions, and to determine if those conclusions are still valid. The *FNPRM* also considers the Commission's elimination of the single majority shareholder exemption in the broadcast and the multipoint distribution service attribution rules, which followed the Commission's elimination of the cable exemption.

Procedural Matters

Ex Parte

9. This proceeding will be treated as a ''permit-but-disclose'' proceeding, subject to the requirements of § 1.1206(b) of the Commission's rules.

Filing of Comments and Reply Comments

10. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before December 26, 2001, and reply comments on or before January 25, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

11. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If more than multiple docket or rulemaking numbers appear in the caption of this proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail.

To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

12. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. The Cable Services Bureau contacts for this proceeding are Daniel Hodes, Kiran Duwadi, Ava Holly Berland, and Andrew Wise at (202) 418–7200, TTY (202) 418–7365, or at *dhodes@fcc.gov, kduwadi@fcc.gov, hberland@fcc.gov and awise@fcc.gov.*

13. Parties who choose to file by paper must also file one copy of each filing with other offices, as follows: (1) Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; and (2) Ava Holly Berland, Cable Services Bureau,445 12th Street, SW., 3–A832, Washington, DC, 20554. In addition, five copies of each filing must be filed with Linda Senecal, Cable Services Bureau,445 12th Street, 3–A729, Washington, DC 20554.

Ordering Clause

14. This *FNPRM* is issued pursuant to authority contained in sections 2(a), 4(i), 303, 307, 309, 310, and 613 of the Communications Act of 1934, as amended.

List of Subjects

47 CFR Parts 21 and 73

Television.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–25479 Filed 10–10–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 579

[Docket No. NHTSA 2001–10773; Notice 1]

RIN 2127–AI26

Reporting of Information About Foreign Safety Recalls andCampaigns Related to Potential Defects

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document requests comments on a proposal to implement the foreign safety recall and safety campaign reporting requirements of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 3(a) of the TREAD Act requires a manufacturer of motor vehicles or motor vehicle equipment to report to the National Highway Traffic Safety Administration (NHTSA) whenever it has decided to conduct a safety recall or other safety campaign in a foreign country covering vehicles or equipment that are identical or substantially similar to vehicles or equipment offered for sale in the United States. The manufacturer must also report whenever it has been notified by a foreign government that a safety recall or safety campaign must be conducted covering such vehicles or equipment.

DATES: *Comment closing date:* Comments must be received on or before December 10, 2001. The effective date of a final rule based on this proposal would be 30 days after publication of the final rule.

ADDRESSES: All comments on this notice should refer to the docket and notice number set forth above and be submitted to Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. The docket room hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jon White, Office of Defects Investigation, NHTSA (phone: 202–366–5226). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202–366–5263).

SUPPLEMENTARY INFORMATION:

I. Background

A. Ford's Foreign Campaigns Involving Firestone Tires

On May 2, 2000, NHTSA's Office of Defects Investigation (ODI) opened an investigation into an alleged safety defect in ATX and Wilderness tires manufactured by Bridgestone/Firestone, Inc. (Firestone). Many of these tires had been manufactured for use as original equipment on Ford Explorer sport utility vehicles.

During that investigation, ODI became aware that in August 1999, Ford Motor Company (Ford) commenced an ''Owner Notification Program'' in which it offered to replace the P255/70R16 Firestone Wilderness AT tires installed as original equipment on its model year (MY) 1995 and 1996 Ford Explorer and Mercury Mountaineer models in use in the Persian Gulf region. In its letter to owners, Ford explained that it was offering to replace the tires because ''Firestone 'Wilderness A/T' brand tires may experience interior tire degradation and tread separation, due to unique Gulf Coast usage patterns and environmental conditions, resulting in a loss of vehicle control.'' Ford did not notify NHTSA that it was taking this action, because, as it explained later, there was no regulation requiring it to do so.

Similarly, late in February 2000, Ford launched an ''Owner Notification Program'' in Malaysia and Thailand covering ''certain 1997 Explorers equipped with P235/75R15 Firestone 'All Terrain' Brand Tires'' (Wilderness AT tires). In its letter to owners, Ford claimed it was offering to replace the tires because they ''may experience interior degradation and tread separation, due to unique regional usage patterns and environmental conditions, potentially resulting in a loss of vehicle control.'' As in the case of the Gulf Region vehicles, Ford did not notify NHTSA that it had taken this action until after the agency had opened its investigation covering these tires.

Also, on May 20, 2000, Ford began an ''Owner Notification Program'' in Venezuela covering MY 1996 through 1999 Explorers equipped with P235/75R15 or P255/70R16 Firestone tires. In its letter to owners, Ford included the same rationale as in the Malaysia/Thailand action. Again, Ford did not notify NHTSA of this action until after it was commenced.

B. Federal Defect Reporting Requirements Before the TREAD Act

Title 49, United States Code, Chapter 301, ''Motor Vehicle Safety,'' is the basic motor vehicle safety statute administered by NHTSA (the ''Safety

Act''). It establishes requirements that manufacturers of motor vehicles and motor vehicle equipment built or sold in the United States (and other persons) must meet.

Under 49 U.S.C. 30118(c)(1), a manufacturer of motor vehicle or replacement equipment must notify NHTSA if the manufacturer ''learns the vehicle or equipment contains a defect and decides in good faith that the defect relates to motor vehicle safety.'' This means that when a manufacturer learns of a defect, the manufacturer must make a good faith decision whether or not the defect is related to motor vehicle safety, and, if the decision is affirmative, to report the defect to NHTSA. Similarly, under Section 30118(c)(2), when the manufacturer decides in good faith that a vehicle or equipment item does not comply with an applicable Federal motor safety standard, it must report the noncompliance to NHTSA. The precursor to Section 30118(c), which contained substantially similar language, has been held to impose upon a manufacturer the duty ''to notify and remedy *whether it actually determined, or it should have determined*, that its [products] are defective and the defect is safety-related.'' *United States* v. *General Motors Corp. (X-Cars)*, 656 F. Supp. 1555, 1559 n.5 (D.D.C. 1987), *affirmed*, 841 F. 2d. 400 (D.C. Cir. 1988), citing *United States* v. *General Motors Corp.*, 574 F. Supp. 1047, 1050 (D.D.C. 1983).

Ford has stated that it did not tell us of the campaigns in other countries referred to above because it did not believe that it was required to. Until the TREAD Act, a manufacturer's self-reporting obligations, other than defect and noncompliance notifications, generally were established by 49 U.S.C. 30166(f), Providing copies of communications about defects and noncompliance, as implemented by 49 CFR 573.8, Notices, bulletins, and other communications. Section 30166(f) provides that:

> A manufacturer shall give [NHTSA] a true or representative copy of each communication to the manufacturer's dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard * * * in a vehicle or equipment that is sold or serviced.

To implement Section 30166(f), NHTSA adopted 49 CFR 573.8, which specifies that:

> Each manufacturer shall furnish to the NHTSA a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax or other electronic means, and including warranty and policy extension communiques and product improvement bulletins), other than those required to be submitted by Sec. 573.5(c)(9), sent to more than one manufacturer, distributor, dealer, lessor, lessee, or purchaser, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or flaw or unintended deviation from design specifications), whether or not such defect is safety related. Copies shall be in readable form and shall be submitted monthly, not more than five (5) working days after the end of each month.[1]

This regulation does not specifically address manufacturer communications about defects occurring in vehicles and equipment in use outside the United States.

C. The TREAD Act (P.L. 106–414).

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106–414) was enacted on November 1, 2000. An underlying House Report (H. Rpt. 106–954) observed, at p. 7:

> First, it is clear that the data available to NHTSA regarding the problems with the Firestone tires was insufficient. While testimony showed that the agency had received some complaints about the tires, both from consumers and from an automobile insurance company, they did not receive data about Ford's foreign recall actions * * * The Committee believes that the provisions of this legislation are an initial step toward correcting these problems.

The remedial provisions of the legislation that the Committee referred to became Section 3(a) of the TREAD Act. Section 3(a) amended 49 U.S.C. 30166 to add a new subsection (l) which reads as follows:

> (l) REPORTING OF DEFECTS IN MOTOR VEHICLES AND PRODUCTS IN FOREIGN COUNTRIES—
>
> (1) REPORTING OF DEFECTS, MANUFACTURER DETERMINATION.—Not later than 5 working days after determining to conduct a safety recall or other safety campaign in a foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer shall report the determination to the Secretary.
>
> (2) REPORTING OF DEFECTS, FOREIGN GOVERNMENT DETERMINATION—Not later than 5 working days after receiving notification that the government of a foreign country has determined that a safety recall or other safety campaign must be conducted in the foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer shall report the determination to the Secretary.
>
> (3) REPORTING REQUIREMENTS.—The Secretary shall prescribe the contents of the notification required by this subsection.

The obligation to report under the first two paragraphs above was effective on the day that the TREAD Act was signed into law, November 1, 2000. Since that date, NHTSA has, in fact, received some notifications of foreign safety campaigns being conducted by vehicle and equipment manufacturers. The content, format, and scope of these reports have varied, which supports the need for a regulation that defines and standardizes the information provided, as required by the third subparagraph. For example, Ford is conducting a ''field action'' in Thailand, Malaysia, and Fiji to replace faulty brake caliper bodies on certain Mazda Fighter and Ford Ranger J97 vehicles. Ford advises that ''This model is not marketed in the United States.'' This leaves unanswered the question whether the model is substantially similar to one marketed in the United States, or whether the brake caliper bodies are identical or substantially similar to brake caliper bodies on Ford/Mazda vehicles that are sold in the United States. Firestone is conducting a ''Customer Satisfaction Program'' in the Middle East covering certain tires manufactured in its Wilson, North Carolina plant that were original equipment on 589 vehicles manufactured by Ford, specifically model year 1998 and 1999 Ford Taurus and Mercury Sable sedans and station wagons. Its letter to us does not state whether similar tires were used on vehicles in the United States.

Because manufacturers have been required to report determinations of foreign campaigns to us since November 1, 2000, regardless whether NHTSA has prescribed the contents of the notification, we are proposing that manufacturers provide us with reports of all relevant determinations between November 1, 2000, and the effective date of the final rule. This would assure that we receive information on recalls and campaigns that include the information specified in the final rule, pertaining to substantially similar vehicles and equipment within the meaning specified in the final rule. Reports would be due within 30 days of the effective date of the final rule. However, the requirement would not require resubmission of information pertaining to foreign campaigns that a manufacturer had reported to NHTSA between November 1, 2000, and the effective date of the final rule.

We note that in Section 3(b) of the TREAD Act, Congress adopted

[1] The notices, bulletins, and other communications required to be submitted by Sec. 573.5(c)(9), which Sec. 573.8 excludes, are those that relate directly to a noncompliance or a safety-related defect that a manufacturer has determined to exist and has reported to NHTSA.

provisions requiring manufacturers of vehicles and equipment to submit a wide variety of information to NHTSA that could provide an ''early warning'' of defects or noncompliances in their products (49 U.S.C. 30166(m)). NHTSA issued an Advance Notice of Proposed Rulemaking (ANPRM) on January 22, 2001 (66 FR 6532) regarding these ''early warning'' provisions. Because some of the terms and elements of those requirements are applicable or relevant to Section 30166(l), we have considered the comments submitted in response to that ANPRM in developing this notice.

II. Scope and Terms

A. Manufacturer

As defined before the enactment of the TREAD Act, a manufacturer is ''a person manufacturing or assembling motor vehicles or motor vehicle equipment, or importing motor vehicles or motor vehicle equipment for resale.'' 49 U.S.C. 30102(a)(5). The Safety Act requires foreign manufacturers offering vehicles or vehicle equipment for import to designate an agent on whom service may be made (49 U.S.C. 30164).

In its defect and noncompliance reporting regulations, the agency has addressed the question of who may file a defect or noncompliance report related to an imported item. Under 49 CFR 573.3(b), in the case of vehicles or equipment imported into the United States, a defect or noncompliance report may be filed by either the fabricating manufacturer or the importer of the vehicle or equipment. Defect and noncompliance reports covering vehicles manufactured outside of the United States have generally been submitted by the importer of the vehicles, which is usually a subsidiary of a foreign parent corporation (e.g., defects in vehicles made in Japan by Honda Motor Co. Ltd. were reported by American Honda Motor Co., Inc., even if the vehicle was certified by Honda Motor Co. Ltd).

At the time that the TREAD Act was under consideration in the Congress, the Alliance of Automobile Manufacturers (the Alliance), whose members are BMW, DaimlerChrysler, Fiat, Ford, General Motors, Isuzu, Mazda, Mitsubishi, Nissan, Porsche, Toyota, Volvo and Volkswagen, noted that information about safety recalls that are conducted in foreign countries on automobiles or items of automotive equipment that are also offered for sale in the United States would be useful to NHTSA. The Alliance stated on behalf of its members that they will voluntarily report to NHTSA their safety recalls and other safety campaigns that are conducted in a foreign country on a vehicle or component part that is also offered for sale in the United States. See letter from Josephine Cooper to NHTSA Administrator Sue Bailey, dated September 15, 2000, which has been placed in the docket. Notwithstanding this voluntary action, Congress imposed mandatory reporting requirements in Section 30166(l).

It is clear on its face that Section 30166(l) has extraterritorial effect. In its comments on the early warning ANPRM, the Alliance recognized that the TREAD Act was clearly written by Congress to apply to persons and activities outside of the United States, and it is therefore a clear assertion of extraterritorial jurisdiction by the United States (Alliance comment, Attachment 10, p. 9). The Alliance went on to state that the early warning rule could reasonably require reports from foreign companies manufacturing vehicles for sale in the United States as long as the required reports relate to issues that could arise in those vehicles (p. 11).

This leaves the question of who must and who may report. In view of the definition of manufacturer and in further view of the specific provisions of Section 30166(l), we believe that the agency has authority to require a report (1) from the foreign entity that has received notice from or provided notice to a foreign government; (2) from the fabricating manufacturer; and (3) from the importer of the identical or substantially similar vehicle or equipment. However, we are proposing to apply the reporting requirements for foreign campaigns in the same manner as we currently utilize for reporting noncompliance and defect determinations to NHTSA under Part 573. Thus, under today's proposal, the report may be filed by either the fabricating manufacturer or by the importer of the vehicle (see section 573.3(b)).

A multinational corporation must ensure that all relevant campaign information throughout the world is made available to whatever entity makes those reports so that its designated entity timely provides the information to NHTSA. Thus, it would be a violation of law for a foreign fabricating manufacturer to designate its U.S. importer as its reporting entity, and then fail to assure that it is provided with information about relevant foreign recalls and campaigns. All manufacturers will have to adopt and implement practices to assure the proper flow of information regarding relevant foreign recalls and campaigns.

B. Safety Recall or Other Safety Campaign

1. Determination by a Manufacturer (Section 30166(l)(1))

This paragraph requires that a manufacturer of motor vehicles or motor vehicle equipment report to us when it has decided to conduct ''a safety recall or other safety campaign'' outside the United States that involves vehicles or equipment that are identical or substantially similar to products sold in the United States. Neither 49 U.S.C. 30102 nor the TREAD Act defines ''safety recall or other safety campaign.'' Further, NHTSA does not have comprehensive information about the laws of jurisdictions outside the United States relating to recalls of motor vehicles and motor vehicle equipment, and thus does not have detailed knowledge of the terminology or specific practices used in foreign countries to address potential safety problems. For example, some countries may not differentiate defects from noncompliances with safety standards or with safety guidelines. Accordingly, we cannot presume that a procedure abroad will follow that specified in 49 U.S.C. 30118–30120, e.g., a notification to a government agency within 5 days after the manufacturer determines that its product contains a safety-related defect or noncompliance, followed by notification to owners, purchasers, and dealers containing an offer to remedy through repair, repurchase, or replacement.

In the United States, the elements of a ''safety recall'' are established by 49 U.S.C. 30118–30120. In general, these elements are (1) a determination by a manufacturer of motor vehicles or motor vehicle equipment, or by NHTSA, that a safety-related defect or noncompliance exists, (2) notification by the manufacturer to NHTSA within a reasonable time (defined in 49 CFR 573.5(b) to be within 5 business days of its determination), and (3) notification by the manufacturer to owners, purchasers, and dealers advising of the determination and potential safety consequences, and offering a free remedy.

We propose to characterize a ''safety recall'' abroad as involving a determination by a manufacturer or one of its affiliates or subsidiaries (or a foreign government) that there is a problem with specific motor vehicles or motor vehicle equipment that relates to motor vehicle safety (e.g., a defect or noncompliance with a local safety standard or governmental guideline), followed by an offer by the manufacturer to provide remedial

action. The offer could be made either by notifying the owner directly or through notifying dealers, who would then contact owners. Such safety recalls would have to be reported, whether or not the problem at issue would constitute a safety-related defect or noncompliance under U.S. law.

The TREAD Act also does not define ''other safety campaign.'' We would distinguish an ''other safety campaign'' from a ''safety recall'' in two ways. First, a manufacturer would not necessarily make any acknowledgement, express or otherwise, that a safety problem existed. Second, the ''campaign'' would not necessarily involve the provision of a remedy. It could include such actions as an extended warranty or simply a warning to owners or dealers about a possible problem that could relate to safety. It would not include ad hoc good will repairs or replacements by local dealers for individual owners. Thus, a ''safety campaign'' would be defined as an action in which a manufacturer communicates with owners and/or dealers with respect to conditions under which a vehicle or equipment item should be operated, repaired, or replaced, that relate to safety. As used above, the words ''relate to'' would have the same broad meaning they do in 49 U.S.C. 30118(b) and (c). See, e.g., *Morales* v. *Trans World Airlines, Inc.*, 504 U.S.C. 374, 383 (1992).

2. Determination by a Foreign Government (Section 30166(l)(2))

We are proposing that a manufacturer be required to report to NHTSA whenever it has been notified that the government of a foreign country (which includes a political subdivision of such a country), has determined that it should or must conduct a safety recall or other safety campaign involving covered vehicles or equipment, whether or not the subject of the campaign would be a safety-related defect or noncompliance under U.S. law. For example, if the foreign government moves to prohibit further sales of a vehicle for reasons relating to motor vehicle safety, we would consider that action to be the equivalent of a ''safety recall.''

There may be occasions when the manufacturer will contest the foreign government's action. In the United States, NHTSA may make an initial decision that a defect or noncompliance exists, affording the manufacturer and public an opportunity to present data, views and arguments. Then NHTSA may make a final decision that a defect or noncompliance exists and order a recall (49 U.S.C. 30118). NHTSA may also order a manufacturer to provide a provisional notification if a civil action has been brought by NHTSA under 49 U.S.C. 30163 if the manufacturer fails to follow NHTSA's order to recall (49 U.S.C. 30121). We are not fully conversant with the administrative practices of countries other than the United States, but we include in ''determination'' any determination by a foreign government that a safety recall or other safety campaign should be conducted, regardless of whether the determination is final, initial, or conditional.

We are interested in receiving comments on the vehicle and equipment safety recall laws and practices of countries other than the United States as they relate to implementation of Section 30166(l)(2).

3. Exceptions for Identical Recalls or Campaigns Conducted in the United States

We recognize that manufacturers may conduct identical recalls in the U.S. and abroad. If a manufacturer is conducting a safety recall abroad, or has been ordered by a foreign government to conduct a safety recall, it would not be required to report such a recall to NHTSA if it has filed a Part 573 report covering the same safety defect in substantially similar products offered for sale or in use in the United States, provided that the manufacturer's remedy in the foreign recall is identical to that provided in the U.S. recall, and the scope of the foreign recall is not broader than the U.S. recall.

C. Identical or Substantially Similar Motor Vehicles or Motor Vehicle Equipment

The obligation to report foreign campaigns to NHTSA applies to recalls and campaigns involving vehicles or equipment items that are ''identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.'' A parallel reporting obligation also exists under the early warning reporting provisions (Section 30166(m)(3)(C)), under which manufacturers of vehicles or equipment must report:

> all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment * * * in a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

In response to the ANPRM on the early warning reporting requirements, we received comments on the meaning and scope of this phrase. These include comments from the Automotive Occupant Restraint Council (the Council), TRW Automotive (TRW), Truck Manufacturers Association (TMA), Volvo of North America, Inc. (Volvo), ArvinMeritor USA, International Truck and Engine Corporation (International Truck), Mack Truck, Breed Technologies (Breed), DaimlerChrysler Corporation, Harley-Davidson Motor Corporation, Nissan North America (Nissan), the Truck Trailer Manufacturers Association, the law firm of Arent Fox on behalf of the Motor and Equipment Manufacturers Association and the Original Equipment Suppliers Association (the Associations), Delphi Automotive Systems (Delphi), Ford, Osram Sylvania, AmSafe, and the Alliance.

1. The Meaning of Identical

The TREAD Act early warning ANPRM asked:

''1. Is the word 'identical' understood internationally, or do we need to define it? If so, how?''

There was a wide range of comments, some of which took a narrow view. In TRW's opinion, the word ''identical'' is probably not understood internationally, ''or even nationally.'' A possible definition could be ''the exact same design or part number used in different applications.'' ArvinMeritor finds the word ''identical'' to be ambiguous when applied to foreign products. A part may appear to be identical but differ in significant ways. For example, manufacturers may make subtle design variations to meet regional specifications, applications, or exposure requirements. Constituent components are frequently sourced from local suppliers and while they may appear identical, they may vary ''somewhat in certain characteristics.'' This commenter prefers to describe ''near-like components as 'substantially similar' and leave the distinction of defining which components are 'substantially similar' to the judgment of the manufacturer.'' International Truck cautions that ''to the extent the term 'identical' may be of use, it should not be applied to vehicles, but should be limited to specific components manufactured by the same entity.'' Breed argues that the focus should not be on ''identical or substantially similar *vehicles or equipment,* but rather on identical or substantially similar *defects*'' (emphasis in original). Alliance submits that ''identical'' is understood and does not have to be defined for

TREAD Act rulemaking purposes. Delphi believes that the word must be understood in the context in which it is used. It noted that two bolts could have the identical part number but be used in different applications of lesser and greater safety consequence.

After reviewing these comments, NHTSA has decided to propose a rule that does not contain a separate definition of ''identical,'' because we believe that one is not needed. If there were good faith doubts whether a vehicle or equipment item is exactly ''identical'' to one that is sold in the United States, it is likely that the vehicle or equipment would be ''substantially similar'' to the U.S. vehicle or equipment, and therefore be covered by the reporting requirement in any case.

2. Substantially Similar Motor Vehicles

The phrase ''substantially similar'' also appears in 49 U.S.C. 30141(a)(1)(A), which was added to the Safety Act by the Imported Vehicle Safety Compliance Act of 1988. This section provides that a Registered Importer (RI) may import a motor vehicle not originally manufactured to comply with the Federal motor vehicle safety standards (FMVSS) if NHTSA decides that the vehicle is ''substantially similar to a motor vehicle of the same model year that was certified for sale in the United States.'' [2] Except for vehicles of Canadian origin, which the agency decided were substantially similar to American counterparts, virtually all these decisions have been made pursuant to petitions by RIs. A list of non-U.S.-certified vehicles that are eligible for importation under this program is published as an appendix following 49 CFR part 593, and is updated each fiscal year to reflect additional eligibility decisions. We have not found it necessary to define ''substantially similar'' under Section 30141 because an eligible foreign vehicle must have as an analogue ''a motor vehicle of the same model year that was certified for sale in the United States.'' Thus, the ''substantially similar'' foreign vehicles on the Part 593 list are easily identifiable without the need for a definition.

We have tentatively decided that any vehicle model that appears in the Part 593 list would be ''substantially similar'' to a U.S. vehicle for purposes of Sections 30166(l) and (m). However, there are limitations to the usefulness of this list with reference to implementation of the foreign defect and early warning reporting requirements. The list does not constitute the entire universe of ''substantially similar'' motor vehicles subject to these requirements because it includes only vehicles for which eligibility petitions have been filed and granted. Thus, we need to develop a definition of the term ''substantially similar'' that is not wholly dependent on whether a RI has sought to import a particular vehicle.

From an operational perspective, we believe that the TREAD Act requirements warrant the development of a definition of ''substantially similar'' that would apply to the foreign recall and campaign requirements as well as the foreign early warning reporting requirements.

In the early warning ANPRM, we asked:

''2. How should a manufacturer determine if a vehicle sold in a foreign country is 'substantially similar' to vehicles sold in the United States? Is it enough that the vehicles share the same platform and/or engine family? If not, why not?''

Some manufacturers producing vehicles for sale domestically indicated that that there was little or no difference in the vehicles that they produce for sale abroad. Harley-Davidson said that it ''sells substantially the same product lines in every nation in which it does business,'' leaving unsaid what, if any, features are changed to comply with local laws or customer tastes. DaimlerChrysler said that most of its vehicles sold abroad ''are substantially similar to vehicles sold in the United States (with some exceptions).'' No other vehicle manufacturer asserted that the vehicles it produces in the United States for sale abroad are *not* substantially similar to models it produces and sells in the United States. These comments indicate that, in general, vehicles manufactured in the United States for sale abroad are likely to be substantially similar to vehicles manufactured and sold domestically.

We asked if it would be appropriate to consider vehicles ''substantially similar'' if they shared the same platform and/or engine family. Nissan thought it more accurate to say that a substantially similar motor vehicle is ''a motor vehicle in substantial compliance with the federal safety standards that has the same platform and body shell, same engine displacement, and an engine within the same engine family.'' It believes that this definition is consistent with the agency's determinations in the admission of gray market vehicles where ''decisions turn on whether the petitioner can demonstrate that the foreign vehicle is substantially similar to its U.S. counterpart in the way that the two vehicles comply with the federal safety standards.'' However, this is not an accurate statement of the Part 593 determination process. The issue before NHTSA in that context is whether a candidate vehicle ''is capable of being readily altered to comply'' with the FMVSS (Section 30141(a)(1)(A)(iv)). Precisely because the candidate vehicle does *not* comply with the FMVSS, we cannot say that it is ''substantially similar to its U.S. counterpart in the way that [it complies].'' Further, we believe that the phrase ''in substantial compliance with the federal safety standards'' is too vague to be used for definitional purposes. Finally, the agency considers ''same engine displacement'' to be too restrictive, in that some foreign models are essentially identical to their U.S. counterparts in all relevant respects other than engine family and displacement.

The Alliance stated that the Part 593 list provides a ''useful starting point.'' The Alliance further suggested that important criteria for a ''substantially similar'' determination would be ''same platform and body shell, same engine family, same engine displacement, compliance'' or ''substantial compliance'' with ''specified FMVSS requirements such as S105/135, 203/204, 208 (except the automatic protection provisions), 209, 214, and 301.'' We note again our view that the phrase ''substantial compliance'' with the FMVSS is too vague and too subjective to serve as a definitional criterion, and that requiring the same engine family and displacement would be too restrictive.

The Alliance also recommended that each vehicle manufacturer submit to NHTSA annually, at the beginning of each model year, a list of the vehicles that the manufacturer intends to sell abroad that the manufacturer has determined are ''substantially similar'' to a vehicle certified for sale in the United States. Ford concurred with this recommendation. We have reviewed this suggestion and believe that it has merit, in that it could help both manufacturers and NHTSA in determining whether foreign recalls and other campaigns need to be reported. We note, however, that to the extent that such a list is based on whether vehicles use a common platform, as advanced by the Alliance, such a list would not be determinative, since our proposed criteria would go beyond common platforms. However, we are proposing

[2] The agency must also decide that the vehicle is capable of being readily altered to comply with all applicable FMVSS. This authority extends only to motor vehicles and not to motor vehicle equipment.

that manufacturers identify not later than each November 1 of each year any vehicles they sell abroad, or plan to sell abroad, in the next year that they believe to be substantially similar to vehicles sold or offered for sale in the United States or planned for sale in the U.S. during the next year.

Some commenters suggested that the determination be based upon commonality of components or systems. TMA said that ''vehicles that share identical component parts are 'substantially similar,' '' and that substantially similar with respect to medium and heavy duty trucks ''needs to be defined around major component systems of the vehicle not the vehicle make/model itself.'' International Truck contended that '' 'substantially similar' '' means ''the same component or component system' '' regarding bus and medium/heavy truck markets. Under this approach, apparently disparate vehicles could nevertheless be deemed to be '' 'substantially similar' '' for purposes of foreign recall reporting on the basis that, as TMA stated, ''vehicles that share identical component parts are ''substantially similar. '' According to these commenters, the components in question should be limited to engines, braking, axle, and suspension systems.

Several commenters believe that NHTSA should take a different approach with respect to medium and heavy duty trucks from that applied to lighter vehicles.[3] TMA stated that medium and heavy duty truck manufacturers produce highly customized products for which buyers ''can specify nearly every major component on the vehicle.'' These manufacturers are ''assemblers and systems integrators,'' employing the components specified by the end user, whether the end user is in the United States or a foreign country. Under this view, unless they are part of a fleet order, medium and heavy duty trucks sold in the U.S. and in foreign countries might rarely be identical or substantially similar to each other. While the TMA was of the view that generally trucks would not be substantially similar, it expected reporting of foreign recalls involving components substantially similar to those in the U.S. Volvo said that ''rarely will there be a large group of heavy trucks that are substantially similar in every way.'' We believe that these comments miss the point, since the statute is designed to provide a broad range of relevant information to NHTSA not just information about vehicles that are ''substantially similar in every way.''

Volvo and others also made similarly restrictive arguments about regulatory environment and parts application. Volvo argued that, ''while the heavy trucks in each country may have similar parts, the application of the parts in the differing regulatory environments make comparison particularly complex and potentially misleading.'' In Europe, according to Volvo, the regulatory scheme for brakes on heavy trucks ''focuses on the balance across the vehicle when braking,'' while NHTSA focuses on stopping distance. ArvinMeritor noted that ''a certain type and model of brake may be used through a variety of vehicle models,'' and, for heavy trucks, the ''component may be used through a range of vehicle ratings and chassis models.'' However, ArvinMeritor warned that ''a component may share some attributes that make it ''substantially similar to a [sic] one family of parts but have other attributes that would make it 'substantially dissimilar' from that same family.'' It used as an example a heavy duty foundation brake used with a standard brake drum up to a prescribed axle weight rating or application severity, 'at which a heavier brake drum may be recommended.' In this instance, 'the foundation brake would remain 'substantially similar' throughout the range of use whereas the associated brake drums would be 'substantially dissimilar' though they could be installed on similarly-appearing vehicles.' Mack Truck pointed out that ''vehicles sold in foreign countries often incorporate systems or components of local origin which are not comparable to components or systems incorporated in the manufacturer's vehicles sold in the United States and Canada.''

After our review of the comments in response to the ANPRM and our own assessment, we are proposing that a vehicle sold or operated in a foreign country would be viewed as ''substantially similar'' to one offered for sale in the United States if it meets one or more of a number of tests. To begin, we are proposing to consider all motor vehicles manufactured to comply with the Canadian Motor Vehicle Safety Standards, and all motor vehicles determined to be eligible for importation pursuant to 49 CFR part 593, as ''substantially similar'' (if not identical) to motor vehicles sold in the United States. As for vehicles not so identified, we are further proposing that all vehicles manufactured in the United States for sale in other countries be considered as substantially similar (if not identical). This presupposes that some modifications are made to comply with foreign standards or for other purposes. The Ford Explorers manufactured in the U.S. and sold in Saudi Arabia would be an example. In addition, we would include vehicles assembled in foreign countries that are counterparts of United States models. An example would be Ford Explorers assembled outside the United States, such as those assembled in Venezuela. We would appreciate comments on whether this latter class of vehicles needs to be defined with greater specificity. We caution commenters that in our view the term ''substantially similar'' sweeps with a broad brush and is not to be defeated by persons bent on finding or inventing distinctions to evade reporting.

As a practical matter, the vehicles remaining are those that have been manufactured outside the United States but which do not appear on the part 593 eligibility list. These remaining vehicles sold outside the U.S. may or may not be substantially similar to those sold in the U.S. With respect to recalls or campaigns covering these vehicles, we begin with the premise that, although the vehicle is usually the subject of a recall or safety campaign, the vehicle in its entirety is not defective; instead, a vehicle will be recalled because of a defect or problem in one or more of its components or systems that may or may not be used in other vehicles built by the manufacturer.

This raises two related questions: (1) Whether we should require a manufacturer to report a foreign campaign involving a vehicle generally substantially similar to one offered for sale in the United States if the defective component or system is different (e.g., substantially dissimilar in design or manufacture) from the component or system used on or installed in the vehicles sold in the U.S.; and (2) whether we should require a manufacturer to report a foreign campaign in which the defective component or system is substantially similar to the component or system the manufacturer used on a vehicle sold in the U.S., but the vehicle itself is on a different platform or would not otherwise be considered similar.

[3] These commenters did not explain what they mean by ''heavy truck.'' The truck industry has adopted terminology of Classes numbered 1 through 8 that distinguish vehicles of different gross vehicle weight ratings (GVWRs). NHTSA has never adopted this terminology for regulatory purposes but does use GVWR (expressed in either kg or lbs, depending on the FMVSS) to establish differing requirements within some of the FMVSS. For example, Standard No. 105 does not apply to vehicles with a GVWR of 3,500 kg or more. Standard No. 121 does not apply to trailers with a GVWR of more than 120,000 lbs. Standard No. 201 does not apply to buses with a GVWR or more than 3,860 kg. Standard No. 208 establishes different requirements for vehicles with a GVWR between 8,500 and 10,000 lbs.

We have tentatively decided not to require reporting under the first situation because the vehicles are not substantially similar in a material respect that is relevant to section 30166(l); i.e., the defect is unlikely to exist or occur in a vehicle manufactured for or sold in the U.S. market if it does not have the problematic component or system used in vehicles covered by a foreign campaign. We have tentatively decided to require reporting under the second situation because the defect may exist or occur in a vehicle manufactured for or sold in the U.S. market, even if such a vehicle were built on a different platform.

For example, assume that a seat belt buckle assembly, used in many models of vehicles, cracks and will not hold under force. Assume that a manufacturer recalls a small vehicle on a platform not sold in the United States that contains the buckle. Under today's proposal, if an identical or substantially similar buckle assembly is used on a vehicle built by that manufacturer that was or is offered for sale in the United States, the manufacturer of the vehicle would have to report the campaign to NHTSA.

We are aware that some manufacturers have argued that, in view of vehicle integration issues, a defective component or system on a foreign vehicle may not be defective if installed on a different vehicle platform sold in the United States. For example, it has been argued that a system on a United States model would encounter a less demanding operating environment than in some foreign countries. This is not dispositive. A report of a foreign recall or campaign is not equivalent to an admission that a safety defect exists in the U.S. or that a recall is needed in this country. Rather, the purpose of the report is to allow NHTSA to consider it, often along with other information, in deciding whether to open a defect investigation. The manufacturer could indicate in a communication to the agency the reasons why it believes that the problem covered by the foreign campaign is unlikely to occur in the United States.

In view of the above concerns, we are proposing an additional alternative test of whether a vehicle is substantially similar for reporting purposes. We would deem foreign and U.S. motor vehicles as ''substantially similar'' for reporting purposes if they both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the components or systems are installed. Moreover, the fact that part numbers may be different in the U.S. and in foreign countries or on different models would not be dispositive of whether parts are identical. In addition, we specifically request comment on a formulation based on the concept that the foreign and U.S. vehicles would be substantially similar for reporting under section 30166(l) if they shared a platform and/or a body shell.

We request comments on the appropriate formulation of test(s) for substantially similar motor vehicles and, depending on the comments, may make adjustments to the criteria for characterizing a vehicle as substantially similar.

3. Substantially Similar Motor Vehicle Equipment

Section 30166(l) also requires reports of foreign recalls and safety campaigns pertaining to motor vehicle equipment. Motor vehicle equipment comprises two categories: original equipment and replacement equipment. ''Motor vehicle equipment'' is defined by 49 U.S.C. 30102(a)(7). For purposes of the defect and noncompliance provisions of the Safety Act, the terms ''original equipment'' and ''replacement equipment'' are defined in 49 U.S.C. 30102(b)(1)(C) and (D). Pursuant to 49 U.S.C. 30102(b)(2), NHTSA has the authority to prescribe regulations changing the relevant definitions in section 30102(b)(1). The agency has implemented this authority in 49 CFR 579.4(a) and (b).

Sec. 579.4(a) defines ''original equipment'' as ''an item of motor vehicle equipment (other than a tire) which was installed in or on a motor vehicle at the time of its delivery to the first purchaser if—

(1) The item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution; or

(2) The item of equipment was installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer.''

Sec. 579.4(b) defines replacement equipment as:

''(1) Motor vehicle equipment other than original equipment as defined in [Sec. 579.4(a)]; and

(2) Tires.''

Recalls and other safety campaigns involving problems with original equipment (OE) components or systems abroad, as here in the U.S., are likely to be conducted by the manufacturer of the vehicle in which they were installed (although under certain circumstances an OE manufacturer is required to notify NHTSA of the defect. See 49 CFR 573.5(e) and (f)). Nevertheless, in those instances in which an OE manufacturer decides to conduct a recall or safety campaign, it would have the duty to report that campaign to us. Similarly, if a foreign government notified an OE manufacturer that it was required to conduct a safety recall or other campaign, the OE manufacturer would be obligated to provide notice to us under section 30166(l)(2). However, under today's proposal, if all of the vehicle manufacturers using the item in question timely provide us with a report of a foreign safety recall or other safety campaign under section 30166(l)(1), the OE component manufacturer would not be obligated to provide notice under this provision.

Recalls and other safety campaigns involving problems with replacement equipment, abroad or in the United States, ordinarily would be conducted by the replacement equipment manufacturer. Examples of replacement equipment recalls conducted in the United States are those involving defects and noncompliances in tires, child restraints, lighting equipment, brake hoses and brake fluids.

The early warning ANPRM asked ''how should 'substantially similar' motor vehicle equipment be defined? * * * Other than tires and off-vehicle equipment (such as child seats), should the definition be restricted to replacement equipment for substantially similar motor vehicles?'' A related question is what replacement equipment would be covered. We received only a limited amount of information in response, which provided some insights into concerns of manufacturers of some specific types of equipment.

One common item of replacement equipment is light sources. Many of these items, if not identical, are substantially similar, regardless of where in the world they are sold. Osram Sylvania, in fact, commented in response to the early warning ANPRM that ''[m]ost of the Automotive Lighting Products sold worldwide are similar to the products sold in the United States.''

With regard to restraints, the Automotive Occupants Restraint Council (Council) and Breed observed that there are two situations when it would be reasonable to impose a reporting requirement on suppliers. The first situation would address instances where a vehicle is recalled overseas that is not sold in the U.S. Assuming that the vehicle manufacturer would not have a reporting obligation, the Council recognized that the recall could involve restraint systems that are substantially similar to those sold in the U.S., but

cautioned that the supplier could report only after it learns that a recall has been initiated. The second situation would be if a supplier discovers a potential safety defect in a production run of parts. These comments recognize that restraint systems such as seat belts and air bags could be substantially similar in a variety of different vehicles. We request comments on the matters raised by the Council and Breed (See Docket Entries Nos. 6 and 21), particularly where the vehicle manufacturer would not have a reporting obligation.

As with motor vehicles, we are proposing to deem motor vehicle equipment sold or in use outside the United States to be identical or substantially similar to equipment sold or offered for sale in the United States if such equipment and the equipment sold or offered for sale in the United States are the same component or system, or both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to part number.

We would regard foreign child restraint systems as substantially similar (if not identical) to U.S. counterparts if they incorporate one or more parts that are used in models of child restraints offered for sale in the U.S., regardless of whether the restraints are designed for children of different sizes than those sold in the U.S. and regardless of whether they share the same model number or name. For example, if buckles, tether hooks, anchorages, or straps are common throughout a manufacturer's range of models, the child restraints would be substantially similar even though the buckles, hooks, anchorages, or straps might be used on a variety of add-on, backless, belt positioning, rear-facing or booster seats produced by the manufacturer. However, a manufacturer would not have to report a foreign campaign on its child seats if the problem that led to the foreign campaign involved a component or part that was not used on any child restraint sold or offered for sale in the U.S.

With regard to tires, under today's proposal, foreign recalls and campaigns involving tires of the same model name and size designation would have to be reported to us regardless of brand name, manufacturing plant, or mold. We recognize that many tire manufacturers use the same model name for tires that may be substantially different from one another, such as Goodyear Wrangler tires. However, the agency needs to receive information about recalls of tires with common model names so that we can assure ourselves whether tires covered are truly similar or different from those sold in the U.S. Of course, the manufacturer can accompany the submission with a discussion of the reasons why it believes the tires are not substantially similar to U.S. tires.

It is also possible that a manufacturer could use a different model name or names in foreign countries for tires identical to those sold in the U.S. Recalls and other campaigns involving tires that would also have to be reported to us under this rule. We request comments on whether we have proposed an appropriate basis for identifying similar foreign tires.

In the early warning ANPRM, we asked whether the definition of substantially similar equipment should be restricted to replacement equipment to be used on substantially similar vehicles. International Truck stated that ''the definition should not be restricted.'' Others focused on application. In an example given by Delphi, a bolt with a given part number may perform in substantially dissimilar ways depending on how and where it is used, and use of the bolt in a seat belt anchorage requires a higher standard than its use in a less critical safety application. Equipment suppliers noted that often conditions under which the part operates are beyond the suppliers' control and can only be judged by the vehicle manufacturer. Delphi added, on the other hand, that ''dissimilar components can be substantially similar'' because they ''may be susceptible to similar failure modes if one of the components that may be common to all were to have a defect.''

We expect that the scope of reporting under section 30166(l) will be broader than the ultimate scope of defect determinations in the U.S. It would vitiate the purpose of the reporting requirements of the TREAD Act to allow manufacturers to avoid reporting requirements based on a claimed difference in the operating environment for vehicles or equipment.

We request comments on the appropriate formulation of test(s) for determining whether foreign motor vehicle equipment is substantially similar to U.S. equipment.

III. Contents of Notification to NHTSA

When a manufacturer of motor vehicles or motor vehicle equipment decides to conduct a notification and remedy campaign in the United States to address a safety-related defect or a noncompliance with a FMVSS, or is ordered to do so by NHTSA, it must furnish information to the agency as specified in 49 CFR part 573, *Defect and noncompliance reports*. The contents of the required notification are set out in section 573.5(c). These include the manufacturer's name (paragraph (c)(1)), identification of the vehicles or items of motor vehicle equipment potentially containing the defect or noncompliance, including a description of the manufacturer's basis for its determination of the recall population and a description of how the vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment that the manufacturer has not included in the recall (paragraph (c)(2)), the total number of vehicles or items of equipment potentially containing the defect or noncompliance (paragraph (c)(3)), the percentage of vehicles that actually contain the defect or noncompliance (paragraph (c)(4)), a description of the defect or noncompliance (paragraph (c)(5)), in the case of a defect, a chronology of principal events that were the basis for the determination including summaries of field or service reports, warranty claims, and the like (paragraph (c)(6)), in the case of a noncompliance, the test results or other basis upon which the manufacturer made its determination (paragraph (c)(7)), and the supplier of the defective or noncomplying equipment, if known.

We are proposing that this same information be provided in the manufacturer's notification to NHTSA of a safety recall or other safety campaign in a foreign country. In addition, we are proposing that the manufacturer identify the foreign country, state whether the determination was made by the manufacturer or a foreign government, state the date thereof, state whether the foreign decision was a safety recall or other safety campaign, and identify with specificity the motor vehicles or motor vehicle equipment sold or offered for sale in the United States that are identical or substantially similar to those being recalled abroad. Manufacturers who are reporting campaigns ordered by a foreign government would also be required to furnish copies of the determination by the foreign government in the original language and translated into English.

As indicated above, we are proposing to require that all the information that currently must be submitted in connection with domestic recalls be submitted for all foreign safety campaigns covered by section 30166(l). We recognize that this is more information than is currently required in connection with campaigns in the United States that do not constitute safety recalls; under 49 CFR 573.8, manufacturers must merely submit the

documents that they send to owners and dealers, regarding vehicle and equipment malfunctions, and they need not provide all the information set out in 49 CFR 573.5(c). We have proposed to require more complete information, in part, because of the difficulty in distinguishing between ''safety recalls'' and ''other safety campaigns'' in foreign countries. However, we welcome comments on whether and how the level of detail can be reduced for certain type of foreign safety campaigns.

Consistent with 49 CFR 573.5(b), which applies to defect and noncompliance reports, any information required to be submitted to NHTSA under this rule that is not available at the time the initial report is due must be submitted as it becomes available.

IV. Timing

Section 30166(l) requires that manufacturers notify NHTSA ''not later than 5 working days after determining to conduct a safety recall or other safety campaign in a foreign country'' on substantially similar vehicles and equipment, or after receiving notification from a foreign government that such a campaign must be conducted. This 5-day period appears to have been adopted based upon the time period in regulations adopted to implement the notification provisions of the Vehicle Safety Act. Section 30119(c)(2) of the Vehicle Safety Act states in pertinent part that notification to the Secretary under Section 30118 ''shall be given within a reasonable time after the manufacturer first decides that a safety related defect or noncompliance exists.'' After notice and comment, we adopted a regulation specifying that ''not more than 5 working days'' is a ''reasonable time'' for notifying NHTSA of decisions that will lead to domestic remedy campaigns (49 CFR 573.5(b)).

Consistent with the statute, we are proposing that the time period for reporting foreign safety recalls or other safety campaigns is 5 working days from the date that the manufacturer, including one of its subsidiaries or affiliates, decides to conduct, or is notified by a foreign government (including by a foreign governmental unit) that it must conduct, the recall or other campaign. The 5-day period in Section 30166(l) is very achievable in those cases in which the decision to conduct the recall or other campaign is made by, or with the concurrence of, the manufacturer's headquarters and there is little doubt that the foreign vehicles or equipment in question are identical or substantially similar to vehicles offered for sale in the U.S. It is reasonable to assume that, in most cases, local subsidiaries or affiliates of multinational manufacturers are not authorized to decide to conduct safety recalls or other safety campaigns without the concurrence of the corporate headquarters, or at least without contemporaneously advising such headquarters of the action. Thus, the headquarters will have at least basic information on the recall or campaign. As a practical matter, we would expect few difficulties when a foreign government provides notification of its determination that a recall or other campaign must be conducted. There have been very few recalls ordered by foreign governments. We would expect that there would be communications between the foreign government and foreign affiliate of a manufacturer before a government directed recall, so that any formal notification would not be a surprise to the manufacturer. In any event the notification would be in the form of a written communication to the manufacturer or its local entity. The addressee would be deemed to ''receive'' the notification when it is delivered by mail, facsimile or other mechanism to the addressee. This document could readily be forwarded to a manufacturer's headquarters.

To the extent that manufacturers do not have such processes in place today, they would be required to implement procedures to assure that the relevant information is provided promptly to the reporting entity (presumably through a corporate headquarters) so that the required notifications can be made to NHTSA in a timely manner. Similarly, manufacturers would be required to implement procedures to assure that notifications from foreign governments about safety recalls or other safety campaigns are transmitted to NHTSA in a timely manner.

We recognize that it may be difficult for a local subsidiary or affiliate to know, whether the vehicles or equipment covered by the recall or other campaign in its country are substantially similar to products offered for sale in the U.S. However, this lack of awareness cannot justify a manufacturer's failure to provide relevant information to NHTSA. Thus, manufacturers would need to assure that all recalls and campaigns in foreign countries be brought to the attention of appropriate persons at the company's headquarters, who will be able to make the determination as to whether they must be reported to NHTSA. We request comments on any issues posed by this approach to timing and how, in the view of the commenter, they should be addressed.

V. Revision of Part 579 To Accommodate Section 3 of the TREAD Act

At present, 49 CFR Part 579 is titled ''Defect and Noncompliance Responsibility.'' As part of a reorganization of its regulations to respond to the TREAD Act, we are planning to amend Part 579 to transfer its subject matter to a revised Part 573, and rename Part 579 as ''Reporting of Information and Communications About Potential Defects.'' The revised regulation would include both the foreign defect and early warning reporting requirements of Sections 3(a) and (b) respectively of the TREAD Act. The current specifications for notice, bulletins, and other communications specified in section 573.8 would be transferred to section 579.6. While today's proposal restates section 573.8 in its proposed new location, we are not reproposing it and do not request comment on it.

VI. Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This document was not reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. We estimate that fewer than 500 reports of foreign recalls and other safety campaigns will be submitted annually; some of these would involve parallel campaigns in multiple countries. There would be costs in determining whether vehicles or equipment that are covered by a foreign recall or campaign are identical or substantially similar to vehicles and equipment sold in the United States. There will be costs to manufacturers to prepare and submit reports of these recalls and campaigns to the agency. Where a determination has been made in a language other than English, a manufacturer will also have the cost of translating the determination before supplying it to us, unless a notice had been filed in the United States. Another cost would be involved with preparing and submitting any annual list of similar vehicles and equipment. Finally, there may be costs involved in searching out and filing reports with NHTSA that are related to foreign determinations made between November 1, 2000 and the effective date of the final rule. The costs would appear to be principally those of man-hours. We estimate that the costs will be less than one million dollars per year. We seek comments from manufacturers on the estimated

costs of meeting a final rule based on this proposal.

Regulatory Flexibility Act

We have also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action does not have a significant economic impact upon a substantial number of small entities. The basis for this certification is that manufacturers of motor vehicles and motor vehicle equipment that operate internationally are not small entities. Accordingly, no regulatory flexibility analysis has been prepared.

Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The E.O. defines this phrase 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.'' A final rule based upon this NPRM, would regulate the manufacturers of motor vehicles and motor vehicle equipment, would not have 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, as specified in E.O. 13132.

Civil Justice Reform

A rule based on this NPRM would not have a retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. A final rule based on this proposal would not result in any expenditure by State, local, or tribal governments. The final rule would be based upon and implement P.L. 106–414. It would impact the private sector, specifically manufacturers of motor vehicles and motor vehicle equipment. Under the proposal, these manufacturers would have to report to NHTSA (presumably by letter) if they are conducting, or have been ordered to conduct, a campaign outside the United States on vehicles and equipment substantially similar to those sold in the United States. The reporting manufacturer would be obliged to have a communications system in place in order to provide this information to NHTSA in a timely manner, which could be the same system that reports domestic campaigns to NHTSA. If a manufacturer conducts no foreign campaigns, the final rule will not require any expenditures associated with reporting. If a manufacturer conducts a foreign campaign, the cost to the manufacturer to report the campaign should be minimal. NHTSA has therefore concluded that a rule based on this NPRM would not have a $100 million effect, and it has not prepared an Unfunded Mandates assessment.

Paperwork Reduction Act

The final rule will require a manufacturer of motor vehicles and motor vehicle equipment to report information and data to NHTSA if it decides to conduct, or if it is informed by a foreign government that it must conduct, a safety recall or other safety campaign in a country outside the United States. These provisions are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1329. Accordingly, if not already encompassed by Part 573 they will be submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR Part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a proposed rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the internet. To read the comments on the internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were ''NHTSA–2001–1234,'' you would type ''1234.''

(4) After typing the docket number, click on ''search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. Although the comments are imaged documents, instead of the word processing documents, the ''pdf'' versions of the documents are word searchable. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

List of Subjects in 49 CFR Part 579

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 579 is proposed to be revised to read as follows:

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

Subpart A—General

Sec.
579.1 Scope.
579.2 Purpose
579.3 Application.
579.4 Definitions.
579.5 Address and manner for submitting reports and other information.
579.6 Notices, bulletins, and other communications
579.7–10 [Reserved].

Subpart B—Reporting of Safety Recalls and Other Safety Campaigns in Countries Other Than the United States

579.11 Additional definitions for subpart B.
579.12 Identical or substantially similar vehicles and equipment.
579.13 Reporting responsibilities.
579.14 Contents of reports.
579.15 Who may submit reports.
579.16–20 [Reserved]

Subpart C—Early Warning Reports

579.21–30 [Reserved]

Authority: Sec. 3(a), Pub. L. 106–414; 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

§ 579.1 Scope.

This part sets forth the responsibilities of manufacturers of motor vehicles and motor vehicle equipment for reporting of information, including data, that may indicate the existence of safety-related defects or noncompliances with Federal motor vehicle safety standards, and for reporting foreign recalls and other safety-related campaigns conducted outside the United States.

§ 579.2 Purpose.

The purpose of this part is to enhance motor vehicle safety by specifying information, including data, that manufacturers of motor vehicles and motor vehicle equipment must report to NHTSA that may indicate the existence of a potential safety-related defect or a noncompliance with a Federal motor vehicle safety standard in their products before the manufacturer or NHTSA has decided that a defect or noncompliance exists, including the reporting of safety recalls and other safety campaigns that the manufacturer conducts outside the United States.

§ 579.3 Application.

This part applies to all manufacturers of motor vehicles and motor vehicle equipment.

§ 579.4 Definitions.

For purposes of this part:

Equipment comprises original equipment and replacement equipment: *Original equipment* means motor vehicle equipment (other than a tire) which was installed in or on a motor vehicle at the time of its delivery to the first purchaser if the item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution, or installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer. *Replacement equipment* means motor vehicle equipment other than original equipment and a tire.

§ 579.5 Address and manner for submitting reports and other information.

Reports required to be submitted to NHTSA pursuant to this part must be submitted to the Associate Administrator for Safety Assurance, National Highway Traffic Safety Administration (NHTSA), 400 7th Street, S.W., Washington, DC 20590. Submissions must be made by a means that permits the sender to verify that the report was in fact received by NHTSA and the day it was received by NHTSA.

§ 579.6 Notices, bulletins, and other communications.

Each manufacturer shall furnish to NHTSA a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extension communiques and product improvement bulletins) other than those required to be submitted pursuant to § 573.5(c)(9) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, or purchaser, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related. Copies shall be in readable form and shall be submitted monthly, not more than five (5) working days after the end of each month.

§§ 579.7–10 [Reserved]

Subpart B—Reporting of Safety Recalls and Other Safety Campaigns in Countries Other Than the United States.

§ 579.11 Additional definitions for subpart B.

For purposes of this subpart:

Other safety campaign means an action in which a manufacturer, including but not limited to a foreign subsidiary or affiliate or agent of a manufacturer, communicates with owners and/or dealers in a foreign country with respect to conditions under which vehicles or equipment should be operated, repaired, or replaced, that relate to safety.

Safety recall means an offer by a manufacturer, including but not limited to a foreign subsidiary or affiliate or agent of a manufacturer, to owners of vehicles or equipment in a foreign country to provide remedial action to address a defect that relates to motor vehicle safety or a failure to comply with an applicable safety standard or guideline.

§ 579.12 Identical or substantially similar vehicles and equipment.

For purposes of this subpart:

(a) A motor vehicle sold or in use outside the United States is identical or substantially similar to a motor vehicle sold or offered for sale in the United States if:

(1) Such a vehicle has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards;

(2) Such a vehicle is listed in Appendix A to part 593 of this chapter or determined to be eligible for importation into the United States in any agency decision issued between amendments to Appendix A to part 593;

(3) Such a vehicle is manufactured in the United States for sale in a foreign country,

(4) Such a vehicle is a counterpart of a vehicle sold or offered for sale in the United States or

(5) Such a vehicle and a vehicle sold or offered for sale in the United States both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the components or systems is installed and regardless of whether the part numbers are identical.

(b) Motor vehicle equipment sold or in use outside the United States is identical or substantially similar to equipment sold or offered for sale in the United States if such equipment and the equipment sold or offered for sale in the United States are the same component or system, or both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, regardless of whether the part numbers are identical.

(c) Tires sold or in use outside the United States are substantially similar to tires sold or offered for sale in the United States if they have the same model name and size designation, or if they are identical except for the model name.

§ 579.13 Reporting responsibilities.

(a) Not later than 5 working days after a manufacturer, including any of its subsidiaries and affiliates, determines to conduct a safety recall or other safety campaign in a country other than the United States covering a motor vehicle or motor vehicle equipment that is identical or substantially similar to a vehicle or equipment sold or offered for sale in the United States, the manufacturer of the vehicle or equipment covered by the recall or other campaign shall report the determination to NHTSA.

(b) Not later than 5 working days after a manufacturer, including any of its subsidiaries and affiliates, receives notification that the government of a country other than the United States, including a political subdivision of such country, has determined that a safety recall or other safety campaign must be conducted in that country with respect to a motor vehicle or motor vehicle equipment that is identical or substantially similar to a vehicle or equipment sold or offered for sale in the United States, the manufacturer of the vehicle or equipment covered by the campaign shall report the determination to NHTSA.

(c) Not later than 30 days after [the effective date of the final rule], a manufacturer, including its subsidiaries and affiliates, that has made a determination to conduct a recall or other safety campaign in a country other than the United States, or who has received notification that the government of a country other than the United States, including a political subdivision of such country, has determined that a safety recall or other safety campaign must be conducted in that country, in the period between November 1, 2000 and [the date of the effective date of the final rule], and who has not reported such determination or notification of determination to NHTSA as of [the effective date of the final rule], shall report such determination or notification of determination to NHTSA if the safety recall or other safety campaign covers a motor vehicle or equipment that is identical or substantially similar to a vehicle or equipment sold or offered for sale in the United States.

(d) Notwithstanding paragraphs (a), (b) and (c), of this section, the manufacturer need not report the safety recall or other safety campaign to NHTSA if the manufacturer:

(1) Has determined that for the same or substantially similar reasons that it is conducting a safety recall or other safety campaign in a country other than the United States, a safety-related defect or noncompliance with a Federal motor vehicle safety standard exists in identical or substantially similar motor vehicles or motor vehicle equipment sold or offered for sale in the United States, and

(2) Has filed a defect or noncompliance information report pursuant to part 573 of this chapter, provided that the remedy of the foreign safety recall or other safety campaign is identical to the remedy of the campaign in the United States and the scope of the foreign recall or campaign is not broader than the scope of the recall campaign in the United States.

(e) Each manufacturer of motor vehicles that sells or offers a motor vehicle for sale in the United States shall identify each model of vehicle that the manufacturer sells or plans to sell in the following year in a foreign country that the manufacturer believes is identical or substantially similar to a motor vehicle sold, offered for sale, of planned for sale in the following year in the United States. The manufacturer shall inform NHTSA in writing no later than November 1 of each year of any such models that it plans to sell in any foreign country during any part of the following year.

§ 579.14 Contents of reports.

(a) Reports made pursuant to § 579.13 shall include the information specified in § 573.5(c)(1) through (7) of this chapter. Each such report shall also identify each foreign country in which the recall or other safety campaign is being conducted, state whether the determination was made by the manufacturer or by a foreign government, specify the date of the determination and the date the recall or other campaign was commenced or will commence in each foreign country, state whether the foreign action was a safety recall or other safety campaign, and identify all motor vehicles and/or equipment that the manufacturer sold or offered for sale in the United States that are identical or substantially similar to the motor vehicles or equipment covered by the foreign recall or campaign. If a determination has been made by the government of a foreign country, the report shall also include copies of the determination by the foreign government in the original language and translated into English.

(b) Information required by paragraph (a) of this section that is not available within the 5-day period specified in § 579.13 shall be submitted as it becomes available.

§ 579.15 Who may submit reports.

Reports under this part may be filed by either the fabricating manufacturer or by the importer of the vehicle or equipment that is identical or substantially similar to that covered by the foreign recall or other safety campaign.

§§ 579.16–20 [Reserved]

Subpart C—Early Warning Reports

§§ 579.21–30 [Reserved]

Issued on: October 4, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–25429 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AH79

Migratory Bird Hunting; Proposal for Migratory Game Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service or we) proposed in previous documents to establish annual hunting regulations for certain migratory game birds for the 2001–02 hunting season. This proposed rule would change the regulatory alternatives for the 2001–02 duck hunting seasons for States in the Lower Region (Arkansas, Louisiana, Kentucky, Alabama, Mississippi and Tennessee) of the Mississippi Flyway to allow for a season length of 60 days beginning no earlier than September 29 and ending no later than January 31.

DATES: You must submit comments on the proposed ''liberal'' regulatory alternative for the Lower Region of the Mississippi Flyway by October 26, 2001.

ADDRESSES: Send your comments on the proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2001

On April 30, 2001, we published in the **Federal Register** (66 FR 21298) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 14, 2001, we published in the **Federal Register** (66 FR 32297) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 2001–02 duck hunting season.

On June 20–21, we held meetings that reviewed information on the current status of migratory shore and upland game birds and developed 2001–02 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2001–02 regular waterfowl seasons. On July 24, we published in the **Federal Register** (66 FR 38494) a third document specifically dealing with the proposed frameworks for early-season regulations and final regulatory alternatives for the 2001–02 duck hunting season. On August 21, 2001, we published in the **Federal Register** (66 FR 44010) a final rule that contained final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits. On August 29, 2001, we published in the **Federal Register** (66 FR 45730) a final rule amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons.

On August 1–2, 2001 we held a public meeting in Washington, DC, as announced in the April 30, and June 14 **Federal Registers,** to review the status of waterfowl. Proposed hunting regulations were discussed for late seasons. We published proposed frameworks for the 2001–02 late-season migratory bird hunting regulations on August 28, 2001, in the **Federal Register** (66 FR 45516). We published final late-season frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected late-season hunting dates, hours, areas, and limits for 2001–02 in the September 27, 2001, **Federal Register** (66 FR 49478). On September 28, 2001, we published in the **Federal Register** (66 FR 49748) a final rule amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for late seasons.

Review of Public Comments

This rule-making contains amendments to the 2001–02 duck hunting regulations previously published on September 27, 2001. We are seeking any additional information and comment on the recommendation in this proposed rule.

Lower Region of the Mississippi Flyway Duck Hunting Alternative for the 2001–2002

The Lower Region Regulations Committee of the Mississippi Flyway Council recommended that the regulations packages for 2001 be the same as those in 2000, except that the framework opening and closing dates would be the Saturday nearest September 24 through the last Sunday in January, and there would be no offsets in seasons length or bag limit.

Service Response: Upon reconsideration, the Service proposes to change the previously established ''liberal'' alternative for the Lower Region of the Mississippi Flyway to provide for a framework opening date no earlier than September 29 and a closing date no later than January 31, with no reduction (offset) in season length or bag limit. We will announce a final regulatory alternative for the Lower Region of the Mississippi Flyway following the public comment period.

Public Comment Invited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. We intend that adopted final rules be as responsive as possible to all concerned interests and, therefore, seek the comments and suggestions of the public, other concerned governmental agencies, non-governmental organizations, and other private interests on these proposals. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations to the address indicated under the caption **ADDRESSES**.

Special circumstances involved in the establishment of these regulations limit the amount of time that we can allow for public comment. Specifically, the need to establish final rules at a point early enough to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

You may inspect comments received during normal business hours at the Service's office in room 634, 4401 North

Fairfax Drive, Arlington, Virginia. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

Prior to issuance of this rule, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that such action is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the proposed action is consistent with conservation programs for those species.

Executive Order (E.O.) 12866

While this individual rule was not reviewed by the Office of Management and Budget (OMB), the migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail, and a Small Entity Flexibility Analysis (Analysis) was issued by the Service in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $429 million and $1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request from the Division of Migratory Bird Management.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. The various record keeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned control number 1018–0015 (expires 09/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 et seq., that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform-Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards found in sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this supplemental proposed rule is not expected to significantly affect energy supplies, distribution, or use, this proposed action is not a significant energy action and no Statement of Energy Effects is required.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process follows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and record keeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2001–02 hunting season are authorized under 16 U.S.C.

703–711, 16 U.S.C. 712, and 16 U.S.C. 742a–j.

Dated: October 4, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–25526 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 66, No. 197

Thursday, October 11, 2001

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Electronic Submission of Export Sales Reporting Requirements

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Foreign Agriculture Service (FAS) is developing procedures to permit electronic submission of the currently approved information collection for commodities subject to the Export Sales Reporting Requirements Regulation (7 CFR part 20). Electronic submission of the information collection will be implemented first for fresh, chilled, and frozen muscle cuts of beef, and by marketing year 2003 extended to all commodities subject to 7 CFR part 20.

DATES: Comments on this notice should be received on or before November 13, 2001 to be assured of consideration.

ADDRESSES: Mail or deliver comments to Denise Huttenlocker, Director, Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1042, Washington, DC 20250–1042, or telephone at 202–720–4327, or e-mail at mosadmin@fas.usda.gov.

FOR FURTHER INFORMATION CONTACT: Denise Huttenlocker, at the address above, or telephone at (202) 720–4327, or e-mail at HuttenlockerD@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Export Sales of U.S. Agricultural Commodities.

OMB Number: 0551–0007.

Expiration Date of Approval: July 31, 2004.

Type of Request: Public comments on electronic submission of a currently approved information collection.

Abstract: Section 602 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5712) requires mandatory reporting of export sales contracts for specified U.S. produced agricultural commodities. The Department's Export Sales Reporting Program is administered by FAS in accordance with 7 CFR part 20. The Agricultural Trade Act of 1978 was amended by section 921 of Pub. L. 106–78 (the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000) to require weekly export sales reporting for beef. Section 913(b)(1) of Pub. L. 106–78 requires implementation of an electronic system for reporting this commodity. FAS published a final rule (66 FR 38526–38528) to amend 7 CFR part 20 to add fresh, chilled, and forzen muscle cuts of beef to the weekly reporting requirements. The final rule stated that prior to the establishment of an electronic reporting system, the Department would solicit public comments on the electronic forms developed for export sales reports for fresh, chilled, and frozen muscle cuts of beef. In addition, since FAS intends to provide exporters the opportunity to submit export sales reports electronically for all commodities subject to the Regulation, public comments are also being requested from exporters of these commodities. The system should be fully automated by marketing year 2003. All public comments received will be considered prior to implementation of an electronic reporting system.

Required Weekly Reporting

U.S. exporters are required to report to the FAS Export Sales Reporting staff certain information pertaining to export sales of a reportable commodity. Data reported is aggregated and released on a weekly basis reflecting the ''outstanding commitments'' of the specified commodities for export. New outstanding quantities are established each week by adding any new export sales activity to the previous week's outstanding balances and substracting the current week's shipments plus downward or upward contract adjustments. Although this is not official U.S. trade data, it is widely used as an early indicator of sales and export activity and is available the week following the week of reporting. The data is published in compilation form to protect business confidential information submitted.

Currently Approved Forms (Hard Copy) for all Commodities

(1) Weekly export sales and shipment activities are submitted by the reporting exporter using the form FAS–98 Rev. 9–98, ''Report of Export Sales and Exports''.

(2) For the limited sales, identified as optional origin sales, the reporting exporter uses the form FAS–97 Rev. 9–98, ''Report of Optional Origin Sales''.

(3) For activity involving commodities that have been shipped from the U.S., but are unsold or have not been allocated to an existing sales contract, the reporting exporter uses the form FAS–100 Rev. 9–98, ''Report of Exports for Exporter's Own Account''.

(4) Quarterly reports providing selected data on individual sales contracts are submitted using the form FAS–99 Rev. 9–98, ''Contract Terms Supporting Export Sales and Foreign Purchases''. The total outstanding contracts identified on the quarterly report are used as a check to ensure exporters have included all sales activity on their weekly ''FAS–98'' reports.

Proposed Electronic Forms for Reporting Export Sales of Certain Beef and all Other Reportable Commodities

The Department is requesting comments on electronic submission of export sales data. The electronic reporting system would be accessed via a secured Internet website using the reporting exporter's personal computer, office computer, or existing electronic recordkeeping system. Reporting exporters will be assigned a confidential firm number and unique password by the Export Sales Reporting staff which will be used to log into the electronic reporting website. FAS will utilize a program developed to collect and manage data received from exporters which will ensure security of data transmission and storage, and confidentiality of information that is maintained by FAS.

The electronic reporting system will consist of a menu with six selections. Three of the selections will be data entry forms to report sales data, and the other three selections will be reference forms to allow a reporting exporter to

review data that has been submitted previously.

Data Entry Forms: The following three forms for data entry will allow a reporting exporter to submit data for export sales for the current reporting period:

(1) FAS–97e ''Report of Optional Origin Sales''. This form requires submission of the same data as required by OMB approved (hard copy) form FAS–97 Rev. 9–98.

(2) FAS–98e ''Report of Export Sales and Exports''. This form requires submission of the same data as required by OMB approved (hard copy) form FAS–98 Rev. 9–98.

(3) FAS–100e ''Report of Exports for Exporter's Own Account''. This form requires submission of the same data as required by OMB approved (hard copy) form FAS–100 Rev. 9–98.

After all data is entered on these forms, the person entering the data will click on the box at the bottom of the form titled ''SUBMIT''. This will transmit the completed form to FAS. If a submission transmitted to FAS contains any mathematical errors, or incomplete entries, an ''ERROR'' message will appear on the computer screen identifying information that needs to be corrected or needs to be entered before resubmission.

Electronic entries may be submitted to FAS beginning on Thursday after 5:00 pm (EST) through Monday at midnight (EST) for the prior week's activity. Reports submitted are processed and compiled into the ''U.S. Export Sales'' Report by the FAS Export Sales Reporting staff between Tuesday and publication on Thursday. Any changes to published data must be reported to FAS for corrective action.

Reference Forms The following three forms will be posted to the Internet for reference only. They will permit an exporter to review information and data that has been submitted electronically for a specific reporting period. No changes may be made on these forms.

(4) List of FAS–97e–Report of Optional Origin Sales Records submitted.

(5) List of FAS 98e–Report of Export Sales and Exports submitted.

(6) List of FAS–100e–Report of Exports for Exporter's Own Account Records submitted.

Alternative Proposed Electronic Method for Reporting Export Sales of Certain Beef

Certain exporters who are required to report information regarding the marketing of beef to the Agricultural marketing Service (AMS) pursuant to 7 CFR part 59 (Livestock Mandatory Reporting) will also be responsible for reporting weekly export sales to FAS for fresh, chilled, and frozen muscle cuts of beef. AMS has provided a mechanism for receiving data through submission of ASCII comma delimited files by reporting entities.

In view of this reporting option provided by AMS, exporters of certain beef reporting to FAS will have an option to e-mail a pre-defined text file containing export sales data directly to FAS. This file will contain the same data as required by OMB approved (hard copy) form FAS–98 Rev. 9–98. FAS is specifically requesting comments on the feasibility of this option and its potential use by exporters, particularly those reporting to two USDA agencies.

Copies of this information collection can be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

The public is invited to submit comments to the above address regarding the use of electronic submission of export sales reports for fresh, chilled, and frozen muscle cuts of beef, all other reportable commodities, or any other aspect of this collection of information. Comments are specifically invited on: ways to minimize the burden of collection on those required to respond; whether the proposed electronic submission program is sufficient for the proper performance of the required functions of FAS; and ways to enhance the quality, utility, and clarity of proposed electronic mechanisms. Comments are most useful if received within 30 days of publication of the Notice and Request for Comments, to be assured of consideration. All comments will also become a matter of public record. Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

Signed at Washington, DC, on October 3, 2001.

Mary Chambliss,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 01–25534 Filed 10–10–01; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 4, 2001.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: 2002 Census of Agriculture.

OMB Control Number: 0535–0226.

Summary of Collection: The National Agricultural Statistics Service (NASS) is responsible for conducting the Census of Agriculture under the authority of the Census of Agriculture Act of 1997, Public Law 105–113. The Census of Agriculture is required by law every five years and is the primary source of statistics concerning the nation's agricultural industry. It provides the only basis of consistent, comparable data for each county, county equivalent, and state in the United States and its outlying insular areas.

Need and Use of the Information: The information collected will serve as the basis for many agriculturally-based decisions. The data collection for the censuses of agriculture will be conducted primarily by mail-out/mail-back procedures and direct enumeration

methods for Guam, the U.S. Virgin Islands and Commonwealth of the Northern Mariana Islands. Collecting this information less frequently would hinder Federal, State, and local governments' ability to monitor the farm programs and environmental regulations affecting the agricultural economy.

Description of Respondents: Farms; Individuals or households.

Number of Respondents: 3,312,500.

Frequency of Responses: Reporting: Other (Every 5 years).

Total Burden Hours: 1,286,791.

Farm Service Agency

Title: Tobacco Marketing Quotas and Price Support (7 CFR parts 711, 723, and 1464).

OMB Control Number: 0560–0058.

Summary of Collection: The Tobacco Marketing Quota Programs are regulated by the United States Department of Agriculture. Tobacco Marketing Quota Regulations govern the establishment of (1) farm acreage allotments and marketing quotas, (2) the issuance of marketing cards, the identification of marketing of tobacco, and (3) the collection of penalties, eligibility for price support and requirements on tobacco dealers, warehouse operators, and manufacturers of cigarettes. The Farm Service Agency (FSA) tries to make sure that producers will receive fair prices for their tobacco. This is done by administering the tobacco program through the use of marketing quotas, which balance supply and demand for tobacco with price support. The Agricultural Adjustment Act of 1938, and the Agricultural Act of 1949, provides the statutory authority for this information collection. FSA will collect information using several forms.

Need and Use of the Information: FSA will collect tobacco reports and financial records from producers, owners of tobacco allotments and quotas and warehouse operators. The information is used by the tobacco industry to accomplish its goal and objectives. If the information is not collected, it could result in an ineffective marketing quota program and the production and marketing of large amounts of excess tobacco.

Description of Respondents: Farm; Business or other-for-profit; Individuals or households; Federal Government.

Number of Respondents: 361,000.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly.

Total Burden Hours: 1,534,091.

Farm Service Agency

Title: Sugar Program.

OMB Control Number: 0560–0138.

Summary of Collection: The Federal Agricultural Improvement and Reform Act of 1996 (1996 Act) requires cane sugar refiners, sugar beet processors, and sugarcane processors to furnish the Secretary of Agriculture with information required for the effective administration of the program. The Sugar Program provides for USDA to make loans to processors of domestically grown sugarcane at 18 cents per pound and to processors of domestically grown sugar beets at 22.9 cent per pound for refined sugar. The Farm Service Agency (FSA) will collect information using several forms.

Need and Use of the Information: FSA will collect information to effectively administer the Sugar Program authorized and mandated by Section 156 of the 1996 Act. FSA will use the information to prepare monthly reports and to also determine the adequacy of the amount of sugar, syrups, and molasses to be imported. If the collection of information was not conducted, the Secretary could not accurately make the necessary determinations and estimates required by the various statutes.

Description of Respondents: Business or other-for-profit; Farm.

Number of Respondents: 49.

Frequency of Responses: Reporting: Monthly; Annually.

Total Burden Hours: 18,429.

Farm Service Agency

Title: Total Quality Systems Audit.

OMB Control Number: 0560–NEW.

Summary of Collection: The Total Quality System Audit (TQSA) is a fee for service program open to food processors and other food related manufacturers. To be compliant with TQSA standards the company must conform to 21 CFR parts 110, Current Good Manufacturing Practices, and Federal Acquisition Regulation subparts 9.1, Responsible Prospective Contractors, and 46.4, Government Contract Quality Assurance. A TQSA team has been organized in the Farm Service Agency (FSA) from personnel in Commodity Operations and the Kansas City Commodity Office. The TQSA team coordinates the audit with the company's management. The team makes detailed assessments of the company's production facilities, equipment, and procedures.

Need and Use of the Information: FSA will collect information using forms KD–1TQ, Total Quality Systems Audit-Audit Summary, and KC–3TQ, Total Quality Systems Audit-Corrective Action Request (CAR). FSA will collect records pertaining to organization, production, work procedures, quality testing, shipping, sub-supplier, certifications, proof of U.S. origin, and all USDA contract documents. The information will be used to determine the eligibility for and awarding of contracts.

Description of Respondents: Business or other-for-profit; Not-for-profit institutions; State, local, and tribal government.

Number of Respondents: 250.

Frequency of Responses: Recordkeeping; Reporting: Quarterly; Semi-annually; Annually; Other (bi-monthly).

Total Burden Hours: 250.

Rural Development

Title: Rural Empowerment Zones and Enterprise Communities (Application Process).

OMB Control Number: 0570–0026.

Summary of Collection: The Community Renewal Tax Relieve Act of 2000 (Pub. L. 106–554) authorized the Secretary of Department of Agriculture (USDA) to designate two more rural empowerment zones (Round III). The Empowerment Zone Program represents a holistic approach to the problems of distressed rural and urban communities. It emphasizes a bottom-up community based strategy rather than the traditional top-down approach. The strategy addresses an economic, human, community, physical development problems and opportunities in a comprehensive fashion. This program is intended to combine resources of the Federal Government with state and local governments, educational institutions and the private and non-profit sectors to implement community-developed strategic plans for community and economic development.

Need and Use of the Information: RD will collect information on poverty by census tract, unemployment and economic/social distress, overall population by tract, and geographic data as to size and configuration from applicants as a means of evaluating and selecting potential empowerment zones and enterprise communities. This information is used as part of the review and designation process for selecting the empowerment zone and enterprise communities designees and is a one-time process.

Description of Respondents: State, local, or tribal government.

Number of Respondents: 60.

Frequency of Responses: Reporting: Other (One time).

Total Burden Hours: 3,000.

Rural Development

Title: Rural Empowerment Zones and Enterprise Communities (Ongoing Reporting Requirements).

OMB Control Number: 0570–0027.

Summary of Collection: The Community Renewal Tax Relieve Act of 2000 (Pub. L. 106–554) authorized the Secretary of Department of Agriculture (USDA) to designate two more rural empowerment zones (Round III). The requirements imposed by the implementing regulations for the empowerment zone program: application data, ongoing reporting data and grant program data. The Empowerment Zone Program represents a holistic approach to the problems of distressed rural and urban communities. It emphasizes a bottom-up community based strategy rather than the traditional top-down approach. The strategy addresses an economic, human, community, physical development problems and opportunities in a comprehensive fashion. This program is intended to combine resources of the Federal Government with State and local governments, educational institutions and the private and non-profit sectors to implement community-developed strategic plans for community and economic development.

Need and Use of the Information: Once selected, the designees' progress is monitored through periodic reviews of the data collected. The data for periodic reports consist of a short narrative of progress by the designee and individual progress reports on each project that they have specified in their implementation plans. These periodic reviews provide the basis for USDA to continue or revoke a designation during the life of the federal program.

Description of Respondents: State, local, or tribal government.

Number of Respondents: 59.

Frequency of Responses: Reporting: Semi-annually; Annually; Other (Requests for grant advances).

Total Burden Hours: 1,382.

Rural Utilities Service

Title: 7 CFR 1777, Section 306C Water & Waste Disposal (WWD) Loans & Grants.

OMB Control Number: 0572–0109.

Summary of Collection: Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) authorizes the Rural Utilities Service to make loans and grants to low income rural communities whose residents face significant health risks. These communities do not have access to or are not served by adequate affordable water supply systems or waste disposal facilities. Loans and grants will be available to provide water and waste disposal facilities and services to these communities.

Need and Use of the Information: Eligible applicants submit an application package and other information to Rural Development field offices to develop or improve community water and waste disposal systems. In one percent of the cases an applicant will use the funds to enable individuals to connect to the applicant's system or improve residences to use the water or waste disposal system. In this situation, an applicant will make loans and grants to individuals and the applicant will submit an implementation plan, memorandum of agreement and use of funds report.

Description of Respondents: Not-for-profit institutions; Individuals or households.

Number of Respondents: 1.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 9.

Rural Housing Service

Title: 7 CFR 1930–C, Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients.

OMB Control Number: 0575–0033.

Summary of Collection: The Rural House Service (RHS) is authorized under sections 514–516 and 521 of title V of the Housing Act of 1949, as amended to provide loans and grants to eligible recipients for the development of rural rental housing. Such multiple family housing projects are intended to meet the housing needs of persons or families having very low to moderate incomes, senior citizens, the handicapped or disabled, and domestic farm laborers. RHS has the responsibility of assuring the public that the housing project financed are managed and operated as mandated by Congress and are operated as economically as possible.

Need and Use of the Information: RHS will collect financial information to identify distressed properties, portfolio management trends, and potential problems before they become loan delinquencies, unpaid operation expenses, or high vacancy rates.

In addition, the information provided is intended to verify whether or not the borrower is complying with the terms and conditions of loan, grant, and/or subsidy agreements. This information is used by RHS to monitor the management of the projects and to conduct compliance reviews. Failure by RHS to monitor progress of borrowers could lead to noncompliance with statutory intent in some instances and financial default in others.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, local, or tribal government; Farms; Individuals or households.

Number of Respondents: 538,200.

Frequency of Responses: Recordkeeping; Reporting: Monthly; Quarterly; Annually; On occasion.

Total Burden Hours: 2,143,740.

Rural Housing Service

Title: 7 CFR 1944–L, Tenant Grievance and Appeals Procedure.

OMB Control Number: 0575–0046.

Summary of Collection: The Rural Housing Service (RHS) is authorized, under sections 514, 515, and 521 of the Housing Act of 1949, to provide loans and grants to eligible recipients of the development of rural rental/cooperative and labor housing. Such multiple family housing projects are intended to meet the housing needs of persons or families who have moderate, low- and very-low incomes, senior citizens, the handicapped and domestic farm laborers. RHS is responsible for assuring the public that the housing projects financed are managed and operated as mandated by Congress. For this reason, the Agency implemented a grievance and appeals procedure on October 27, 1980, for tenants, members and applicants for occupancy in multiple family housing financed by RHS. The procedure requires certain information to be collected whenever a tenant wishes to appeal adverse actions by owners/managers of multi-family housing project financed by RHS.

Need and Use of the Information: The information collected is used to notify tenants of the reasons for the adverse actions and to ascertain the viewpoint of the tenant. The information is used in the course of trying to resolve the grievance. The consequence of not collecting the information is that tenants, members or applicants would not be able to exercise their rights provided by the Tenant Grievance Appeals procedure.

Description of Respondents: Business or for-profit.

Number of Respondents: 200.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 82.

Rural Housing Service

Title: 7 CFR 1806–A. ''Real Property Insurance''.

OMB Control Number: 0575–0087.

Summary of Collection: The Rural Housing Service (RHS) Multi-Family Housing (MFH) program is administered under the provisions of the Housing Act of 1949 and Sections 303(c), and 321(b) of the consolidated Farm and Rural Development Act (CONACT). The Farm Service Agency (FSA) and MFH of the

RHS currently share this regulation. The regulation governs the servicing of property insurance on buildings and land securing the interest of RHS or FSA in connection with an FSA Farm Loan Program or RHS MFH loan. The information collected pertains to the verification of insurance on property securing Agency loans. The information required is submitted by FSA or FHS borrowers to agency offices. It is necessary to protect the government from losses due to weather, natural disasters, or fire and ensure that loan applicants meet the Act's loan making requirements of hazard insurance.

Need and Use of the Information: RHS MFH collects information from borrowers documenting that they have sufficient insurance on their property that would repair or replace the valuable structures on the property should it be damaged. This protects the Government from losses due to weather, natural disasters or fire.

Description of Respondents: Individuals or households; Farms; Business or for-profit.

Number of Respondents: 5,365.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4,895.

Rural Housing Service

Title: RD 1951–65, ''Customer Initiated Payments (CIP)'' and RD 1951–66, ''FedWire Worksheet''.

OMB Control Number: 0575–NEW.

Summary of Collection: Currently, Rural Development has expanded its use of electronic methods for receiving and processing loan payments and collections. These electronic collection methods include Preauthorized Debits (PAD), Customer Initiated Payments (CIP), and FedWire and provide the borrower the ability to submit their loan payments the day prior to, or the day of their installment due date. To administer these electronic payment methods, Rural Development (RD) must collect the borrower's financial institution routing information.

Need and Use of the Information: Rural Development (RD) will request that borrowers make payments electronically via PAD, CIP, or FedWire. RD will use approved agency forms for collecting financial institution routing information. If the information were not collected, RD would be unable to collect load payments electronically.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; State, local, or tribal government.

Number of Respondents: 600.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 300.

Agricultural Marketing Service

Title: Customer Service Survey for USDA—Donated Food Products.

OMB Control Number: 0581–0182.

Summary of Collection: Each year the Agricultural Marketing Service (AMS) procures about $700 million dollars of poultry, livestock, fruit, and vegetable products for the school lunch and other domestic feeding programs under authority of 7 CFR 250, Regulations for the Donation of Food for Use in the United States, its Territories and possessions and areas under its jurisdiction. To maintain and improve the quality of these products, AMS has sought to make this process more customer-driven and therefore is seeking opinions from the users of these products. AMS will use AMS–11, ''Customer Opinion Postcard'', to collect information. Customers that use USDA-procured commodities to prepare and serve meals retrieve these cards from the boxes and use them to rate their perception of product flavor, texture, and appearance as well as overall satisfaction.

Need and Use of the Information: AMS will collect information on the product type, production lot, and identify the location and type of facility in which the product was served. USDA program managers will use survey responses to maintain and improve product quality through the revision of USDA commodity specifications and follow-up action with producers of designated production lots.

Description of Respondents: State, Local, or Tribal Government; Not-for-profit institutions.

Number of Respondents: 8,400.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 700.

Food and Nutrition Service

Title: Annual Report of State Revenue Matching.

OMB Control Number: 0584–0075.

Summary of Collection: The National School Lunch Program is mandated by the National School Lunch Act, 42 U.S.C. 1751 and the Child Nutrition Act of 1966, 42 U.S.C. 1771. The Food and Nutrition Service (FNS) administer the National School Lunch Program. Under the program, States are required to match 30 percent (or a lesser percent based on per capital income) of the Federal funds made available for the School Lunch Program. Annually, the State agencies are required to report to FNS the total funds used in order to receive Federal reimbursement for meals served to eligible participants.

Need and Use of the Information: The information collected allows FNS to monitor State compliance with the revenue matching requirement. Without the information, States may receive Federal funds, which are not warranted. Monitoring the matching of State funds is essential to preventing fraud, waste, and abuse in the National School Lunch Program.

Description of Respondents: State, local, or tribal government.

Number of Respondents: 54.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 4,320.

Food and Nutrition Service

Title: Issuance Reconciliation Report: FNS–46.

OMB Control Number: 0584–0080.

Summary of Collection: The Food Stamp Act of 1977 (the Act) at Section 7(d) requires State agencies to report on Food Stamp Program issuance not less than monthly. The Food and Nutrition Service (FNS), on behalf of the Secretary of Agriculture, administers the Food Stamp Program through State agencies. These State agencies are accountable for issuance and control of food stamp coupons. Accordingly, States are liable to USDA for any financial losses involved in the acceptance, storage, and issuance of food stamp coupons. Information is required from State agencies on wrongfully issued benefits including undocumented issuances, and returned benefits, stolen and transacted accountable issuance documents, replacement benefits, and obligations from the exchange of food stamp coupons for any reason.

Need and Use of the Information: FNS provides the FNS–46 form, Issuance Reconciliation Report, for State agencies to use in reporting reconciliation results from analysis of the benefit issuances for all issuance with the record-for-issuance file. FNS uses this information to assess liability and to determine billing amounts.

Description of Respondents: State, local, or tribal government.

Number of Respondents: 234.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 22,416.

Forest Service

Title: Health Screen Questionnaire.

OMB Control Number: 0596–NEW.

Summary of Collection: The Protection Act of 1922 (16 U.S.C. 594) authorizes the Forest Service to fight fires on National Forest System lands. Individuals must complete the Health Screening Questionnaire (HSQ) when seeking employment as a new firefighter with the Forest Service or recertification as a Forest Service firefighter. Potential

applicants are to complete forms FS–5100–30 and FS–5100–31, which are necessary to obtain their health screening information.

Need and Use of the Information: FS will collect information to determine whether an individual being considered for a position in Wildland Firefighting can carry out those duties in a manner that will not place the candidate unduly at risk due to inadequate physical fitness and health. If the information is not collected, the Government's liability risk is high, special needs of one individual may not be known, or the screening of an applicant's physical suitability would be greatly inhibited.

Description of Respondents: Individuals or households; Federal Government.

Number of Respondents: 15,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1250.

Economic Research Service

Title: Direct Certification and Its Impact on Errors in the National School Lunch Program.

OMB Control Number: 0536–NEW.

Summary of Collection: The National School Lunch (NSLP) provides federal financial assistance and commodities to schools serving lunches that meet required nutrition standards. Children living in families whose incomes are 130 percent or less of the poverty level qualify for free meals; those living in families whose incomes are between 130 and 185 percent of the poverty level qualify for reduced-price meals. All other children pay ''full price'' for meals, although full-price lunches are also federally subsidized. Direct certification was introduced in the early 1900s and has expanded since then. Under direct certification, information transferred directly between food stamps or welfare agencies and schools is used to ''directly certify'' for free meals students whose families are receiving cash welfare, food stamps, or assistance from USDA food distribution programs on Indian reservations, without requiring these students to complete applications. The Economic Research Service (ERS) is conducting a study to get information about the policy of direct certification in the NSLP, certification error rates and the impact of direct certification on rates of error, certification, and participation.

Need and Use of the Information: ERS will collect information to determine the extent to which direct certification is meeting the objectives of controlling administrative costs and facilitating program access for eligible children and whether direct certification has adversely influenced the objective of providing program benefits only to those children who qualify. ERS will get valuable information on the extent to which direct certification leads to increases in overall levels of certification for free or reduced-price meals and participation in the NSLP. Without the information, it would be difficult for USDA to assess whether future changes in the policy of direct certification is warranted.

Description of Respondents: Not-for-profit institutions; State, local, or tribal government.

Number of Respondents: 1350.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 2700.

Food and Nutrition Service

Title: Repayment Demand and Program Disqualification.

OMB Control Number: 0584–0492.

Summary of Collection: In conjuction with the Food Stamp Act of 1977, the Food and Nutrition Service (FNS) implements regulations that provide requirements for food stamp household application, certfication, and continued eligibility for food stamp benefits. Occasionally, FNS must initiate collection action for repayment of overissued benefits resulting from inadvertent household and State agency overissuances, and overissuances due to intentional program violations. Information is collected in these instances through the appropriate State agency to document the claim of overissuance and initiate repayment.

Need and Use of the Information: State agency personnel will collect the information from individuals collecting food stamp benefits. The State agencies must maintain all records associated with this collection for a period of three years so that FNS can review documentation during compliance reviews and other audits. Without approval of this information collection, FNS would not be able to correct accidental or fraudulent overpayment errors in the Food Stamp Program.

Description of Respondents: State, local, and tribal government; Individuals or households.

Number of Respondents: 676,053.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 162,560.

Animal and Plant Health Inspection Service

Title: 9 CFR 75 Communicable Diseases in Horses.

OMB Control Number: 0579–0127.

Summary of Collection: Sections 111, 114, 114a, 114–1, 115, 120, 125, 126, 134a, 134c, 134f, and 134g (title 21 U.S.C.) authorizes the Secretary to prevent, control and eliminate domestic diseases such as equine infectious anemia (EIA) and to manage exotic diseases such as contagious equine metritis and other foreign animal diseases. The Animal and Plant Health Inspection Service (APHIS) Veterinary Services is responsible for administering these and other regulations intended to ensure that horses affected with EIA are moved interstate in a way that does not endanger the health of the U.S. equine population.

Need and Use of the Information: The information collected from forms, APHIS VS 10–11, Equine Infectious Anemia Laboratory Test and 10–12, Equine Infectious Anemia Supplemental Investigation will be used to prevent the spread of equine infectious anemia. Without the information it would be impossible for APHIS to effectively regulate the interstate movement of horses infected with EIA.

Description of Respondents: Individuals or households; Farms; Business or other for-profit; State, local and tribal government.

Number of Respondents: 10,053.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 98,156.

Farm Service Agency

Title: 7 CFR 1910–A, Receiving and Processing Applications.

OMB Control Number: 0560–0178.

Summary of Collection: Section 302 (7 U.S.C. 1922) of the Consolidated Farm and Rural Development Act (CONACT) provides that ''the Secretary is authorized to make and insure loans under this title to farmers and ranchers * * *'' Section 339 (7 U.S.C. 1989) of the CONACT further provides ''the Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making and insuring loans, security instruments and agreements, except as otherwise specified herein, and make such delegations of authority as he deems necessary to carry out this title.'' The Farm Service Agency (FSA) has issued regulations through the Federal Register process to implement the making and servicing of direct loans in chapter 18 of the Code of Federal Regulations. These regulations establish the information collections necessary for FSA to make and service direct loans. These loans include Operating, Farm Ownership, Soil and Water, Softwood Timber Production, Emergency, Economic Emergency, Economic Opportunity, Recreation, and Rural Housing loans for Farm Service Buildings.

Need and use of the Information: FSA will collect information using loan applications to determine eligibility and financial feasibility from respondent's requests for loans. The information is required to insure that FSA provides assistance to applicants who have reasonable prospects of repaying the government and meet statutory eligibility requirements.

Description of Respondents: Farm; Individuals or households; Business or other-for-profit; Federal Government.

Number of Respondents: 34,970.

Frequency of Responses: Reporting: Other (eligibility).

Total Burden Hours: 119,412.

Sondra A. Blakey,

Departmental Information Clearance Officer.

[FR Doc. 01–25531 Filed 10–10–01; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Forestry Advisory Council Meeting

AGENCY: Cooperative State Research, Education, and Extension Service.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture (USDA) announces a meeting of the Forestry Research Advisory Council.

SUPPLEMENTARY INFORMATION: Section 1441(c) of the Agriculture and Food Act of 1981 requires the establishment of the Forestry Research Advisory Council (FRAC) to provide advice to the Secretary of Agriculture on accomplishing efficiently the purposes of the Act of October 10, 1962 (16 U.S.C. 582a, *et seq.*), known as the McIntire-Stennis Act of 1962. The Council also provides advice related to the Forest Service research program, authorized by the Forest and Rangeland Resources Research Act of 1978 (Pub. L. 95–307, 92 Stat. 353, as amended; 16 U.S.C. 1600 (note)). The Council is composed of 18 voting members from Federal and state agencies, forest industry, forestry schools and state agricultural experiment stations, and volunteer public groups.

The purposes of the meeting are (a) to hear reports from the Forest Service (USDA), the Cooperative State Research, Education and Extension Service (USDA), forest industries, and the National Association of Professional Forestry Schools and Colleges, and (b) to formulate advice on Federal and state forestry research for the Secretary of Agriculture.

Dates and Location: The Council will meet on December 10, 2001, from 8:30 a.m. to 4 p.m., and on December 11, 2001, from 8:30 a.m. to 12 noon in the Plant and Animal Systems conference room (room 3455) of the Waterfront Centre located at 800 9th Street, SW., Washington, DC 20024. A complete agenda will be available prior to the meeting. To request a copy of the agenda call Dr. Catalino A. Blanche, FRAC Coordinator, at (202) 401–4190, or fax your request at (202) 401–1706, or e-mail cblanche@reeusda.gov.

Comments: The public may file written comments before or after the meeting to the FRAC Coordinator. All statements will become a part of the official records of the Forestry Research Advisory Council and will be kept on file for public review in the FRAC Coordinator's office, Room 3413, Waterfront Centre, 800 9th Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Catalino A. Blanche, FRAC Coordinator, Stop 2210, 1400 Independence Avenue, SW., Washington, DC 20250; phone (202) 401–4190; fax (202) 401–1706.

Done at Washington, DC this 27th day of September, 2001.

Joseph J. Jen,

Under Secretary, Research, Education, and Ecomomics.

[FR Doc. 01–25530 Filed 10–10–01; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet in Fireside Room 9, of the Hatfield Marine Sciences Center, on Marine Sciences Drive, Newport, Oregon, on October 25, 2001. The meeting will begin at 9 a.m. Agenda items will include: the Florence Riparian Restoration/Fish Enhancement Project; BLM Riparian/Fisheries Projects; Collaborative Forest Planning—The LSR267 Restoration Project Interim Program; 2001 Implementation Monitoring; County Payments Update; and Round Robin Information Sharing. A fifteen-minute public comment period is scheduled at 1 p.m. The committee welcomes the publics' written comments on committee business at any time. The meeting should end around 2:30 p.m. Interested citizens are encouraged to attend.

Lunch will be catered by Angell Job Corps. The menu includes salmon, vegetable lasagna, salad, bread, dessert, and coffee, tea, or juice. The cost is $7 per person. Please contact Dale Edwards, at 541/750–7010 or e-mail him at *daedwards@fs.fed.us* if you would like the lunch.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541/750–7075 or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

Dated: October 1, 2001.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 01–25543 Filed 10–10–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: Foreign-Trade Zone (FTZ) Application.

Agency Form Number: N/A.

OMB Number: 0625–0139.

Type of Request: Regular Submission.

Estimated Burden: 9,314 hours.

Estimated Number of Applicants: 100.

Est. Avg. Hours Per Application: 20–120 hours (depending on the type of application).

Needs and Uses: The Foreign Trade Zones Application is the vehicle by which individual firms or organizations apply for foreign-trade zone (FTZ) status, for subzone status, or for expansion of an existing zone. The FTZ Act and Regulations require that an application with a description of the proposed project be made to the FTZ Board (19 U.S.C. 81b and 81f; 15 CFR 400.24–26) before a license can be issued or a zone can be expanded. The Act and Regulations require that applications contain detailed information on facilities, financing, operational plans, proposed manufacturing operations, need, and economic impact. Manufacturing activity in zones, which is primarily conducted in subzones, can involve issues related to domestic industry and

trade policy impact. Such applications must include specific information on the Customs-tariff related savings that result from zone procedures and the economic consequences of permitting such savings. The FTZ Board needs complete and accurate information on the proposed operation and its economic effects because the Act and Regulations authorize the Board to restrict or prohibit operations that are detrimental to the public interest.

Affected Public: State, local, or tribal governments or not-for-profit institutions applying for foreign trade zone status, for subzone status, or for modification of existing status.

Frequency: On occasion.

Applicant's Obligation: Required to obtain a license, voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution, NW., Washington, DC 20230 or via internet at *MClayton@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: October 4, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–25454 Filed 10–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: Annual Report from Foreign-Trade Zones.

Agency Form Number: ITA–359P.

OMB Number: 0625–0109.

Type of Request: Regular Submission.

Estimated Burden: 13,352 hours.

Estimated Number of Respondents: 150.

Est. Avg. Hours Per Response: 38 to 211 hours (depending on the size and structure of the foreign-trade zone).

Needs and Uses: The Foreign-Trade Zone Annual Report is the vehicle by which Foreign Trade Zone (FTZ) grantees report annually to the Foreign Trade Zones Board, pursuant to the requirements of the Foreign Trade Zones Act (19 U.S.C. 81a–81u). The annual reports submitted by grantees are the only complete source of compiled information on FTZ's. The data and information contained in the reports relates to international trade activity in FTZ's. The reports are used by the Congress and the Department to determine the economic effect of the FTZ program. The reports are also used by the FTZ Board and other trade policy officials to determine whether zone activity is consistent with U.S. international trade policy, and whether it is in the public interest. The public uses the information regarding activities carried on in FTZ's to evaluate their effect on industry sectors. The information contained in annual reports also helps zone grantees in their marketing efforts.

Affected Public: State, local, or tribal governments or not-for-profit institutions which are FTZ grantees.

Frequency: Annual.

Respondent's Obligation: Required to maintain license, mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution, NW., Washington, DC 20230 or via internet at *MClayton@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503 within 30 days of the publication of this notice in the **Federal Register**.

Dated: October 4, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–25455 Filed 10–10–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092501D]

Fisheries of the Northeastern United States; Atlantic Surf Clam and Ocean Quahog Fisheries; 2002 Cage Tags

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

ACTION: Notice of vendor to provide fishing year 2002 cage tags.

SUMMARY: NMFS informs surf clam and ocean quahog allocation owners that they will be required to purchase their fishing year 2002 cage tags from a vendor. The intent is to comply with regulations for the surf clam and ocean quahog fisheries and to promote efficient distribution of cage tags.

ADDRESSES: Written inquiries may be sent to Walt Gardiner, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–3799.

FOR FURTHER INFORMATION CONTACT: Walt Gardiner, Fishery Management Specialist, (978) 281–9326.

SUPPLEMENTARY INFORMATION: The Federal Atlantic Surfclam and Ocean Quahog Fisheries regulations at 50 CFR 648.75(b) authorize the Administrator, Northeast Region, NMFS, to specify in the **Federal Register** a vendor from whom cage tags, required under the Atlantic Surf Clam and Ocean Quahog Fishery Management Plan, shall be purchased. Notice is hereby given that National Band and Tag Company of Newport, KY, is the authorized vendor of cage tags required for the fishing year 2002 Federal surf clam and ocean quahog fisheries. Detailed instructions for purchasing these cage tags will be provided in a letter to allocation owners in these fisheries within the next several weeks.

Dated: October 5, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–25555 Filed 10–10–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100401A]

Marine Mammals; File No. 981-1578-01

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

ACTION: Receipt of application for amendment to a permit.

SUMMARY: Notice is hereby given that Peter L. Tyack, Ph.D., Woods Hole Oceanographic Institution, Biology Department, 46 Water Street, Woods Hole, MA 02543, has requested an amendment to scientific research Permit No. 981–1578–01.

DATES: Written or telefaxed comments must be received on or before November 13, 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;

Protected Species Coordinator, Pacific Islands Area Office, NMFS, 1601 Kapiolani Blvd., Rm, 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

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: Tammy Adams or Gene Nitta, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 981–1578, issued on August 31, 2000 (65 FR 57319) 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.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 981–1578–01 authorizes the permit holder to: tag cetaceans in the Mediterranean and Ligurian Seas, as well as in the Gulf of Mexico and off the coasts of the Azores in the North Atlantic, with an advanced digital sound recording tag that can record the acoustic stimuli an animal hears, and measure vocal, behavioral, and physiological responses to sound played back at maximum received levels of 120–160 dB re 1μPa. The permit holder requests authorization to: expand the research area to include the entire North Atlantic Ocean and add tagging of humpback whales (*Megaptera novaeangliae*) in the vicinity of the Hawaiian Islands.

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.

Dated: October 4, 2001.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–25556 Filed 10–10–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Romania

October 5, 2001.

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

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

EFFECTIVE DATE: October 11, 2001.

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

SUPPLEMENTARY INFORMATION:

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

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

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 77594, published on December 12, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 2001.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on October 11, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
435	16,245 dozen.
442	17,665 dozen.

Category	Adjusted twelve-month limit [1]
443	63,294 numbers.

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

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

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–25553 Filed 10–10–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

October 5, 2001.

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

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

EFFECTIVE DATE: October 11, 2001.

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

SUPPLEMENTARY INFORMATION:

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

The current limit for Category 443 is being increased for carryover and swing, reducing the limit for Category 410 to account for the swing being applied to Category 443.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66728, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

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

Effective on October 11, 2001, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
410	408,808 square meters.
443	119,923 numbers.

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

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

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–25554 Filed 10–10–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 01–28; Plasma Physics Junior Faculty Development Program

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy hereby announces its interest in receiving grant applications for support under its Plasma Physics Junior Faculty Development Program. Applications should be from tenure-track faculty investigators who are currently involved in experimental or theoretical plasma physics research and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of the individual research programs of exceptionally talented scientists and engineers early in their careers.

DATES: To permit timely consideration for awards in FY 2002, formal applications in response to this notice should be received on or before February 12, 2002.

ADDRESSES: Completed formal applications referencing Program Notice 01–28 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 01–28. The above address must also be used when submitting applications by U.S. Postal Service Express, any other commercial mail delivery service or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald McKnight, U.S. Department of Energy, Office of Fusion Energy Sciences, Science Division, SC–55 (GTN), 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–4597. E-mail: ronald.mcknight@science.doe.gov.

SUPPLEMENTARY INFORMATION: The Plasma Physics Junior Faculty Development Program was started in FY 1997. A principal goal of this program is to identify exceptionally talented plasma faculty members early in their careers and assist and facilitate the development of their research programs. Eligibility for awards under this notice is, therefore, restricted to tenure-track regular academic faculty investigators who are conducting experimental or theoretical plasma physics research. Applications from Junior Faculty involved in any areas of plasma physics research, not only magnetic fusion, are welcomed and encouraged. Emphasis is to be placed on basic plasma science research. For applications to be considered for funding, certification of the status of the applicant as a tenure-track regular academic faculty member by the head of the applicant's Academic department or other university/college certifying official will be required before the grant is awarded. Awards made under this program will help to maintain the vitality of university plasma physics research and assure continued excellence in the teaching of plasma physics and related disciplines.

It is anticipated that annual funding levels up to $150,000 per award may be made available for grants under this notice during FY 2002, contingent upon the availability of appropriated funds.

Funding for equipment above this level will be considered on a case-by-case basis. The number of awards during FY 2002, will depend on the number of meritorious applications and the availability of appropriated funds. Multiple year funding of grant awards is expected, with funding provided on an annual basis subject to availability of funds. The usual duration of these grants is three years and they will not normally be renewed after the project period is completed. It is anticipated that at the end of the grant period, grantees will submit new grant applications to continue their research to the Department of Energy or other Federal funding agencies. For the Office of Science, these applications should follow the usual application process. Applications will be subjected to scientific merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR part 605:

1. Scientific and/or technical merit of the project;

2. Appropriateness of the proposed method or approach;

3. Competency of applicant's personnel and adequacy of proposed resources; and

4. Reasonableness and appropriateness of the proposed budget.

An additional review criteria will address educational aspects of the proposed work including the involvement of graduate and undergraduate students. These aspects should be discussed in the application.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605 which is available on the World Wide Web at: *http://www.science.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC on October 4, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–25482 Filed 10–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, October 29, 2001; 9 a.m. to 6 p.m. and Tuesday, October 30, 2001; 8:30 a.m. to 4 p.m.

ADDRESSES: National Science Foundation, Stafford Bldg. I, 4201 Wilson Blvd., Arlington, VA. (When arriving at Stafford Bldg. 1, Check In with Information Desk, please show a picture ID, then proceed to Stafford Bldg. II, Room 555—Stafford Bldg. II is right next door to Stafford Bldg. I) (Also, please check out the NSF website for travel information to this meeting—the address is *http://www.nsf.gov/home/visit/start.htm*).

FOR FURTHER INFORMATION CONTACT: Glen Crawford, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; 19901 Germantown Road; Germantown, Maryland 20874–1290; Telephone: 301–903–9458.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Monday, October 29, 2001, and Tuesday, October 30, 2001.

- Discussion of Department of Energy High Energy Physics Programs
- Discussion of National Science Foundation Elementary Particle Physics Program
- Discussion of the DOE/NSF High Energy Physics Advisory Panel, Subpanel on Long Range Planning for U.S. High Energy Physics
- Discussion of High Energy Physics University Programs
- Reports on and Discussion of U.S. Large Hadron Collider Activities
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Glen Crawford, 301–903–9458 or Glen.Crawford@science.doe.gov (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on October 5, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–25485 Filed 10–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; Coal Policy Committee of the National Coal Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Coal Policy Committee of the National Coal Council. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, November 7, 2001, 2–4 pm.

ADDRESSES: The Hotel Washington, 515 15th Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Coal Policy Committee of the National Coal Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues. The purpose of this meeting is to review the Council's draft report on increasing electricity availability from coal-fired power plants.

Tentative Agenda

- Call to order by Mr. Malcolm Thomas, Chairman, Coal Policy Committee.
- Action on request by Secretary of Energy, Spencer Abraham, for next study by Council.
- Discussion of other business properly brought before the Coal Policy Committee.
- Public comment—10 minute rule.
- Adjournment.

Public Participation: The meeting is open to the public. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Margie D. Biggerstaff at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

Transcripts: The transcript will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 5, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–25484 Filed 10–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Coal Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Coal Council. Federal Advisory Committee Act (Pub. L. 92–463,86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, November 8, 2001, 9 a.m. to 12 noon.

ADDRESSES: The Hotel Washington, 515 15th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the National Coal Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

- Call to order by Mr. Steven F. Leer, Chairman.
- Remarks by Secretary of Energy, Spencer Abraham (invited).
- Council Business.
- Presentation by John Walke, Natural Resources Defense Council, on air quality issues.
- Presentation by Bill Narnett, Environmental Protection Agency, on EPA multi-pollutant strategy.
- Presentation by Dennis Miller, Global Plasma Systems Group, on emissions control technologies.
- Discussion of other business properly brought before the Committee.
- Public comment—10 minute rule.
- Adjournment.

Public Participation: The meeting is open to the public. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Margie D. Biggerstaff at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

Transcripts: The transcript will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 5, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–25486 Filed 10–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration; National Nuclear Security Administration Advisory Committee

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a meeting of the National Nuclear Security Administration Advisory Committee (NNSA AC). The Federal Advisory Committee Act, 5 U.S.C. App. 2 § 10(a)(2) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Friday, October 19, 2001, 12:30 to 19:00, and Saturday, October 20, 08:30 to 15:00.

Location: The meeting will be held in the metropolitan Washington area. The exact meeting site is yet to be determined.

FOR FURTHER INFORMATION CONTACT: Jennifer Leonard (202–586–5555), Acting Staff Director of NNSA AC.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* To provide the Administrator for Nuclear Security with advice and recommendations on matters of technology, policy, and operations that lie within the mission and responsibilities of the National Nuclear Security Administration. Additional information about the Committee, including its charter, members, and current charge, is available at: *http://www.nnsa.doe.gov.*

Purpose of the Meeting: To discuss national security research, development, and policy programs, as the issues pertain to the Committee's charge. In addition, the Committee will discuss how the September 11, 2001, attacks impact the NNSA mission, the Committee's focus, and path forward on the charge. NNSA acknowledges and apologizes for late posting of the meeting notice, due to uncertainties stemming from these recent events.

Tentative Meeting Agenda

Friday, October 19, 2001

12:30 Chairman Opens Meeting
12:30–14:30 Defense Programs Subcommittee Brief and Discussion
15:00–17:30 Nonproliferation Subcommittee Brief and Discussion
17:30–19:00 Executive Committee Discussion

Saturday, October 20, 2001

08:30–11:30 Debrief Administrator on Discussions, Next Steps
11:30–12:30 Lunch break

12:30–03:00 Wrap up

Closed Portions of Meeting: In the interest of national security, the meeting will be closed to the public. The Federal Advisory Committee Act, 5 U.S.C. App 2 § 10 (d), and the Federal Advisory Committee Management Regulation, 41 CFR 102–3.155, incorporate by reference the Government in the Sunshine Act, 5 U.S.C. 552b, which, at 552b (c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters will be discussed. Such data and matters will be discussed in each session.

Minutes: Minutes of the meeting will be recorded and classified accordingly.

Issued at Washington, DC, on October 5, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–25596 Filed 10–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 01–43–LNG, 96–75–NG, 01–48–NG, 01–46–NG, 01–51–NG]

Office of Fossil Energy; El Paso Global Gas (Cayman) Company, Amerada Hess Corporation, Energetix, Inc., E Prime Inc., NUI Energy Brokers, Inc.; Orders Granting and Amending Authority to Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during September 2001, it issued Orders granting and amending authority to import and export natural gas, including liquefied natural gas. These Orders are summarized in the attached appendix and may be found on the FE web site at http://www.fe.doe.gov (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 4, 2001.

Thomas W. Dukes,

Acting Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix

ORDERS GRANTING AND AMENDING IMPORT/EXPORT AUTHORIZATIONS

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE Docket No.	Import volume	Export volume	Comments
1706	9–12–01	El Paso Global Gas (Cayman) Company 01–43–LNG	200 Bcf		Import LNG from various sources over a two-year term beginning on the date of first delivery.
1216-A	9–14–01	Amerada Hess Corporation 96–75–NG (Amendment)			Increase volumes from 50 Bcf to 100 Bcf for the remainder of the two-year term.
1707	9–14–01	Energetix, Inc. 01–48–NG	15 Bcf		Import from Canada, beginning on October 1, 2001, and extending through September 30, 2003.
1708	9–21–01	E Prime Inc. 01–46–NG	200 Bcf	200 Bcf	Import combined total from Canada and Mexico, and to export a combined total to Canada and Mexico, over a two-year term beginning on the date of first delivery.
1709	9–26–01	NUI Energy Brokers, Inc. 01–51–NG	250 Bcf		Import and export a combined total from and to Canada and Mexico, beginning on October 1, 2001, and extending through September 30, 2003.

[FR Doc. 01–25483 Filed 10–10–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT01–35–000]

ANR Pipeline Company; Notice of Tariff Filing

October 4, 2001.

Take notice that on September 28, 2001, ANR Pipeline Company (ANR) filed two service agreements entered into between ANR and Midland Cogeneration Venture Limited Partnership (''MCV'') under Rate Schedule FTS–1. ANR requests the Commission to find that the Agreements do not contain any material deviations from ANR's Form of Service Agreement, and that the Agreements need not be filed pursuant to section 154.112(b) of the Commission's regulations. Alternatively, if the Commission finds that the Agreements contain a material deviation from ANR's Form of Service Agreement, ANR requests the Commission to approve the Agreements and accept Fifth Revised Sheet No. 190 of ANR's Second Revised Volume No. 1, which references the Agreements, as non-conforming agreements.

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. 01–25493 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–041]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on September 28, 2001, Columbia Gas Transmission Corporation (Columbia) filed the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 (''Tariff'') bearing a proposed effective date of November 1, 2001:

Fifty-second Revised Sheet No. 25
Fifty-second Revised Sheet No. 26
Fifty-second Revised Sheet No. 27
Twenty-third Revised Sheet No. 30A

Columbia states that this filing is being submitted pursuant to Stipulation I, Article I, Section E, True-up Mechanism, of the Settlement (Settlement) in Docket No. RP95–408, et al. Pursuant to the true-up mechanism, Columbia is required to true-up its collections from the Settlement Component for twelve-month periods commencing November 1, 1996. In accordance with the Settlement, the true-up component of the Settlement Component is to be removed effective November 1 of each year. The instant filing is being made to remove such true-up component from the currently effective Settlement Component effective November 1, 2001.

Columbia states that copies of its filing are available for inspection at its offices at 12801 Fair Lakes Parkway, Fairfax, Virginia; and 10 G Street, NE., Suite 580, Washington, DC; and have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25499 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–032]

Columbia Gulf Transmission Company; Notice of Negotiated Rate

October 4, 2001.

Take notice that on September 28, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to the Federal Energy Regulatory Commission (Commission) the following contract for disclosure of a recently negotiated rate transaction:

FTS–1 Service Agreement No. 71081 between Columbia Gulf Transmission Company and PanCanadian Energy Services dated August 21, 2001

Transportation service is to commence November 1, 2001 under the agreement.

Columbia Gulf states that copies of the filing are being made available for public inspection during regular business hours in Columbia Gulf's offices in Houston, Texas and Washington, DC, and that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

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. 01–25503 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–14–000]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing a revised tariff volume, First Revised Volume No. 1 superceding Original Volume No. 1, bearing a proposed effective date of November 1, 2001.

Crossroads states that the purpose of this filing is to revise the tariff of Crossroads to conform it more closely to the tariff format of Columbia Gas Transmission Corporation and thereby to facilitate the standardization of business practices and the ability of the pipelines to utilize common computer systems to the maximum extent possible.

As a result of the merger between NiSource, Inc. (NiSource) and the Columbia Energy Group (CEG) which merger was approved by the Commission on July 26, 2000, Crossroads, indirectly and wholly owned by NiSource, became affiliated with Columbia Gas Transmission Corporation (Columbia Gas) and

Columbia Gulf Transmission Company (Columbia Gulf). Upon completion of the merger, the day-to-day tariff and customer service operations and administration of Crossroads was assigned to personnel performing similar functions for Columbia Gas.

Crossroads states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25516 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–621–000]

Crossroads Pipeline Company; Notice of Tariff Filing and Annual Change Adjustment

October 4, 2001.

Take notice that on September 28, 2001, Crossroads Pipeline Company (Crossroads) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet, bearing a proposed effective date of October 1, 2001:

Seventh Revised Sheet No. 6

Crossroads states that the purpose of this filing is to reflect the new Annual Charge Adjustment (ACA) surcharge to be applied to rates commencing October 1, 2001, of $0.0021 per Dth.

Crossroads states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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 on or before October 11, 2001. 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. 01–25519 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–34–006]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheet listed below to become effective October 1, 2001. DIGP states that this tariff sheet reflects changes to delivery points and Maximum Daily Quantities (MDQ's).

Seventh Revised Sheet No. 9

DIGP states that a copy of this filing is available for public inspection during regular business hours at DIGP's office at 370 17th Street, Suite 900, Denver, Colorado 80202.

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. 01–25492 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–3–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 109, Original Sheet No. 256 and Sheet Nos. 257–260, to become effective October 31, 2001.

DIGP states that the purpose of this filing is to modify DIGP's tariff to provide for a general waiver of the ''shipper must have title'' rule for off-system transportation or storage capacity that DIGP has acquired and to include a statement that DIGP will only transport gas for others using off-system capacity pursuant to its existing tariff and rates.

DIGP states that copies of this filing have been served on its customers and other interested parties.

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. 01–25505 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–625–000]

Dominion Transmission, Inc.; Notice of Annual Electric Power Cost Adjustment

October 4, 2001.

Take notice that on September 28, 2001, Dominion Transmission Inc. (DTI) tendered for filing for inclusion in its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets, with an effective date of November 1, 2001:

Ninth Revised Sheet No. 31
Twelfth Revised Sheet No. 32
Seventh Revised Sheet No. 33
Sixth Revised Sheet No. 34
Eighth Revised Sheet No. 35

DTI states that the purpose of its filing is to comply with the Electric Power Cost Adjustment provision of the General Terms and Conditions of its FERC Gas Tariff, as that provision will be revised effective November 1, 2001, in accordance with the Stipulation and Agreement filed on June 22, 2001, in Docket No. RP00–632–003, and approved by Commission letter order issued in that proceeding on September 13, 2001.

DTI states that copies of the filing have been sent to DTI's customers and interested stated commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25523 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–626–000]

Dominion Transmission, Inc.; Notice of Annual Transportation Cost Rate Adjustment Filing

October 4, 2001.

Take notice that on September 28, 2001, Dominion Transmission Inc. (DTI) tendered for filing for inclusion in its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets, with an effective date of November 1, 2001:

Tenth Revised Sheet No. 31
Thirteenth Revised Sheet No. 32
Eighth Revised Sheet No. 33
Seventh Revised Sheet No. 34
Ninth Revised Sheet No. 35
Second Revised Sheet No. 1113

DTI states that the purpose of its filing is comply with the Transportation Cost Rate Adjustment provision of the General Terms and Conditions of its FERC Gas Tariff, as that provision will be revised effective November 1, 2001, in accordance with the Stipulation and Agreement filed on June 22, 2001, in Docket No. RP00–632–003, and approved by Commission letter order issued in that proceeding on September 13, 2001.

DTI states that copies of the filing have been sent to DTI's customers and interested stated commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25524 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–624–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes to FERC Gas Tariff

October 4, 2001.

Take notice that on September 28, 2001, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet, to become effective November 1, 2001:

Second Revised Sheet No. 2702

Gulf South proposes to modify the pricing applied to imbalances in order to eliminate gaming that occurs on its system and to reduce the potential for additional cash deficiencies in the cash pool. Gulf South will use the same cash-out process, but will add an additional week of pricing to the determination of the Cash-Out Prices, and therefore create price uncertainty to remove arbitrage opportunities that currently exist.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

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. 01–25522 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–4–000]

Maritimes & Northeast Pipeline L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 11 to become effective on November 1, 2001.

Maritimes states that it is making this Fuel Retainage Quantity (''FRQ'') filing, pursuant to Section 20 of the General Terms and Conditions of its FERC Gas Tariff.

Maritimes is proposing no change in its current Fuel Retainage Percentages for the four calendar periods beginning November 1, 2001. Maritimes states that even though it over recovered its fuel quantity for the prior calendar period, Maritimes is projecting an increase in fuel use over that period actuals as a result of the installation and operation of the two new compressors units located at its Baileyville and Richmond, Maine Compressor Stations.

Maritimes projects that the increased fuel requirements of the two compressors will offset previous over collection in company fuel use gas. Sheet No. 11 has been revised to clearly state the four seasonal calendar periods.

Maritimes also states that it is submitting the calculation of the FRQ deferral allocation, pursuant to Section 20 which provides that Maritimes will calculate surcharges or refunds designed to amortize the net monetary value of the balance in the FRQ Deferred Account at the end of the previous accumulation period. Maritimes states that for the period August 1, 2000 through July 31, 2001, the FRQ Deferred Account resulted in a net credit balance of approximately $905,057.07, inclusive of carrying charges, that will be refunded to Maritimes' customers, based on the allocation of the account balance over the actual throughput during the accumulation period, exclusive of backhauls.

Maritimes states that copies of this filing were mailed to all affected customers of Maritimes and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25506 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–622–000]

Mississippi River Transmission Corporation; Notice of Tariff Filing

October 4, 2001.

Take notice that on September 28, 2001, Mississippi River Transmission Corporation (MRT) filed with the Commission its annual fuel adjustment filing pursuant to Section 24.1(a) of the General Terms and Conditions of MRT's FERC Gas Tariff, Third Revised Volume No. 1, requesting an effective date of November 1, 2001, MRT filed the following sheets:

Forty-third Revised Sheet No. 5
Forty-third Revised Sheet No. 6
Fortieth Revised Sheet No. 7
Fourteenth Revised Sheet No. 8

MRT states that the purpose of this filing is to adjust the Fuel Use and Loss Percentages under its Rate Schedules FTS, SCT, ITS, FSS and ISS.

MRT further states that a copy of this filing is being mailed to each of MRT's customers and to the state Commissions of Arkansas, Illinois, Louisiana, Missouri and Texas.

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. 01–25520 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–623–000]

Mississippi River Transmission Corporation; Notice of Tariff Filing

October 4, 2001.

Take notice that on September 28, 2001, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following sheets, to become effective November 1, 2001:

Sixth Revised Sheet No. 249
First Revised Sheet No. 249A

MRT states that the purpose of this filing is to reflect the implementation of a non-discriminatory waiver of fuel charges for a transaction that does not use fuel.

MRT states that a copy of this filing is being mailed to each of MRT's customers and to the state Commissions of Arkansas, Illinois, Louisiana, Missouri and Texas.

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. 01–25521 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–10–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective on November 1, 2001:

Fifth Revised Sheet No. 135D
Twelfth Revised Sheet No. 144

Northern states that the purpose of this filing is to modify Northern's FDD and IDD Rate Schedules applicable to firm and interruptible storage services to provide increased service flexibility and enhance market liquidity through the addition of eight (8) points available for receipt and delivery of storage services.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25512 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–7–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective November 1, 2001.

Panhandle states that this filing is made in accordance with Section 24 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets filed herewith reflect the following changes to Fuel Reimbursement Percentages:

(1) a 0.25% increase in the Gathering Fuel Reimbursement Percentage;
(2) a 0.25% increase in the Field Zone Fuel Reimbursement Percentage;
(3) a 0.01% increase in the Market Zone Fuel Reimbursement Percentage;
(4) a 0.08% increase in the Injection and a 0.08% increase in the Withdrawal Field Area Storage Reimbursement Percentages; and
(5) a 0.08% increase in the Injection and a 0.08% increase in the Withdrawal Market Area Storage Reimbursement Percentages.

Panhandle further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25509 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–1–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Proposed Change in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, Thirty-fourth Revised Sheet No. 4, with an effective date of November 1, 2001.

GTN states that this tariff sheet is filed to modify the rate for service under Rate Schedule FTS–1 (E–2) (WWP) in accordance with the negotiated rate formula for that service as specified in GTN's tariff.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25504 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–13–000]

Portland Natural Gas Transmission System; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Portland Natural Gas Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 100, to become effective on November 1, 2001.

PNGTS states that the proposed changes would increase revenues from jurisdictional service by approximately $66.0 million based on the 12-month period ending June 30, 2001, as adjusted.

PNGTS states that this is its first general rate change filing since completion of the pipelines construction in March of 1999. PNGTS further states that the proposed rate increase is necessary to: recover the actual costs of constructing the pipeline; recover various increases in operation and maintenance expenses, taxes, and other costs; reflect a change to the depreciation rate for general plant; commence recovery of negative salvage costs; reflect the discontinuation of deferrals for the regulatory asset associated with the prior rate levelization; and allow PNGTS to earn an adequate return on its investment.

PNGTS states that copies of this filing are being served on all jurisdictional customers, applicable state commissions, and interested parties that have requested service.

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. 01–25515 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–075]

Reliant Energy Gas Transmission Company; Notice of Negotiated Rate

October 4, 2001.

Take notice that on October 1, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective October 1, 2001:

First Revised Sheet No. 618
First Revised Sheet No. 618A
First Revised Sheet No. 630

REGT states that the purpose of this filing is to reflect revisions to two existing negotiated rate contracts.

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. 01–25500 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–9–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 2001:

Seventh Revised Sheet No. 5
Seventh Revised Sheet No. 6
Eighth Revised Sheet No. 7

REGT states that the purpose of this filing is to adjust REGT's fuel percentages and Electric Power Costs (EPC) Tracker pursuant to Sections 27 and 28 of its General Terms and Conditions.

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. 01–25511 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–8–000]

Southwest Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 5, to become effective November 1, 2001.

Southwest states that this filing is made in accordance with Section 16 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Southwest's FERC Gas Tariff, First Revised Volume No. 1. The Fuel Reimbursement Adjustment filed herewith reflects the following Fuel Reimbursement Percentages: (1) West Area Storage Facilities Injection 1.44% and Withdrawal 0.71%; and (2) East Area Storage Facilities Injection 2.64% and Withdrawal 1.29%.

Southwest further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25510 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–485–002]

Steuben Gas Storage Company; Notice of Compliance Filing

October 4, 2001.

Take notice that on October 1, 2001, Steuben Gas Storage Company (Steuben), 9 Greenway Plaza, Houston, Texas 77046, tendered for filing the following tariff sheets for inclusion in Steuben's FERC Gas Tariff, Original Volume No. 1:

Fifth Revised Sheet No. 1
Original Sheet No. 156E

Steuben requests that this original and this revised tariff sheet be made effective September 14, 2001 in accordance with the Commission's September 14, 2001 order accepting Steuben's tariff sheets in compliance with Order No. 637. This filing implements a mechanism to credit the value of retained gas back to Steuben's customers under Rate Schedules FS and IS.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are

on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–25517 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–610–000]

Sumas International Pipeline Inc.; Notice of Tariff Filing and Annual Charge Adjustment

October 4, 2001.

Take notice that on September 19, 2001, Sumas International Pipeline Inc., (Sumas) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, Ninth Revised Sheet No. 4, to be effective October 1, 2001.

Sumas states that the purpose of the filing is to authorize collection of the Annual Charge Adjustment (ACA) unit rate surcharge by the Commission for fiscal year 2002. Sumas states that the ACA unit surcharge authorized for fiscal year 2002 is $.0021 per Dth.

Sumas states that copies of the filing has been served upon all of Sumas customers.

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 on or before October 11, 2001. 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. 01–25518 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–059]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Filing

October 4, 2001.

Take notice that on October 1, 2001, Tennessee Gas Pipeline Company (Tennessee), Nine Greenway Plaza, Houston, Texas 77046, tendered for filing and approval a Gas Transportation Agreement between Tennessee and Public Service Electric and Gas Company (PSEG) pursuant to Tennessee's Rate Schedule FT–BH (FT–BH Agreement) and a Firm Transportation Negotiated Rate Agreement (Negotiated Rate Agreement). Tennessee requests that the Commission accept and approve the FT–BH Agreement and Negotiated Rate Agreement to be effective November 1, 2001.

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. 01–25501 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–060]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate

October 4, 2001.

Take notice that on September 28, 2001, Tennessee Gas Pipeline Company(Tennessee), 9 E Greenway Plaza, Houston, Texas 77046, tendered for filing and approval a Gas Transportation Agreement between Tennessee and East Ohio Gas, d/b/a Dominion East Ohio (East Ohio) pursuant to Tennessee's Rate Schedule FT–A (''FT–A Agreement'') and (2) a copy of the August 28, 2001 Firm Transportation Negotiated Rate Letter Agreement entered into between Tennessee and East Ohio (Negotiated Rate Agreement). The filed FT–A Agreement and the Negotiated Rate Agreement reflect a negotiated rate arrangement between Tennessee and East Ohio to be effective November 1, 2001.

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. 01–25502 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–5–000]

TransColorado Gas Transmission Company; Notice of Tariff Filing

October 4, 2001.

Take notice that on October 1, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets as listed on Appendix A to the filing, to be effective November 1, 2001.

TransColorado states that this filing is being made to: (1) Implement a new interruptible park and loan (PAL) service under Rate Schedule PALS; and (2) revise certain currently effective tariff sheets to incorporate the PAL service.

TransColorado stated that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

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. 01–25507 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–11–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective on November 1, 2001:

Twelfth Revised Sheet No. 5B.02
Ninth Revised Sheet No. 5B.03

Transwestern's Stipulation and Agreement filed on May 2, 1995, in Docket Nos. RP95–271, et al., as amended by Transwestern's Stipulation and Agreement filed on May 21, 1996, provided for annual adjustments to the Settlement Base Rates (SBRs) beginning November 1, 1998. The Stipulation and Agreement also provided for the Shared Cost Surcharge (SCS).

Transwestern states that the purpose of this filing is to set forth the factors and calculations used in determining the adjustments to the SBRs and to revise the SBRs to be effective November 1, 2001, and to terminate the SCS effective November 1, 2001.

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. 01–25513 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–12–000]

Transwestern Pipeline Company; Notice of Proposed Changesto FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective November 1, 2001:

Tenth Revised Sheet No. 5B.03

Transwestern states that it is filing a tariff sheet which sets forth the new TCR II Reservation Surcharges that Transwestern proposes to put into effect on November 1, 2001.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25514 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–6–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 4, 2001.

Take notice that on October 1, 2001, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A attached to the filing, to become effective November 1, 2001.

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of Trunkline's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets listed on Appendix A reflect: a 0.38% increase (Field Zone to Zone 2), a 0.39% increase (Zone 1A to Zone 2), a 0.33% increase (Zone 1B to Zone 2), a 0.12% increase (Zone 2 only), a 0.52% increase (Field Zone to Zone 1B), a 0.53% increase (Zone 1A to Zone 1B), a 0.47% increase (Zone 1B only), a 0.31% increase (Field Zone to Zone 1A), a 0.32% increase (Zone 1A only) and a 0.25% increase (Field Zone only) to the currently effective fuel reimbursement percentages.

Trunkline states that copies of this filing are being served on all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, 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. 01–25508 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4515–010 and –014]

E.R. Jacobson; Notice of Availability of Final Environmental Assessment

October 4, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects staff has reviewed the application for an amendment of license for the Jacobson Hydro No. 1 Project (FERC No. 4515–010 and –014). A final environmental assessment (FEA) is available for public review. The FEA was attached to an Order Amending License and Lifting Stay (96 FERC ¶ 61,298) issued and distributed by the Commission on September 13, 2001. The project is located on the Colorado River near the town of Palisade, Mesa County, Colorado. The FEA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment.

The FEA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission. Copies of the FEA are available for review in the Commission's Public Reference Branch, Room 2A, 888 First Street, NE., Washington, DC 20426 or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. The FEA 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).

David P. Boergers,

Secretary.

[FR Doc. 01–25498 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–150–000, et al. and CP98–151–000]

Millennium Pipeline Company, L.P., Columbia Gas Transmission Corp.; Notice of Availability of the Final Environmental Impact Statement for The Proposed Millennium Pipeline Project

October 4, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Final Environmental Impact Statement (FEIS) on the natural gas pipeline facilities proposed by Millennium Pipeline Company (Millennium) and Columbia Gas Transmission Corporation (Columbia) in the above-referenced dockets.

The FEIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project with the appropriate mitigating measures as recommended, would have limited adverse environmental impact. The FEIS also evaluates alternatives to the proposal, including an alternative called the ConEd Offset/Taconic Parkway Alternative that is preferred; major route alternatives, including system alternatives; and route variations.

The FEIS addresses the potential environmental effects of:

1. Construction and operation of these facilities in New York:

- 373.5 miles of 36-inch-diameter pipeline;
- 43.8 miles of 24-inch-diameter pipeline;
- 3 measurement and regulating stations and 1 regulator station; and
- associated pipeline facilities, including pipeline and block valves, pig launchers and receivers, blowdown valves, and cathodic protection rectifier beds.

2. Acquisition from Columbia of:

- 6.7 miles of 24-inch-diameter pipeline in Rockland County, New York, that would be used for the new pipeline system between mileposts 376.4 and 383.3; and

• 20.1 miles of laterals and 28 metering and regulation stations in New York and Pennsylvania, and one compressor station in Pennsylvania.

The purpose of the proposed facilities would be to transport about 700,000 decatherms per day of natural gas to eight transportation customers with delivery points in the State of New York.

The FEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the FEIS have been mailed to Federal, state and local agencies, public interest groups, individuals who have requested the FEIS, newspapers, and parties to this proceeding. Copies of the Executive Summary have been mailed to individuals who filed form letters but did not request a copy of the FEIS.

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

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

David P. Boergers,

Secretary.

[FR Doc. 01–25491 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–384–000 and CP01–387–000]

Islander East Pipeline Company, L.L.C., Algonquin Gas Transmission Company; Notice of Site Visit and Summary of Scoping Issues; Notice of Intent To Prepare an Environmental Impact Statement

October 4, 2001.

The Federal Energy Regulatory Commission (FERC) issued a Notice of Intent to Prepare an Environmental Assessment for the Islander East Pipeline Project and Request for Comments on Environmental Issues (NOI) on July 3, 2001, stating that we [1] would prepare either an environmental assessment (EA) or environmental impact statement (EIS) for the proposed project. The Islander East Pipeline Project would involve construction of facilities by Islander East Pipeline Company, L.L.C. (Islander East) and related facilities constructed by Algonquin Gas Transmission Company (Algonquin) in New Haven County, Connecticut and Suffolk County, New York.[2] Islander East's facilities would consist of about 50.4 miles of 24-inch-diameter pipeline and lateral, including 22.6 miles offshore in Long Island Sound, and three new meter stations. Algonquin would retest and uprate about 27.4 miles of its existing pipelines from Cheshire to North Haven, Connecticut, and construct a new compressor station.

In the NOI, we solicited public comments to identify significant environmental issues that would be used in deciding whether an EA or EIS would be prepared. Based on the issues raised, we have decided to proceed with preparation of an EIS for this project.

Summary of Issues Identified

We have received over 70 letters or interventions from concerned landowners, state and local agencies, townships, and environmental groups. The issues raised are summarized into the following general categories:

Need for Project and Location

What is the need for the project and how would it benefit their areas (especially in Connecticut)? Prefer various other alternatives, including ones away from their communities; an alternative Long Island Sound crossing location; following more existing pipelines or roads; and use of existing capacity.

Landowner Issues

Proximity to homes—property devaluation, safety, noise from construction activities and the directional drill; septic system impacts from poor drainage; drinking water well disruption or contamination; blasting impacts to the granite/bedrock and potential for foundation cracking; disruption near a school; previous damage from Algonquin pipeline installation; and unauthorized all terrain vehicle (ATV) usage along the pipeline right-of-way (ROW).

Tidal and Inland Ecological Impacts

Potential for impacts to tidal and inland wetlands and wildlife preserves including the Central Pine Barrens in New York and compatibility with the Long Island Pine Barrens Protection Act; impacts to surface water and groundwater drainage; invasive species introduction; wildlife impacts; soil erosion/sedimentation impacts from tree and upland buffer removal; impacts to threatened and endangered species/desire for species surveys; impacts to the Carmans and Peconic Rivers; Islander East's adherence to local environmental regulations; impacts from pesticides; and impacts to the Thimble Islands.

Human and Socioeconomic Impacts

Tourism and recreational impacts to local towns; economic and social impacts; proximity to Branford Steam Railroad (new open corridor and safety concerns); procedures for handling a gas emergency (concern that some volunteer fire departments could not handle a gas emergency); impacts to public lands preserved for open spaces or beaches in the affected towns; future zoning/development issues; noise impacts from screening tree removal along Interstate 95; and scenic highways/visual impacts.

Long Island Sound Ecological Impacts

Impacts to the ecosystem of the Long Island Sound including impacts to shellfish, lobsters, and commercial fishing; directional drilling impacts on shellfish beds in the event of a frac-out or spill; spawning and nesting windows; impacts from anchoring and cable sweep from barges; general water quality degradation; and a preference for complete burial of the underwater pipeline.

[1] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[2] The Islander East and Algonquin applications were filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

Various Concerns

Various other issues including assurances that the company will do the mitigation it has stated; that additional industrialization in the area may occur with a new or expanded corridor; that two pipeline projects that could cross Long Island Sound (Iroquois and Tennessee—to be filed) be evaluated at the same time and be considered as alternatives and cumulative impacts; cumulative impacts from underwater cable installation; All Saints Cemetery and cultural resources impacts; and air quality impacts.

Agenda for Site Visit

We will conduct a site visit in the project area during the week of October 15, 2001. We will tour the onshore portions of the pipeline route and alternatives by automobile and on foot, as appropriate. All interested parties may attend but must provide their own transportation. Any additional comments received that did not arise during the scoping period which ended on August 3, 2001 and during the site visit will be addressed in the EIS.

Tuesday, October 16, 2001: Meet at 8:00 am at the Grumman Memorial Park (main parking lot), near the intersection of State Routes 25 and 25A, near Calverton, New York. After a question and answer session, we will drive to the southern terminus of the proposed pipeline ROW and head north along the ROW, through the Town of Ridge, along the Calverton Lateral, and ending along the shore of the Long Island Sound between the Towns of Shoreham and Wading River.

Thursday, October 18, 2001: Meet at 8 am at the commuter parking lot at the end of the Branford Connector, at exit 53 off of Interstate 95 in Branford, Connecticut. After a question and answer session, we will drive the ROW from Branford south to Long Island Sound, head north along the proposed pipeline ROW, and end in the Town of North Haven. For additional information on the site visit contact the Commission's Office of External Affairs at (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 01–25490 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To Prepare an Environmental Impact Statement and Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

October 4, 2001.

Take notice that the following hydroelectric applications have been filed with Commission and are available for public inspection:

a. Type of Application: New Major License.

b. Project No.: 2030–036.

c. Date filed: June 29, 2001.

d. Applicants: Portland General Electric Company (PGE) and the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWS).

e. Name of Project: Pelton Round Butte Hydroelectric Project.

f. Location: The project is located on the Deschutes River in Jefferson, Marion, and Wasco Counties, Oregon. The project occupies lands of the Deschutes National Forest; Mt Hood National Forest; Willamette National Forest; Crooked River National Grassland; Bureau of Land Management; and tribal lands of the Warm Springs Reservation of Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contacts: Julie Keil, Director, Hydro Licensing, Portland General Electric Company, 121 SW Salmon Street, Portland, OR 97204, (503) 464–8864; and James Manion, General Manager, Warm Springs Power Enterprises, P.O. Box 690, Warm Springs, OR 97761, (541) 553–1046.

i. FERC Contact: Any questions on this notice should be addressed to Nan Allen at (202) 219–2839. E-mail address: nan.allen@ferc.fed.us.

j. Deadline for filing scoping comments: December 7, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Scoping 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.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The Round Butte development works consisting of: (1) The 440-foot-high, 1,382-foot-long Round Butte dam; (2) a 535,000-acre-foot reservoir with a normal pool elevation at 1,945.0 feet mean sea level (msl); (3) a spillway intake structure topped with a 30-foot-high, 36-foot-wide radial gate, and a 1,800-foot-long, 21-foot-diameter spillway tunnel; (4) an 85-foot-long, varying in height and width, powerhouse intake structure; (5) a 1,425-foot-long, 23-foot-diameter power tunnel; (6) a powerhouse containing three turbine generating units with a total installed capacity of 247 megawatts (MW); (7) a 12.5-kilovolt (kV), 10.5-mile-long transmission line extending to the Reregulating dam, and a 230-kV, 100-mile-long transmission line extending to Portland General's Bethel substation; and (8) appurtenant facilities.[1]

The Pelton development consists of: (1) The 204-foot-high, 636-foot-long thin-arch variable-radius reinforced concrete Pelton dam with a crest elevation 1,585 feet msl; (2) a reinforced concrete spillway on the left bank with a crest elevation of 1,558 feet msl; (3) Lake Simtustus with a gross storage capacity of 31,000 acre-feet and a normal maximum surface area of 540 acres at normal maximum water surface elevation of 1,580 feet msl; (4) an intake structure at the dam; (5) three 16-foot-diameter penstocks, 107 feet long, 116 feet long, and 108 feet long, respectively; (6) a powerhouse with three turbine/generator units with a total installed capacity of 108 MW; (7) a tailrace channel; (8) a 7.9-mile-long, 230-kV transmission line from the powerhouse to the Round Butte switchyard; and (9) other appurtenances.

The Reregulating development consists of: (1) The 88-foot-high, 1,067-foot-long concrete gravity and impervious core rockfilled Reregulating dam with a spillway crest elevation of 1,402 feet msl; (2) a reservoir with a gross storage capacity of 3,500 acre feet and a normal maximum water surface area of 190 acres at normal maximum water surface elevation of 1,435 feet

[1] On July 25, 2001, an amendment to the current license was approved that would add one 70-kilowatt (kW) turbine generating unit with associated support structure at the Round Butte powerhouse. This turbine has not yet been installed.

msl; (3) a powerhouse at the dam containing a 18.9-MW turbine/generator unit; (4) a tailrace channel; (5) a 3.2-mile-long, 69-kV transmission line from the development to the Warm Springs substation; and (6) other appurtenances.

The project is estimated to generate an average of 1.613 billion kilowatthours annually. The dams and existing project facilities are owned by the co-applicants.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at http://www.ferc.gov using the ''RIMS'' link—select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Scoping Process.

The Commission intends to prepare an Environmental Impact Statement (EIS) on the project in accordance with the National Environmental Policy Act. The EIS will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EIS. The times and locations of these meetings are as follows:

Daytime Meeting

Wednesday, November 7, 2001, 9:00 a.m., Maccie Conroy Center, Jefferson County Fair Complex, 430 SW Fairgrounds Road, Madras, Oregon

Evening Meeting

Wednesday, November 7, 2001, 7 p.m., Kah-Nee-Ta Resort, Highway 8, Warm Springs, Oregon

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EIS were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the Web at http://www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Site Visit

The applicants and Commission staff will conduct a project site visit beginning at 8:30 a.m. on November 6, 2001. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the Round Butte Overlook Park. All participants are responsible for their own transportation to the site. Anyone with questions about the site visit should contact Marty May, PGE, at phone 503–464–7578 or FAX 503–464–2944 by Wednesday, October 31.

Objectives

At the scoping meetings, the Commission staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EIS; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EIS, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EIS; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend one or both of the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EIS.

David P. Boergers,

Secretary.

[FR Doc. 01–25494 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

October 4, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2232–430.

c. *Date Filed:* September 7, 2001.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Catawba Wateree Hydroelectric Project.

f. *Location:* On Lake Norman at the Smithstone Subdivision, in Lincoln County, North Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006. Phone: (704) 382–5778.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 219–3076, or e-mail address: brian.romanek@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* November 5, 2001.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the project number (2232–430) on any comments or motions filed.

k. *Description of Proposal:* Duke Energy Corporation proposes to lease to Smithstone Properties, LLC., one parcel of project land containing 0.87 acre for the construction of 25 boat slips. The boat slips would provide access to the reservoir for residents of the Smithstone Subdivision. Approximately 490 linear feet of shoreline will be stabilized with rip rap. No dredging is proposed.

l. *Locations of the Application:* 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).

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will

consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–25495 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

October 4, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2503–065.

c. *Date Filed:* August 16, 2001.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Keowee-Toxaway Hydroelectric Project.

f. *Location:* On Lake Keowee at the Woods at Lake Keowee Subdivision, in Oconee County, South Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006. Phone: (704) 382–5778.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 219–3076, or e-mail address: brian.romanek@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* November 5, 2001.

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the project number (2503–065) on any comments or motions filed.

k. *Description of Proposal:* Duke Energy Corporation proposes to lease to The Woods at Lake Keowee, one parcel of project land consisting of 0.46 acre for the construction of one cluster dock facility accommodating 16 boats. The boat slips would provide access to the reservoir for residents of The Woods at Lake Keowee Subdivision. Approximately 490 linear feet of shoreline will be stabilized with rip rap. No dredging is proposed.

l. *Locations of the Application:* 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).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–25496 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of Licenses and Soliciting Comments, Protests, and Motions To Intervene

October 4, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of Licenses.

b. *Project Nos:* 2742–028, 2743–041, 2911–027, and 3015–010.

c. *Date Filed:* August 27, 2001.

d. *Applicants:* Alaska Energy Authority (transferor) and the Four Dam Pool Power Agency (transferee).

e. *Name and Location of Projects:* The Solomon Gulch Project No. 2742 is located on Solomon Gulch Creek in the Valdez-Cordova area, the Terror Lake Project No. 2743 is located on the Terror and Kizhuyak Rivers in Kodiak Island Borough, the Swan Lake Project No. 2911 is located on Falls Creek in Ketchikan Gateway Borough, and the Tyee Lake Project No. 3015 is located on Tyee Creek in the Wrangell area, Alaska. These projects occupy federal lands administered by the U.S. Forest Service, the Bureau of Land Management, and other agencies.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For transferor: Mr. Brian Bjorkquist, Alaska Attorney General's Office, 1031 W. Fourth

Avenue, Anchorage, AK 99501, (907) 269–5136. For transferee: Mr. Ronald L. Saxton, Ater Wynne LLP, 222 SW Columbia Street—Suite 1800, Portland, OR 97201–6618, (503) 226–1191.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing motions to intervene, protests and comments:* (November 5, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Please include the noted project numbers on any comments or motions filed.

j. *Description of Proposal:* The Applicants propose a transfer of the licenses for the Solomon Gulch, Terror Lake, Swan Lake, and Tyee Lake hydroelectric projects from Alaska Energy Authority (an agency of the State of Alaska) to the Four Dam Pool Power Agency, which is comprised of representatives of the five utilities that now operate the projects. The transfer is sought in connection with the proposed sale of the projects to fund an endowment for Alaska's Power Cost Equalization program, which is intended to provide affordable energy to meet the basic economic needs of rural Alaskans.

k. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–25497 Filed 10–10–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7078–3]

Agency Information Collection Activities Up for Renewal: Comment Request; State Program Adequacy Determination—Municipal Solid Waste Landfills (MSWLFs) and Non-Municipal, Non-Hazardous Waste Disposal Units That Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): State Program Adequacy Determination—Municipal Solid Waste Landfills (MSWLFs) and Non-municipal, Non-hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste, ICR Number 1608.03, OMB control number 2050–0152, currently expiring on April 30, 2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed continuing information collection as described below.

DATES: Comments must be submitted on or before December 10, 2001.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2001–SIRP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments also may be submitted electronically through the Internet to: *<rcra-docket@epa.gov>*. Comments in electronic format also should be identified by the docket number F–2001–SIRP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not electronically submit any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W, U.S. EPA, 1200 Pennsylvania Ave, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and supporting materials are available electronically.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will include all comments submitted in writing. EPA's response to comments, both written and electronic, will be placed in the official record. The Agency's response to major comments may also be published in a notice in the **Federal Register**. EPA will not immediately reply to commenters

electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of this information collection, contact Steven Levy, Office of Solid Waste (5306W), 1200 Pennsylvania Ave, NW., Washington, DC 20460, (703) 308–7267, or *levy.steve@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are states that seek approval of permit programs for MSWLFs and for non-municipal, non-hazardous waste disposal units that receive CESQG waste, or approval of modifications of previously approved permit programs for MSWLFs.

Title: State Program Adequacy Determination—Municipal Solid Waste Landfills (MSWLFs) and Non-municipal, Non-hazardous Waste Disposal Units that Receive Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste, OMB Control No. 2050–0152, ICR Number 1608.03, renewal of ICR Number 1608.02, which expires April 30, 2002.

Abstract: Section 4010(c) of the Resource Conservation and Recovery Act (RCRA) of 1976 requires that EPA revise the landfill criteria promulgated under paragraph (1) of Section 4004(a) and section 1008(a)(3). Section 4005(c) of RCRA, as amended by the Hazardous Solid Waste Amendments (HSWA) of 1984, requires states to develop and implement permit programs to ensure that MSWLFs and non-municipal, non-hazardous waste disposal units that receive household hazardous waste or CESQG hazardous waste are in compliance with the revised criteria for the design and operation of non-municipal, non-hazardous waste disposal units under 40 CFR part 257, subpart B and MSWLFs under 40 CFR part 258. (40 CFR part 257, subpart B and 40 CFR part 258 are henceforth referred to as the ''revised federal criteria''.) Section 4005(c) of RCRA further mandates the EPA Administrator to determine the adequacy of state permit programs to ensure owner and/or operator compliance with the revised federal criteria. A state program that is deemed adequate to ensure compliance may afford flexibility to owners or operators in the approaches they use to meet federal requirements, significantly reducing the burden associated with compliance.

In response to the statutory requirement in section 4005(c), EPA developed 40 CFR part 239, commonly referred to as the State Implementation Rule (SIR). The SIR describes the state application and EPA review procedures and defines the elements of an adequate state permit program.

The collection of information from the state during the permit program adequacy determination process allows EPA to evaluate whether a program for which approval is requested is appropriate in structure and authority to ensure owner or operator compliance with the revised federal criteria. The SIR does not require the use of a particular application form. Section 239.3 of the SIR, however, requires that all state applications contain the following five components:

(i) A transmittal letter requesting permit program approval.

(ii) A narrative description of the state permit program, including a demonstration that the state's standards for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste are technically comparable to the part 257, subpart B criteria and/or that its MSWLF standards are technically comparable to the part 258 criteria.

(iii) A legal certification demonstrating that the state has the authority to carry out the program.

(iv) Copies of state laws, regulations, and guidance that the state believes demonstrate program adequacy.

(v) Copies of relevant state-tribal agreements if the state has negotiated with a tribe for the implementation of a permit program for non-municipal, non-hazardous waste disposal units that receive CESQG hazardous waste and/or MSWLFs on tribal lands.

The EPA Administrator has delegated the authority to make determinations of adequacy, as contained in the statute, to the EPA Regional Administrator. The appropriate EPA Regional Office, therefore, will use the information provided by each state to determine whether the state's permit program satisfies the statutory test reflected in the requirements of 40 CFR part 239. In all cases, the information will be analyzed to determine the adequacy of the state's permit program for ensuring compliance with the federal revised criteria.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

EPA is soliciting comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Burden Statement: 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 enable them to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The total burden for states, territories, and the EPA regions for the collection and evaluation of information under this ICR is estimated to be about 9,568 hours and $424,614. The estimated burden includes time for reviewing instructions, searching existing data sources, gathering and maintaining necessary data, and completing and reviewing the collection of information. The ICR supporting statement describes the assumptions and information sources used to develop the burden estimate for this ICR. For a copy of the supporting statement, contact the RCRA Hotline at the telphone numbers listed above or Steven Levy at (703) 308–7267, or e-mail <levy.steve@epa.gov>. Requests should reference the document title, ''Supporting Statement for EPA Information Collection Request #1608.03.'' There is no recordkeeping burden associated with this ICR.

Dated: September 27, 2001.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 01–25588 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7078–4]

Request for Nominations to the National Advisory Council for Environmental Policy and Technology (NACEPT)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations to fill vacancies on its National Advisory Council for Environmental Policy and Technology (NACEPT). The Agency seeks qualified senior-level decision makers from diverse sectors throughout the United States to be considered for appointments.

DATES: EPA expects to make new appointments by the end of the calendar year and encourages nomination submissions by Friday, November 16, 2001.

ADDRESSES: Submit nominations to: Mr. Gordon Schisler, Deputy Director, Office of Cooperative Environmental Management, U.S. Environmental Protection Agency (1601A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Public Law 92463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues.

The Administrator of EPA has asked NACEPT to act as a visionary group by periodically identifying emerging environmental trends and issues that could impact EPA's ability to protect public health and the environment. EPA seeks new members with broad experience in environmental technology, futures planning, strategic visioning and long-range planning. In addition, NACEPT members may be asked to advise the Administrator on other environmental policy priorities as needed.

NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies that the Agency is developing.

Maintaining a balance and diversity of experience, knowledge, and judgment is an important consideration in the selection of members. Potential candidates should possess the following qualifications:

Occupy a senior position within their organization
Broad experience outside of their current position
Experience dealing with public policy issues
Membership in broad-based networks
Extensive experience in the environmental field
Recognized expert in the subject matter to be addressed by NACEPT

EPA is seeking nominees for representation from all sectors, especially, state, local and tribal agencies, industry, academia, environmental justice organizations, grassroots organizations, and NGOs.

Nominations for membership must include a resume and short biography describing the educational and professional qualifications of the nominee and the nominee's current business address and daytime telephone number.

FOR FURTHER INFORMATION CONTACT: Mr. Peter G. Redmond, Designated Federal Officer for NACEPT, U.S. Environmental Protection Agency (1601A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–1292, email: redmond.peter@epa.gov.

Dated: October 4, 2001.

Peter G. Redmond,

Designated Federal Officer.

[FR Doc. 01–25586 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42212D; FRL–6806–3]

Endocrine Disruptor Method Validation Subcommittee Under the National Advisory Council for Environmental Policy and Technology; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As mandated by the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996, EPA is implementing an Endocrine Disruptor Screening Program (EDSP). As part of the implementation of EDSP, the Endocrine Disruptor Method Validation Subcommittee (EDMVS) under the National Advisory Council for Environmental Policy and Technology (NACEPT), a Federal Advisory Committee, has been established. This notice announces a 2–day meeting of the EDMVS. EDMVS will provide technical advice on the Tier 1 Screening and Tier 2 Testing methods for EPA'sEDSP. The meeting is open to the public. Seating is on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact Jane Smith at the address listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting, so appropriate arrangements can be made.

DATES: The 2-day meeting will be held on October 30, 2001, from 9 a.m. to 5:15 p.m. and October 31, 2001, from 9 a.m. to 12:30 p.m. Requests to participate in the meeting must be received on or before October 26, 2001.

ADDRESSES: The meeting will be held at the Hilton Washington Dulles Airport, 13869 Park Center Road, Herndon, VA 20171. The telephone number at the Hilton Washington is (703) 478–2900; the fax number is (703) 478–9286.

Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your request must identify docket control number OPPT–42212D in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Jane Smith, Designated Federal Official, Office of Science Coordination and Policy (7203), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1597; fax number: (202) 401–1282; e-mail address: smith.jane-scott&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 if you produce, manufacture, use, consume, work with, or import pesticide chemicals, substances that may have an effect cumulative to an effect of a pesticide, or substances found in sources of drinking water. To determine whether you or your business may have an interest in this notice you should carefully examine section 408(p) of the Federal Food, Drug, and Cosmetic

Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Public Law 104–170), 21 U.S.C. 346a (p) and amendments to the Safe Drinking Water Act (Public Law 104–182), 42 U.S.C. 300j–17. Since other entities 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 person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. A list of EDMVS members and the meeting agenda are now available. In addition, the Agency may provide additional background documents as the material becomes available. You may obtain electronic copies of these documents, and other related documents that may be available electronically, from the EPA Internet Home Page at http://www.epa.gov/scipoly/oscpendo. To access this document, on the Home Page select ''Endocrine Disruptors'' which will take you to the OSCP Endocrine Disruptor Screening Program web site. You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an administrative record for this meeting under docket control number OPPT–42212D. 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 Endocrine Disruptor Method Validation, including any information claimed as Confidential Business Information (CBI). 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 TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. Your request must be received by EPA on or before October 26, 2001. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPT–42212D in the subject line on the first page of your request.

1. *By mail*. You may submit a request to: Docket Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. You may deliver a request to: OPPT Docket Control Office, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Docket Control Office is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

3. *Electronically*. You may submit your request electronically by e-mail to: oppt-ncic@epa.gov. Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPPT–42212D. You may also file a request online at many Federal Depository Libraries.

IV. Meeting Overview

October 30, 2001

- Brief overview of NACEPT.
- Overview of the endocrine program at EPA—Validation: Process, program status and timeline, roles and relationships and illustration-utertrophic assay, public comment.

October 31, 2001

- EDMVS process.
- Next steps.

List of Subjects

Environmental protection, Endocrine disruptors.

Dated: October 4, 2001.

Vanessa Vu,

Director, Office of Science Coordination and Policy, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 01–25679 Filed 10–9–01; 1:35 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7079–2]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Act, Public Law 92463, EPA gives notice of a Meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee.

DATES: The Meeting will be held on Wednesday, November 7, 2001, from 1 p.m. to 5:30 p.m. and on Thursday, November 8, 2001, from 8:30 a.m. to 3:30 p.m.

ADDRESSES: The meetings will be held at the Holiday Inn, 404 Highway 90, Waveland, Mississippi. (601–467–9261).

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda items will include: Election of Officers, Dockwatch and Jellyfish update, presentation on Business and Industry involvement in citizen activities, presentations on Gulf of Mexico Program priority areas, and FY 2003 Goals and Measures discussion.

The meeting is open to the public.

Dated: October 3, 2001.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. 01–25590 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7078–6]

Office of Research and Development; Board of Scientific Counselors Subcommittee Review of National Health and Environmental Effects Research Laboratory

AGENCY: Environmental Protection Agency.

ACTION: Notice of review.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2) notification is hereby given that the Environmental Protection Agency, Office of Research and Development (ORD), Board of Scientific Counselors

(BOSC) Subcommittee will conduct a meeting to review the activities of the National Health and Environmental Effects Research Laboratory (NHEERL) of the ORD.

DATES: The review will be held on October 30–31, 2001. On Tuesday, October 30, 2001 the review will begin at 9 a.m., and it will recess at 5 p.m. Also, on Tuesday, October 30, a Poster Session with researchers will begin at 7 p.m. and end at 8:30 p.m. On Wednesday, October 31, the review will begin at 9 a.m. and adjourn at 12 noon. All times noted are Eastern Time.

ADDRESSES: The review will be held at the U.S. EPA's Environmental Research Center (ERC), 86 T.W. Alexander Drive, Triangle Park, North Carolina.

SUPPLEMENTARY INFORMATION: Anyone desiring a draft agenda for the meeting/review may contact Carolyn Wheeler at (919) 541–2281. The meeting is open to the public. Members of the public wishing to make comments at the meeting should contact Shirley Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Board of Scientific Counselors, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by telephone at (202) 564–6853. Each individual making comments will be limited to a presentation of no more than three minutes.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Board of Scientific Counselors, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 564–6853.

Dated: October 4, 2001.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 01–25585 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7078–5]

Office of Research and Development; Board of Scientific Counselors, Executive Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2) notification is hereby given that the Environmental Protection Agency, Office of Research and Development (ORD), Board of Scientific Counselors (BOSC), will hold an Executive Committee Meeting.

DATES: The Meeting will be held on November 1–2, 2001. On Thursday, November 1, the Meeting will begin at 9 a.m., and will recess at 4:30 p.m. On Friday, November 2, the Meeting will reconvene at 9 a.m. and will adjourn at approximately 12 noon. All times noted are Eastern Time.

ADDRESSES: The Meeting will be held at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza Promenade, SW., Washington, DC 20024, (202) 484–1000.

SUPPLEMENTARY INFORMATION: Agenda items will include, but not be limited to: BOSC Sub-Committee draft reports of ORD Labs/Centers site visits, planning and outline for future site visits, outline of Ad-hoc Subcommittee on Communications, and consultations on performance measures for ORD.

Anyone desiring a draft agenda may fax their request to Shirley R. Hamilton at (202) 565–2444. The meeting is open to the public. Any member of the public wishing to make a presentation at the meeting should contact Shirley Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Board of Scientific Counselors, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by telephone at (202) 564–6853. In general each individual making an oral presentation will be limited to a total of three minutes.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, (8701R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–6853.

Dated: October 2, 2001.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 01–25587 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7078–1]

Notice of Availability of Final Document Entitled, Risk Burn Guidance for Hazardous Waste Combustion Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice that the following guidance document: Risk Burn Guidance for Hazardous Waste Combustion Facilities, EPA530–R–01–001, July 2001 is now available for use. This EPA combustion-related guidance document will serve to update and replace the existing draft guidance document entitled: Guidance on Collection of Emissions Data to Support Site-Specific Risk Assessments at Hazardous Waste Combustion Facilities, Peer Review Draft, EPA530–D–98–002, August 1998.

ADDRESSEES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located in Crystal Gatewya I, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The Docket Identification Numbers is F–2001–RBGN–FFFFF. The RIC is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public may review docket materials by calling 703–603–9230 to make an appointment. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For further information contact the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For specific questions on implementation of the document, please contact your RCRA regulating authority.

SUPPLEMENTARY INFORMATION: For a paper copy of the guidance document, Risk Burn Guidance for Hazardous Waste Combustion Facilities, please contact the RCRA Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 603–9230. The document number is EPA530–R–01–001. Copies may also be obtained from the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

The document is available in electronic format on the world wide web. It can be found at *www.epa.gov/epaoswer/hazwaste/combust.htm.*

Dated: August 31, 2001.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 01–25591 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7078–2]

New York State Prohibition on Marine Discharges of Vessel Sewage; Notice of Final Affirmative Determination

Notice is hereby given that a final affirmative determination has been made by the Regional Administrator, Environmental Protection Agency (EPA), pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Port Jefferson Harbor Complex, County of Suffolk, State of New York. The Harbor complex consists of several waterbodies, including Port Jefferson Harbor, Setauket Harbor, Little Bay, the Narrows and Conscience Bay. The boundary line for the proposed No Discharge Area shall extend from the easternmost point at Old Field Beach northerly to the westernmost point at White Beach. A Notice of Receipt of Petition and Tentative Determination was published in the **Federal Register** on April 26, 2001 and public comments regarding the tentative determination were accepted through May 26, 2001. One comment letter was received from the American Waterways Operators (AWO) dated May 4, 2001.

AWO commented that the Town of Brookhaven had not contacted any of their members, which operate in the Port Jefferson Harbor, as the Town claims. Specifically, AWO contends that the two largest commercial waterfront facilities, TOSCO and Keyspan Energy, in Port Jefferson Harbor that are served by the tug and barge industry were neither consulted nor considered. The Town of Brookhaven contacted Barking Marine representing TILCON, TOSCO Pipeline and Keyspan Energy on September 22, 2000. The companies indicated that compliance with No Discharge Area (NDA) requirements would not be a problem. These conversations were documented and signed by Peter Koutrakos, Harbormaster, Town of Brookhaven. Many of the commercial vessels are equipped with chemical treatment systems and holding tanks. These vessels can either use a pumpout facility, a commercial septage hauler or discharge their treated waste after they have left the NDA. Based on the logs submitted to EPA and the statements made by the representatives of TOSCO Pipeline, Keyspan Energy and Barker Marine, EPA has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available.

This petition was made by the New York State Department of Environmental Conservation (NYSDEC) in cooperation with the Town of Brookhaven. Upon receipt of an affirmative determination in response to this petition, NYSDEC will completely prohibit the discharge of sewage, whether treated or not, from any vessel in the Port Jefferson Harbor Complex in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

The Port Jefferson Harbor Complex is located on the north shore of Long Island with approximately 64 miles of tidal shoreline contiguous to Long Island Sound. Port Jefferson's marine waters are comprised of approximately 2,000 acres of harbors, bays and tidal wetlands. The Harbor complex is a major producer of hard clams, soft clams and oysters in New York State. The Harbor complex is used extensively by recreational boaters. Seasonal and transient mooring areas, as well as private and public marinas and boat ramps, are located in the area.

Information submitted by the State of New York and the Town of Brookhaven indicate that there are two existing pumpout facilities and two pumpout boats available to service vessels which use the Port Jefferson Harbor Complex. The Town of Brookhaven operates a fixed pumpout station at the Port Jefferson Marina. The pumpout is available 24 hours a day beginning May 1 through October 31 and is self-service. No fee is charged for the use of the pumpout. Water Depth is 10-feet at mean low water making it accessible to all recreational boats. The Town of Brookhaven operates a mobile pumpout vessel which is dedicated to the Harbor complex from mid-May through mid-September. The hours of operations are Saturdays from 10 am to 5 pm, Sundays from 8 am to 5 pm and holidays from 8 am to 5 pm. The pumpout vessel is also available for pumpouts on Fridays and Mondays by appointment. No fee is charged for the service. The Town has a second pumpout vessel that during periods of heavy demand also services Port Jefferson Harbor. Danfords Marina located on East Broadway, Port Jefferson, operates a pumpout. The pumpout is available during normal business hours from May through October. A $10.00 fee is charged for the use of the pumpout. Water depth is 6 feet at mean low water.

Vessel waste generated from the pumpout facilities located at the Town of Brookhaven's Port Jefferson Marina and their pumpout vessel, and at the Danfords Marina is hauled by privately operated waste haulers. All hauled waste from the pumpout facilities is discharged into and treated at the Suffolk County sewage treatment plant at Bergen Point located in Babylon.

There are five pumpouts located in harbors adjacent to the Port Jefferson Harbor Complex. Two pumpouts are located in Stony Brook Harbor. One pumpout is located in the Nisseqouque River while two more are located in Mt. Sinai Harbor.

According to the State's petition, the maximum daily vessel population for the waters of Port Jefferson Harbor Complex is approximately 900 vessels which are docked or moored. An inventory was developed including the number of recreational, commercial and estimated transient vessels that occupy the harbor bay complex. The ratio of boats to pumpout facilities has been based on the total number of vessels which could be expected. With two shore-side pumpout facilities and one pumpout vessel available to boaters, the ratio of docked or moored boats (including transients) is approximately 300 vessels per pumpout. Standard guidelines refer to acceptable ratios failing in the range of 300 to 600 vessels per pumpout. If the EPA calculation is employed (as listed in the guidance manual entitled, ''Protecting Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials—April 1994), it estimates that two pumpouts are needed to provide adequate facilities.

Several commercial vessel operators are active in and around the harbor. These include the Bridgeport/Port Jefferson Ferry, Miller Marine, Barker Marine, Buchanan Marine, Ltd., Martha Jefferson Paddlewheel Cruises, Port Jefferson Ace and Prowler Recreational/Charter Fishing, and Osprey Recreational/Charter Fishing. These businesses were contacted by the Town of Brookhaven and asked to provide information regarding their methods for treating their vessel sewage. Most of the operators contacted use holding tanks to retain their sewage. The operators that currently use flow-through systems have made commitments to retrofit and comply with the No Discharge Area when finalized.

The EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Port Jefferson Harbor Complex, County of Suffolk, State of New York. This final determination on this matter

will result in a New York State prohibition of any sewage discharges from vessels in the Port Jefferson Harbor Complex.

Dated: September 25, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–25589 Filed 10–10–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98–67; DA 01–2247]

Postponement of FCC's Public Forum and Technology Expo on Telecommunications Relay Services

AGENCY: Federal Communications Commission.

ACTION: Notice; postponement of meeting.

SUMMARY: By this notice, the Public Forum and Technology Expo on Telecommunications Relay Service (TRS), that had been scheduled for October 10, 2001, as announced by Public Notice, DA 01–1969, on August 20, 2001 has been postponed.

DATES: The Public Forum and Technology Expo on TRS will be rescheduled for sometime in the Spring. A public notice announcing the new date will be released in the future.

FOR FURTHER INFORMATION CONTACT: For more information, please contact Suzanne Perrin at (202) 418–2874 (voice), (202) 418–1085 (TTY), or *sperrin@fcc.gov* (e-mail) or Arlene Alexander at (202) 418–0581 (voice), (202) 418–0183 (TTY), or *aalexand@fcc.gov* (email).

SUPPLEMENTARY INFORMATION: We still encourage all interested individuals to submit written *ex parte* presentations identifying proposed national outreach guidelines and procedures, as requested in the Public Notice DA 01–1969, released August 20, 2001. *Ex parte* presentations will aid us in our decision-making with regard to identifying the best means of achieving nationwide outreach on TRS. Interested parties must file *ex parte* presentations pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206. An original and four (4) copies should be filed with the FCC's Office of the Secretary, 445 12th Street, SW., TW–A325, Washington DC 20554 and should reference CC Docket No. 98–67. One (1) copy of those filings should be sent to our duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. Additionally, two (2) copies should be forwarded to Greg Hlibok, Consumer Information Bureau, FCC, 445 12th Street, SW., Room 6–A236, Washington, DC 20554. All filings concerning any of the matters referenced in this Public Notice should refer to CC Docket 98–67. You may also file *ex parte* presentations using the Commission's Electronic Comment Filing System (ECFS). *Ex parte* presentations filed through the ECFS can be sent as an electronic file via the Internet to <*http://www.fcc.gov/e-file/ecfs.html*>. If using this method, please reference CC Docket No. 98–67 in the Proceeding Block. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket. Parties may also submit an electronic *ex parte* presentation by Internet e-mail. To get filing instructions for e-mail *ex parte* presentations, commenters should send e-mail to *ecfs@fcc.gov*, including ''get form <*your e-mail address*>'' in the body of the message. A sample form and directions will be sent in reply. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554.

Documents may also be purchased from the Commission's duplicating contractor, Qualex International.

Consumer Information Bureau.

Pamela Gregory,

Chief, Disabilities Rights Office.

[FR Doc. 01–25480 Filed 10–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act System of Records

AGENCY: Federal Communications Commission (FCC or Commission).

ACTION: Notice; amendment of one altered Privacy Act system of records; amendment of one revised routine use; amendment of one proposed new routine use; one deleted routine use; and one purged system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), the FCC has amended and is republishing the proposed alteration of a systems of records, FCC/CIB–1, ''Informal Complaints and Inquiries.'' The amended and altered system of records incorporates the provisions of FCC/CIB–4, ''Telephone and Electronic Contacts,'' revises two routine uses to incorporate comments received following the initial publication of the altered system of records, and makes other edits and revisions as necessary. The FCC will eliminate FCC/CIB–4.

DATES: The amended and altered system, which incorporates the comments received following the initial publication, shall become effective October 11, 2001.

FOR FURTHER INFORMATION: Contact Les Smith, Performance Evaluation and Records Management, Room 1–A804, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, or via the Internet at *lesmith@fcc.gov;* or Arthur Scrutchins, Staff Attorney, Office of the Bureau Chief, Consumer Information Bureau, Room 3–A234, Federal Communications Commission, at (202) 418–2184, or via the Internet at *ascrutch@fcc.gov.*

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), this document sets forth notice of the amendment of the proposed alteration of a system of records maintained by the FCC, in response to comments received following the initial publication in the **Federal Register**. The purpose of altering FCC/CIB–1, ''Information Complaints and Inquiries,'' is to enable the Consumer Information Bureau to handle and process informal complaints filed against common carriers received from individuals, groups, and other entities. Records in this system are available for public inspection after redaction of information, which could identify the complainant or correspondent, *i.e.,* name, address, and/or telephone number.

The Commission's proposal achieves this purpose by amending and altering this system of records, FCC/CIB–1, ''Informal Complaints and Inquiries,'' with these changes:

The incorporation of the data elements of another system of records, FCC/CIB–4, ''Telephone and Electronic Contacts,'' into FCC/CIB–1;

The elimination of FCC/CIB–4;

The amendment of the proposed revision of one routine use to address informal complaints filed against common carriers, pursuant to Section 208 of the Communications Act of 1934, as amended:

Routine use (1) to allow disclosure when a record in this system involves an informal complaint filed against a common carrier, the complaint may be

forwarded to the defendant carrier for a response, pursuant to Section 208 of the Communications Act of 1934, as amended.

The addition and amendment of one routine use to address informal complaints filed against common carriers:

Routine use (2) to allow disclosure when an order or other Commission-issued document that includes consideration of informal complaints filed against common carriers is entered by the FCC to implement or enforce the Communications Act, pertinent rule, regulation, or order of the FCC, the complainant's name may be made public in that order or document. Where a complainant in filing his or her complaint explicitly requests that the bureau withhold his or her name from public disclosure, such a request will be granted and the complainant's name will not be disclosed in the Commission-issued order or document.

The deletion of one routine use pursuant to 5 U.S.C. 552a(b)(3):

Former routine use (4) to disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit; and

The revision or modification of various data elements in FCC/CIB–1, including editorial changes, to update, simplify, or clarify, as necessary, this system of records.

The FCC will use FCC/CIB–1 to handle and process informal complaints filed against common carriers received from individuals, groups, and other entities. Records in this system are available for public inspection after redaction of information, which could identify the complainant or correspondent, *i.e.,* name, address, and/or telephone number. The functions in this system of records will be performed by the Consumer Information Bureau (CIB).

This notice meets the requirement to notify the public that the FCC is amending the proposed changes in the Commission's system of records by incorporating changes responsive to comments that were received following the initial publication at 66 FR 38425, July 24, 2001. With this notification, this system of records is effective October 11, 2001.

FCC/CIB–1

SYSTEM NAME:

Informal Complaints and Inquiries.

SECURITY CLASSIFICATION:

This material has not received a security classification at this time. The OSCAR system is currently undergoing security review.

SYSTEM LOCATION:

Chief, Consumer Information Bureau, Room 5–C758, Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554 and 1270 Fairfield Road, Gettysburg, PA 17325.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, groups, and other entities who have made informal complaints or inquiries in any format, including but not limited to, paper, telephone, and electronic submissions, on matters arising under the Communications Act of 1934, as amended, and the Rehabilitation Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in this system include both computerized information contained in a database and paper copies of inquiries, informal complaints, and related supporting information, company replies to complaints, inquiries, and Commission letters regarding such complaints and inquiries made by individuals, groups, or other entities pertaining to the FCC's bureaus and offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 151, 154, 206, 208, 225, 226, 227, 228, 255, 258, 301, 303, 309(e), 312, 362, 364, 386, 507 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 206, 208, 225, 226, 227, 228, 255, 258, 301, 303, 309(e), 312, 362, 364, 386, 507; Sections 504 and 508 of the Rehabilitation Act, 29 U.S.C. 794; and 47 CFR 1.711 *et seq.*, 6.15 *et seq.*, 7.15 *et seq.*, and 64.604.

PURPOSE(S):

The records in this system of records are used by Commission personnel to handle and process informal complaints received from individuals, groups, and other entities. Records in this system are available for public inspection after redaction of information that could identify the complainant or correspondent, *i.e.,* name, address and/or telephone number.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used by Commission personnel to handle and process informal complaints received from individuals, groups, and other entities.

1. When a record in this system involves an informal complaint filed against a common carrier, the complaint may be forwarded to the defendant carrier for a response, pursuant to Section 208 of the Communications Act of 1934, as amended.

2. When an order or other Commission-issued document that includes consideration of informal complaints filed against common carriers is entered by the FCC to implement or enforce the Communications Act, pertinent rule, regulation, or order of the FCC, the complainant's name may be made public in that order or document. Where a complainant in filing his or her complaint explicitly requests that the bureau withhold his or her name from public disclosure, such a request will be granted and the complainant's name will not be disclosed in the Commission-issued order or document.

3. Where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for implementing or enforcing the statute, rule, regulation, or order.

4. A record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body.

5. A record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when:

(a) the United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and

(b) The Commission determines that the disclosure is relevant or necessary to the litigation.

6. A record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office.

7. A record from this system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable unless the consumer reporting agencies include consumer advocacy groups.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:STORAGE:

Paper copies of records in this system of records are maintained in file folders and electronic files are located in computer databases on the FCC internal network.

RETRIEVABILITY:

Records are retrieved by individual name, entity name, licensee, applicant or unlicensed individual, call sign, file number, or subject matter.

SAFEGUARDS:

Records are stored in locked cabinets, which are secured in the office at the close of the business day. Access to computer records is controlled by password. Computer systems are stored within secure areas. Data resident on network servers are backed-up daily to magnetic media. One week of back-up tapes is stored on-site in fireproof safes. Each week, the previous week's back-up tapes are sent to an off-site storage location. A maximum of ten weeks of tapes are kept and cycled in this fashion.

RETENTION AND DISPOSAL:

The records are retained at the FCC and then destroyed in accordance with the appropriate records retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Consumer Information Bureau, Federal Communications Commission, 445 12th Street, Room 5–C758, SW., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager.

RECORD ACCESS PROCEDURES:

Address inquiries to the system manager. An individual requesting access must follow FCC Privacy Act regulations regarding verification of identity and amendment of records. *See* 47 CFR 0.554–0.557.

CONTESTING RECORD PROCEDURES:

Address inquiries to the system manager.

RECORD SOURCE CATEGORIES:

Complainants and subject entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–25601 Filed 10–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011778.

Title: Great Western/HASCO Agreement.

Parties: Great Western Steamship Company, Shanghai Haihua Shipping Co., Ltd.

Synopsis: The proposed agreement establishes a vessel-sharing agreement in the trades between U.S. Pacific Coast ports and ports in China, including Hong Kong. The parties request expedited review.

Agreement No.: 200563–010.

Title: Oakland-Trans Pacific Marine Terminal Agreement.

Parties: City of Oakland, Board of Port Commissioners, Trans Pacific Container Corporation.

Synopsis: The proposed amendment sets forth the settlement and compromise of a dispute between the parties.

Dated: October 5, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–25558 Filed 10–10–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 3051.

Name: Adept International Forwarders, Inc.

Address: 145 Hook Creek Boulevard, P.O. Box 820, Valley Stream, NY 11582–0820.

Date Revoked: May 6, 1999.

Reason: Failed to maintain a valid bond.

License Number: 342F.

Name: Circle International, Inc.

Address: 260 Townsend Street, San Francisco, CA 94107.

Date Revoked: September 19, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16377F.

Name: Gen Trading Machinery, Inc. dba GTM Cargo & Logistics, Inc.

Address: 1246 NW 125th Terrace, Sunrise, FL 33323.

Date Revoked: August 5, 2001.

Reason: Failed to maintain a valid bond.

License Number: 14503N.

Name: Hana Worldwide Shipping Co., Inc.

Address: 20435 S. Western Ave., Torrance, CA 90501.

Date Revoked: September 12, 2001.

Reason: Failed to maintain a valid bond.

License Number: 14357N.

Name: Martin Well & Hiland (USA) Inc.

Address: 156–15 146th Ave., Suite 108, Jamaica, NY 11434.

Date Revoked: August 19, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16402N.

Name: Quality Freight International Services, Inc.

Address: 6955 NW 52nd Street, Suite 101, Miami, FL 33166.

Date Revoked: September 3, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16632N.

Name: Trans-World Freight Systems Inc.

Address: 10505 NW 27th Street, Unit #2, Miami, FL 33172.

Date Revoked: September 16, 2001.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–25559 Filed 10–10–01; 8:45 am].

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date/reissued
4153N	Coda International, Inc. 239 New Road, Bldg. #A Rm. 103 Parsippany, NJ 07054.	August 19, 2001.
16987F	TAT International, Inc. 41–79 Main Street Flushing, NY 11355	June 14, 2001.
13709N	PAC West Trading And Transport Inc. dba Pacwest Transport 2531 W. 237th Street, Suite 122 Torrance, CA 90505.	June 22, 2001.
4186N	Hanmi Shipping, Inc. 619 Thomas Drive Bensenville, IL 60106	August 20, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–25560 Filed 10–10–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder-Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

PDS Express Inc., 473 Broadway, Suite 215, Bayonne, NJ 07002. Officers:Henry Gomez, Managing Director (Qualifying Individual), Niraj P. Patel, Partner

ShipChem, Inc. dba ShipChem, Six Concourse Parkway, Suite 2800, Atlanta, GA 30328. Officers: Beat Schweizer, V.P., Operations (Qualifying Individual), Barry Dale, President/Director

Dated: October 5, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–25557 Filed 10–10–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 2001.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. United Bankshares, Inc., Charleston, West Virginia; to merge with Century Bancshares, Inc., Washington, D.C., and thereby indirectly acquire Century National Bank, Washington, D.C.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Alabama National BanCorporation, Birmingham, Alabama; to merge with Farmers National Bancshares, Inc., Opelika, Alabama, and thereby indirectly acquire Farmers National Bank of Opelika, Opelika, Alabama.

2. Southern Community Bancshares, Inc., Fayetteville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Southern Community Bank, Fayetteville, Georgia.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First National Bank of Berryville Employee Stock Ownership Trust, Berryville, Arkansas; to acquire an additional 2 percent of the voting shares of First Carroll Bankshares, Berryville, Arkansas, and thereby indirectly acquire The First National Bank of Berryville, Berryville, Arkansas.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Sterling Bancshares, Inc., Houston, Texas; to merge with Community Bancshares, Inc., Katy, Texas, and thereby indirectly acquire Community Bancshares of Delaware, Inc., Wilmington, Delaware, and Community Bank, Katy, Texas.

Board of Governors of the Federal Reserve System, October 4, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–25450 Filed 10–10–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Announcement of Public Workshop on Office and Cleaning Supply Fraud

AGENCY: Federal Trade Commission.

ACTION: Announcement of public workshop on office and cleaning supply fraud.

SUMMARY: The Federal Trade Commission will hold a public workshop on November 8, 2001, to explore the marketing practices of the office and cleaning supply industry.

Dates and Location: The workshop will be held on November 8, 2001, at the Commission, 600 Pennsylvania Ave., NW., Washington, DC from 8:15 a.m. to 5:00 p.m. There is no fee to attend the workshop. Advance registration is requested but not required. In addition, written statements responding to the workshop topics below and other issues would be appreciated in advance. You may register in advance via email to jwright@ftc.gov or by calling Janet Wright at (202) 326–2832.

FOR FURTHER INFORMATION CONTACT: Elena Paoli, Attorney, Bureau of Consumer Protection; phone (202) 326–2974; fax (202) 326–2558; email *epaoli@ftc.gov;* 601 Pennsylvania Ave., NW., Room S–4623, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Background and Workshop Goals

As part of the Commission's ongoing efforts to combat office and cleaning supply fraud, the Commission requests information from and the participation of interested parties. Since the Telemarketing Sales Rule's issuance in December 1995,[1] the Commission has filed more than 20 lawsuits against office and cleaning supply telemarketing operations. Almost all of the victims in these cases have been small businesses and non-profit organizations.[2] Consumer complaint data shows that office supply fraud is not abating.

The Commission is interested in exploring current marketing practices in the office and cleaning supply industry and how the sales practices of office and cleaning supply telemarketers have changed since the Rule's inception. Information about how businesses and organizations purchase office supplies would also be helpful. The goal of the upcoming workshop is to educate the Commission and the public about current business practices of office supply telemarketers and what further law enforcement or education efforts could help eradicate fraud in this industry.

Topics To Be Addressed

- How the frauds work.
- Federal and state law enforcement initiatives.
- Business education efforts.
- Principal sales methods of industry members.
- Role of online sales and faxes.
- The use of fulfillment houses.
- Principal buying patterns of businesses and organizations.
- Impact of Telemarketing Sales Rule on industry marketing methods.
- Current frauds.
- Additional ways to educate businesses.
- Increasing protections for business through the TSR, including additional mandatory disclosures and requiring invoices to accompany products.

An agenda and additional information will be posted on the Commission's web site, *www.ftc.gov,* in advance of the workshop.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–25551 Filed 10–10–01; 8:45 am]

BILLING CODE 6750–01–M

[1] 16 CFR part 310.

[2] Commission Testimony, Senate Small Business Committee, March 27, 2000, p. 1.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–02]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: U.S. Action Plan for Laboratory Containment of Wild Polio viruses: A Pilot Study—New—National Vaccine Program Office (NVPO), Centers for Disease Control and Prevention (CDC). Global polio eradication is anticipated within the next few years. The only sources of wild polio virus will be in biomedical laboratories. Prevention of inadvertent transmission of polio viruses from the laboratory to the community is crucial.

The first step toward prevention is a national survey of all biomedical laboratories. The survey will alert laboratories to the impending eradication of polio, encourage the disposition of all unneeded wild polio virus infectious and potentially infectious materials, and establish a national inventory of laboratories retaining such materials. Laboratories on the inventory will be kept informed of polio eradication progress and notified, when necessary, to implement bio-safety requirements appropriate for the risk of working with such materials.

An estimated 15,000 biomedical laboratories, in six categories of institutions: academic, federal government, hospital, industry, private, and state and local government facilities, will be included in the final survey. We propose conducting pilot studies in 525 biomedical laboratories representing the above six categories. Specific survey strategies for each category will be refined through these pilot surveys. Three types of biomedical laboratories within each institutional category will be targeted by the pilot survey: those most likely to possess wild polio virus materials; those least likely to possess wild polio virus materials; and those that may possess wild polio virus materials.

The survey instruments will ask laboratories to indicate whether or not they possess wild polio virus infectious and/or potentially infectious materials. If such materials are present, respondents are asked to indicate the types of materials and estimated numbers retained. Survey instruments will be available on the NVPO web page, and institutions will be

encouraged to submit completed survey forms electronically. There are no costs to respondents.

Respondents	Number of responses	Respondents/ respondent	Avg burden/ response (in hours)	Total burden (in hours)
Labs most likely to possess	175	1	1	175
Labs least likely to possess	175	1	30/60	88
Labs that may possess	175	1	45/60	131
Total				394

Dated: October 4, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–25563 Filed 10–10–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–01]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Survey of Consumer Reaction to Canadian-style Warning Labels of Tobacco Products—NEW—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control (CDC). The Office on Smoking and Health (OSH), National Center for Chronic Disease Prevention and Health Promotion, CDC proposes to conduct a national survey of young persons to assess their attitudes towards larger and more graphic cigarette warning labels, such as those currently used in Canada. Although the purpose of cigarette warning labels is to alert consumers about the health hazards of smoking, research suggests that current U.S. warnings fail to get the attention of smokers, an important first step if warnings are to have any deterrent effect. Cigarette warning labels have not changed since 1984 in the United States.

The proposed study will be conducted through implementation of a web-based survey. We propose to administer a 10 minute survey to 2000 persons 18 to 24 years of age. The survey will include images of Canadian cigarette packs with their current warning labels and questions about reactions to these warnings, including acceptability, and perceived usefulness (perceived impact on starting to smoke or deciding to quit). The results of this study will be shared with policy makers and public health officials. There is no cost to respondents other than their time.

Respondents	Number of responses	Responses respondent	Avg. burden per respondent (in hrs)	Total burden (in hrs)
Persons 18–24 years old	2000	1	10/60	333
Total				333

Dated: October 2, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–25564 Filed 10–10–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Medicare and Medicaid Services

[HCFA–906]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Center for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy

of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a Currently Approved Collection; *Title of Information Collection:* The National Data Reporting Requirements (NDRR). We are requesting the name of the collection be changed to the Fiscal Soundness Reporting Requirements (FSRR) and Supporting Regulations in 42 CFR 417., .126.478,. 162; *Form No.:* HCFA–906 (OMB# 0938–0469); *Use:* HCFA needs this information to establish an on-going fiscal soundness of the Managed Care Organizations in the Medicare + Choice Program; *Frequency:* Quarterly; *Affected Public:* Business or other for-profit; *Number of Respondents:* 300; *Total Annual Responses:* 300; *Total Annual Hours:* 301.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address:OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 27, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–25545 Filed 10–10–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

Privacy Act of 1974; Report of New System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS) (formerly the Health Care Financing Administration).

ACTION: Notice of New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new SOR titled, ''Provider Enrollment, Chain, and Ownership System (PECOS),'' HHS/CMS/OFM, System No. 09–70–0532. PECOS will be used to collect and maintain provider/supplier enrollment information from the Medicare Provider/Supplier Enrollment Application and related forms (Form(s) HCFA–855A, 855B, 855I, 855R, and, 855S). PECOS will collect information provided by the applicant related to identity, qualifications, practice locations, ownership, billing arrangements, reassignment of benefits, surety and bond data, clearinghouses submitting electronic claims, and related organizations. PECOS will also maintain information on business owners, chain home offices and provider/chain associations, managing/directing employees, partners, authorized and delegated representatives, supervising physicians of the supplier, staffing companies, ambulance crew members, and/or interpreting physicians and related technicians. Managing/directing employees include general managers, business managers, administrators, directors, and other individuals who exercise operational or management control over the provider/supplier.

The primary purpose of the SOR is to: (1) Collect information for an applying provider/supplier and record the associations between the applicant and those who have an ownership or control interest in the entity; (2) permit informed enrollment decisions to be made based on past and present business history, any reported exclusions, sanctions and felonious behavior at their location or in multiple contractor jurisdictions; and, (3) ensure that correct payments are made under the Medicare program. Information retrieved from this SOR will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) support constituent requests made to a congressional representative; (4) support litigation involving the Agency; and (5) combat fraud and abuse in certain health benefits programs. We have provided background information about the modified system in the ''Supplementary Information'' section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on September 26, 2001. To ensure that all parties have adequate time in which to comment, the new SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution, CMS, Mailstop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Michael Collett, Health Insurance Specialist, Division of Provider/Supplier Enrollment, Program Integrity Group, Office of Financial Management, CMS, N3–10–07, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is 410–786–6121.

SUPPLEMENTARY INFORMATION:

I. Description of the Proposed SOR

A. Background

Prior to PECOS, a national tracking mechanism has not been available to connect those who bill Medicare and those who receive Medicare monies, thus allowing potential fraud and abuse within the Medicare system. With information maintained in PECOS, it will now be possible to link providers/suppliers to the people and organizations with which they have a business relationship and to identify those involved in illegal Medicare activities. Additionally, PECOS will enumerate chain home offices and maintain provider/chain associations. Previously, Medicare contractors collected enrollment information on their own unique application forms. In

May 1996, CMS created the Form HCFA 855 and its iterations (855A for change of information, 855R for reassignment of benefits, and 855S for Durable Medial Equipment, Prosthetics, Orthotics, and Suppliers (DMEPOS) enrollment), in order to standardize the collection of the various types of provider/supplier data at the time of the provider/supplier's initial enrollment. Identifying data will be entered into the PECOS. PECOS will also retain the information on business owners, managing/directing employees, partners, authorizing representatives, and/or supervising physicians of the supplier. Managing/directing employees include general managers, business managers, administrators, directors, and other individuals who exercise operational or managerial control over the provider/supplier. With the information provided by the provider/supplier, Medicare contractors will be able to make informed enrollment decisions based on past and present business history as well as information regarding any exclusions, sanctions, and felonious behavior.

CMS is authorized to collect information on the Form HCFA 855 to ensure that correct payments are made to providers/suppliers under the Medicare program as established by Title XVIII of the Social Security Act, and, section 31001(I) of the Debt Collection Improvement Act (DCIA) of 1996 (Pub. L.104–134), as amended (Title 31 United States Code (USC) 7701), by adding paragraph (c) to require that any person or entity doing business with the Federal government must provide his or her tax identification number (TIN).

The Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33), section 4313, requires disclosure of both the employer identification number (EIN) and the social security number (SSN) of each person with ownership or control interest in the provider/supplier and any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest as well as any managing/directing employees. The ''Report to Congress on Steps Taken to Assure Confidentiality of Social Security Account Numbers as Required by the Balanced Budget Act,'' was signed by the Secretary and sent to Congress on January 26, 1999, with mandatory collection of SSNs and EINs effective on or about April 26, 1999.

The BBA also instructs CMS to transmit the EIN to the Department of Treasury and SSN to the SSA for verification. By collecting, verifying, and storing the SSN and EIN of these individuals, CMS contractors throughout the United States will have a coordinated national system and be able to view any enrollment form. Consistent application of Medicare rules for program enrollment, credentialing, and claims submission will aid in the identification of medical personnel, and those affiliated with them, who have been excluded by the Office of the Inspector General, cited on the General Services Administration's ''List of Excluded Parties'' found not compliant with Medicare rules and regulations, or have questionable business practices. All denials, revocations, and exclusions information will be maintained in PECOS.

B. Statutory and Regulatory Basis for SOR

Authority for maintenance of the system is given under sections 1102(a) (Title 42 U.S.C. 1302(a)), 1128 (42 U.S.C. 1320a–70), 1814(a) (42 U.S.C. 1395f(a)(1), 1815(a) (42 U.S.C. 1395g(a)), 1833(e) (42 U.S.C. 1395(e), 1871 (42 U.S.C. 1395hh), and 1886(d)(5)(F), (42 U.S.C. 1395ww(d)(5)(F) of the Social Security Act; 1842(r) (42 U.S.C. section 9202(g)); section 1124(a)(1) (42 U.S.C. 1320a–3(a)(1), and 1124A (42 U.S.C. 1320a–3a), section 4313, as amended, of the BBA of 1997; and section 31001(I) (31 U.S.C. 7701) of the DCIA (P.L. 104–134), as amended.

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

PECOS will contain information on health care providers, provider of medical or other health services, Medicare facilities and practitioners, assorted clinics, physicians, clinical laboratories, suppliers of durable medical equipment, other licensed/certified health care practitioners, and any other person who furnishes health care services or supplies. This system will also contain information on certified, as well as uncertified provider/supplier entities and their owners, managing/directing employees, officials of the entity, chief executive officer, senior or majority partner, authorized or delegated representatives, and supervisory physicians of such supplier.

This SOR will contain the names, SSNs, and EINs for each disclosing entity and owners with 5 percent or more ownership or control interest, as well as managing/directing employees. Managing/directing employees include general manager, business managers, administrators, directors, and other individuals who exercise operational or managerial control over the provider/supplier. Additional information includes other identifiers, name(s), demographic data, educational/professional data, past and present business history, as well as questions regarding any exclusions, sanctions, and felonious behavior.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

We are establishing the following policies, procedures, and restrictions on routine use disclosures of information that will be maintained in the system. In general, routine uses of this file (or a subset thereof) will be approved for the minimum set of data elements in the record needed to accomplish the purpose of the disclosure after CMS:

(a) Determines that the use or disclosure is consistent with the reason that the data are being collected: (1) Detecting and tracking fraudulent providers and suppliers; (2) establishing correct payments based on qualifications of providers and suppliers; and, (3) ensuring that the location where the service is rendered is appropriate.

(b) Determines:

(1) That the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

(2) That the purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) That there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

(c) Requires the information recipient to:

(1) Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record; and

(2) Remove or destroy at the earliest time all provider/supplier identifiable information.

(d) Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

Entities That May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the PECOS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure

is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. In addition, our policy will be to prohibit release of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants that have been contracted by the agency to assist in accomplishment of a CMS function relating to the purposes for this system of records and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system of records.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or consultant to return or destroy all information at the completion of the contract.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

(a) Contribute to the accuracy of CMS's proper payment of Medicare benefits,

(b) Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

(c) Assist with other activities within the state.

Other Federal or state agencies in their administration of a Federal health program may require PECOS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

We also contemplate disclosing information under this routine use in situations in which state certifying agencies require PECOS information to assist in accomplishing functions relating to purposes for this SOR.

3. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries, as well as other individuals, may request the help of a Member of Congress in resolving an issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

4. To the Department of Justice (DOJ), court, or adjudicatory body when:

(a) The Agency or any component thereof, or

(b) Any employee of the Agency in his or her official capacity,

(c) any employee of the Agency in his or her individual capacity where DOJ has agreed to represent the employee, or

(d) Where the United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

5. To a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

6. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require PECOS information for the purpose of combating fraud and abuse in such Federally funded programs.

IV. Safeguards

The PECOS system will conform with applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: the Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix III, ''Security of Federal Automated Information Resources.'' CMS has prepared a comprehensive system security plan as required by the OMB Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, ''Guide for Developing Security Plans for Information Technology Systems.'' Paragraphs A-C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

A. *Authorized users:* Personnel having access to the system have been trained in Privacy Act and systems security requirements. Employees and contractors that maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to

the data. In addition, CMS is monitoring the authorized users to ensure against excessive or unauthorized use. Records are used in a designated work area or work-station and the system location is attended at all times during working hours.

To ensure security of the data, the proper level of class user is assigned for each individual user as determined at the Agency level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- Database Administrator class owns the database objects, e.g., tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects,
- Quality Control Administrator class has read and write access to key fields in the database,
- Quality Indicator Report Generator class has read-only access to all fields and tables,
- Policy Research class has query access to tables, but is not allowed to access confidential patient identification information, and
- Submitter class has read and write access to database objects, but no database administration privileges.

B. *Physical Safeguards:* All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the PECOS system:

Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and systems support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination that grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers, and databases includes:

- User Logons—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.
- Workstation Names—Workstation naming conventions may be defined and implemented at the Agency level.
- Hours of Operation—May be restricted by Windows NT. When activated, all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the Agency level.
- Inactivity Logout—Access to the NT workstation is automatically logged out after specified period of inactivity.
- Warnings—Legal notices and security warnings display on all servers and workstations.
- Remote Access Services (RAS)—Windows NT RAS security handles resource access control. Access to NT resources is controlled for remote users in the same manner as for local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

There are several levels of security found in the PECOS system. Windows NT provides much of the overall system security. The Windows NT security model is designed to meet the C2-level criteria as defined by the U.S. Department of Defense's Trusted Computer System Evaluation Criteria document (DoD 5200.28–STD, December 1985). Netscape Enterprise Server is the security mechanism for all transmission connections to the system. As a result, Netscape controls all information access requests. Anti-virus software is applied at both the workstation and at NT server levels.

Access to different areas on the Windows NT server are maintained through the use of file, directory, and share level permissions. These different levels of access control provide security that is managed at the user and group level within the NT domain. The file and directory level access controls rely on the presence of an NT File System hard drive partition. This provides the most robust security and is tied directly to the file system. Windows NT security is applied at both the workstation and at NT server levels.

C. *Procedural Safeguards:* All automated systems must comply with Federal laws, guidance, and policies for information systems security as stated previously in this section. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effects of the Proposed System of Records on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. We will only disclose the minimum personal data necessary to achieve the purpose of PECOS. Disclosure of information from the system of records will be approved only to the extent necessary to accomplish the purpose of the disclosure. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of data in this system.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: September 24, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

09–70–0532

SYSTEM NAME:

Provider Enrollment, Chain, and Ownership System (PECOS), HHS/CMS/OFM.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PECOS will collect information provided by the applicant related to identity, qualifications, practice locations, ownership, billing arrangements, reassignment of benefits, surety and bond data, clearinghouses submitting electronic claims, and related organizations. PECOS will also maintain information on business

owners, chain home offices and provider/chain associations, managing/directing employees, partners, authorized and delegated representatives, supervising physicians of the supplier, staffing companies, ambulance crew members, and/or interpreting physicians and related technicians. Managing/directing employees include general managers, business managers, administrators, directors, and other individuals who exercise operational or managerial control over the provider/supplier.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records will contain the names, social security numbers (SSN), and employer identification numbers (EIN) for each disclosing entity, owners, as well as managing/directing employees, with 5 percent or more ownership or control interest. Managing/directing employees include general manager, business managers, administrators, directors, and other individuals who exercise operational or managerial control over the provider/supplier. The system will also contain the Unique Provider Identification Number, demographic data, professional data, past and present business history as well as information regarding any exclusions, sanctions, and felonious behavior.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under sections 1102(a) (Title 42 United States Code (U.S.C.) section 1302(a)), 1128 (42 U.S.C. 1320a–70), 1814(a) (U.S.C. 1395f(a)(1), 1815(a) (42 U.S.C. 1395g(a)), 1833(e) (42 U.S.C. 1395(e), 1871 (42 U.S.C. 1395hh), and 1886(d)(5)(F), (42 U.S.C. 1395ww(d)(5)(F) of the Social Security Act; 1842(r) (42 U.S.C. 9202(g)); sec. 1124(a)(1) (42 U.S.C. 1320a–3(a)(1), and section 1124A (42 U.S.C. 1320a–3a), 4313, as amended, of the Balanced Budget Act of 1997; and section 31001(I) (31 U.S.C. 7701) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), as amended.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to: (1) Collect information for an applying provider/supplier and record the associations between the applicant and those who have an ownership or control interest in the entity; (2) permit informed enrollment decisions to be made based on past and present business history, any reported exclusions, sanctions and felonious behavior at their location or in multiple contractor jurisdictions; and, (3) ensure that correct payments are made under the Medicare program. Information retrieved from this SOR will also be disclosed to: (1) support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) support constituent requests made to a congressional representative; (4) support litigation involving the Agency; and (5) combat fraud and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the PECOS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. In addition, our policy will be to prohibit release of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants that have been engaged by the agency to assist in accomplishment of a CMS function relating to the purposes for this system of records and who need to have access to the records in order to assist CMS.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

(a) Contribute to the accuracy of CMS's proper payment of Medicare benefits,

(b) Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

(c) Assist with other activities within the state.

3. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

4. To the Department of Justice (DOJ), court, or adjudicatory body when:

(a) The Agency or any component thereof, or

(b) An employee of the Agency in his or her official capacity,

(c) An employee of the Agency in his or her individual capacity where DOJ has agreed to represent the employee, or

(d) Where the United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

5. To a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

6. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on paper and magnetic media.

RETRIEVABILITY:

The records are retrieved by the Internal Provider Control Number, SSN, EIN, or other CMS assigned provider numbers.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system

have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the PECOS system. For computerized records, safeguards have been established in accordance with the Department of Health and Human Services (HHS) standards and National Institute of Standards and Technology guidelines, e.g., security codes will be used, limiting access to authorized personnel. Systems securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information Systems Security Program, CMS Automated Information Systems Guide, Systems Securities Policies, and OMB Circular No. A–130 (revised) Appendix III.

RETENTION AND DISPOSAL:

CMS will retain identifiable data for a total period of 15 years from the date the information was collected.

SYSTEM MANAGERS AND ADDRESS:

Director, Division of Provider/Supplier Enrollment, Office of Financial Management, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, SSN, EIN, and for verification purposes, the subject individual's name (woman's maiden name, if applicable).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Information contained in this system is received from the Form(s) HCFA 855A, ''Application for Health Care Providers that will Bill Medicare Fiscal Intermediaries, HCFA 855B, ''Application for Health Care Providers that will Bill Medicare Carriers,'' HCFA 855I, ''Application for Individual Health Care Practitioners,'' HCFA 855R, ''Application for Reassignment of Medicare Benefits,'' and HCFA 855S, ''Durable Medial Equipment, Prosthetics, Orthotics, and Suppliers Application.''

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–24439 Filed 10–10–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability

SUMMARY: The Fish and Wildlife Service has published a Comprehensive Conservation Plan and a Finding of No Significant Impact for both Lower Suwannee and Cedar Keys National Wildlife Refuges. Lower Suwannee Refuge is located in Dixie and Levy Counties, Florida, and Cedar Keys Refuge is located in Levy County, Florida. These plans describe how the Fish and Wildlife Service will manage the refuges for the next 15 years.

ADDRESSES: Copies of the above documents may be obtained by writing to Kenneth Litzenberger, Refuge Manager, Lower Suwannee National Wildlife Refuge, 16450 NW 31st Place, Chiefland, Florida 32626–4874. Copies of both plans are also available at the following website address: http://lowersuwannee.fws.gov.

SUMMARY INFORMATION: The plans provide clear statements regarding management of the refuges; ensure that management of the refuges reflect policies and goals of the National Wildlife Refuge System; ensure that management is consistent with federal, state, and county plans; provide long-term continuity in refuge management; and provide a basis for operation, maintenance, and capital improvement budget requests. The Finding of No Significant Impact is in response to environmental documentation prepared subsequent to the National Environmental Policy Act, 1969, which requires the disclosure of environmental impacts of any major federal action significantly affecting the quality of the human environment.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57. Some of the major issues addressed in the plans include restoration and maintenance of health water regimes; reduce of exotic and invasion plants; expansion of wildlife species inventory and increased mapping of habitat; enhancement of wildlife habitat for migratory and resident songbirds; and expansion of wildlife-dependent and other compatible recreation opportunities.

Dated: September 19, 2001.

Sam D. Hamilton,

Regional Director.

[FR Doc. 01–25487 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–55–M

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: Hawthorn Corporation, Grayslake, IL, PRT–843875

The applicant requests the re-issuance of a permit to export, re-export and re-import tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Hawthorn Corporation, Grayslake, IL, PRT–047787

The applicant requests a permit to export, re-export and re-import tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through

conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Laurel E. Brown, Portland, OR, PRT–048556

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.

Applicant: Margaret Hice, Cumming, GA, PRT–048531

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.

Applicant: Robert C. Lowe, River Ridge, LA, PRT–048686

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.

Applicant: Jeff Berlew, Angola, IN, PRT–048687

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 28, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–25458 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On July 17, 2001, a notice was published in the **Federal Register** (66 FR 37238), that an application had been filed with the Fish and Wildlife Service by Gilbert E. Orr for a permit (PRT–045254) to import one polar bear (*Ursus maritimus*) taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on September 18, 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.

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 28, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–25457 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting of the Klamath Fishery Management Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The Klamath Fishery Management Council makes recommendations to agencies that regulate harvest of anadromous fish in the Klamath River Basin. The objective of this meeting is to review the progress of the 2001 Klamath chinook salmon fishing season and plan for fishery management in 2002. The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9 a.m. to 5 p.m. on Wednesday, October 17, 2001; and from 8 a.m. to 5 p.m. on Thursday, October 18, 2001.

ADDRESSES: The meeting will be held at the Victorian Inn, 1709 Main Street, 299 West, Weaverville, California 96093, telephone (530) 623–4432.

FOR FURTHER INFORMATION CONTACT: Phil Detrich, Project Leader, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Klamath Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639)

Dated: October 3, 2001.

David Patte,

Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.

[FR Doc. 01–25449 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting of the Klamath River Basin Fisheries Task Force

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public. The purpose of the meeting is to continue providing recommendations from the affected interests to the Department of the Interior on implementation of their program to restore anadromous fisheries, including salmon and steelhead, of the Klamath River in California and Oregon.

DATES: The Klamath River Basin Fisheries Task Force (Task Force) will meet from 8 a.m. to 5 p.m. on October 10, 2001, and from 8 a.m. to 1 p.m. on October 11, 2001.

ADDRESSES: The meeting will be held in the Floral Room at the Siskiyou County Fair Grounds, located at 1712 Fairlane Road, Yreka California.

FOR FURTHER INFORMATION CONTACT: Phil Detrich, Project Leader, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: October 3, 2001.

David Patte,

Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.

[FR Doc. 01–25448 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–EU–24 1A]

Extension of Approved Information Collection, OMB Approval Number 1004–0153

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from persons who seek to acquire the federally-owned (reserved) mineral interests underlying their surface estate. BLM collects this information to assure that the applicant is the surface owner that overlies the federally-owned minerals and that statutory requirements for their conveyance are met. The regulations under 43 CFR 2720 authorize BLM to collect information (no specific form is required) to convey federally-owned mineral interests to surface owners if certain conditions are met.

DATES: You must submit your comments to BLM at the address below on or before December 10, 2001. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Regulatory Affairs Group (630), Bureau of Land Management, Mailstop 401LS, 1849 C Street, NW., Washington, DC 20240.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0153'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Realty Use Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

The regulations under 43 CFR part 2720 and section 209 of the Federal Land Policy and Management Act of 1976 establish procedures for BLM to convey federally-owned (reserved) mineral interests to non-federal surface ownership. These regulations (43 CFR 2720) authorize BLM to collect this information (no specific form is required) to determine if BLM may convey the federally-owned mineral interests to surface owners who apply and meet the statutory requirements. We list in 43 CFR 2720.1–2 the specific information requirements to apply for a conveyance of federally-owned mineral interests. Without this information, BLM would not be able to analyze and approve applications to convey federally-owned mineral interests. Also, BLM would not be able to carry out the mandate of Section 209 of the Federal Land Policy and Management Act of 1976.

Based upon BLM experience administering the regulations (43 CFR part 2720), we estimate the public reporting information collection burden to be 10 hours per application. The respondents are surface owners in which the mineral interests are reserved or owned by the United States. The estimated number of responses per year is 13 and the total annual burden is 130 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: September 20, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Officer.

[FR Doc. 01–25527 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–11145]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision designating lands for conveyance.

SUMMARY: Notice is hereby given that an appealable decision approving land for conveyance pursuant to Sec. 14(h)(1) of the Alaska Natives Claims Settlement Act of December 18, 1971, 43 U.S.C. 1613(h)(1) issued to Chugach Alaska Corporation for .50 acre of land in the vicinity of Prince William Sound. Notice of the decision will also be published four times in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until November 13, 2001 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Chris Sitbon (907) 271–3226.

Authority: 43 CFR 2650.7(d).

Chris Sitbon,

Land Law Examiner.

[FR Doc. 01–25529 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Emergency Temporary Closure for All Motorized Vehicles on Public Land in the Silver Creek Ridge Area, Sublette County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; correction.

SUMMARY: The Bureau of Land Management published a notice in the **Federal Register** of October 1, 2001, concerning the closure of the Silver Creek Ridge area to all motorized vehicles. The notice contained an incorrect legal description.

FOR FURTHER INFORMATION CONTACT: Bill Wadsworth (307) 367–5341.

Correction

In the **Federal Register** of October 1, 2001, in FR Doc. 01–2447 on page 49973, in the third column, 2nd paragraph under the **SUPPLEMENTARY INFORMATION,** correct the legal description to read:

T. 32 N., R. 107 W., Section 24, E½

Dated: October 3, 2001.

Priscilla Mecham,

Field Manager.

[FR Doc. 01–25562 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–610–5101–ER–XBCH; CA–17918]

Notice of Right-of-Way Application; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An application, serialized as CA–17918, was received from the Kern River Transmission Company (Kern River) for a natural gas pipeline right-of-way from Kern River's Opal Meter Station in Southwest Wyoming, across Utah and Nevada to the Kern River Daggett Compressor Station in Southern California.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973, (37 Stat. 576), Kern River has applied for a right-of-way for 42 inch and 36 inch diameter pipelines on approximately 345 miles of Federal lands. The pipeline has a total length of approximately 720 miles. The project would parallel/loop an existing pipeline and will accommodate projected volume needs. The legal land description is not presented here due to its length. Maps of the project are available at Bureau of Land Management and Forest Service offices located on the route.

The purpose of this notice is to inform the public of the receipt of the application and that the Bureau of Land Management will be making a decision on approval of the right-of-way, and if so, under what terms and conditions. An Environmental Impact Statement is being prepared under direction of the Federal Energy Regulatory Commission, lead agency for the project. The Bureau of Land Management is a cooperating agency.

Additional information can be obtained by contacting Jerry Crockford at (505) 599–6333 or on electronic mail at *jcrockfo@nm.blm.gov.*

Dated: August 17, 2001.

James Wesley Abbott,

Acting State Director, California.

[FR Doc. 01–25528 Filed 10–10–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances, Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 25, 2001, Dupont Pharmaceuticals, 1000 Stewart Avenue, Garden City, New York 11530, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

The firm plans to manufacture the listed controlled substances to make finished products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections tot he issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 10, 2001.

Dated: October 2, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–25443 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 26, 2000, and published in the **Federal Register** on October 13, 2000, (65 FR 60978), Guilford Pharmaceuticals, Inc., 6611 Tributary Street, Baltimore, Maryland 21224, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of cocaine (9041), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture methyl-3-beta-(4-trimethylstannylphenyl)-tropane-2-carboxylate as a final intermediate for the production of dopascan injection.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Guilford Pharmaceuticals to manufacture the listed controlled substance is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm

for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: September 25, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–25447 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 6, 2001, Lifepoint, Inc., 1205 S. Dupont Street, Ontario, California 91761, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylened-ioxymeth-am-phet-amine (7405).	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II

The firm plans to use gram quantities of the listed controlled substances to manufacture drug abuse test kits.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCF), and must be filed no later than December 10, 2001.

Dated: October 2, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–25445 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this notice that only July 25, 2001, Norac Company, Inc., 405 S. Motor Avenue, Azusa, California 91702, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture medication for the treatment of AIDS wasting syndrome and as an antiemetic.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Offices of Diversion Control, Drug Enforcement administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 10, 2001.

Dated: October 2, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–25446 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 26, 2001, Noramco, Inc., 1440 Olympic Drive, Athens, Georgia 30601, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Thebaine (9333)	II
Fentanyl (9801)	II

The firm plans to support its other manufacturing facility with manufacturing and analytical testing.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 10, 2001.

Dated: October 02, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–25444 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; employment authorization document.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until December 10, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Employment Authorization Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–765. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information collected on this form is used by the INS to determine eligibility for the issuance of the employment document.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,873,296 responses at 3.42 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,406,672 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: October 5, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–25533 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Extension of a currently approved collection community gun violence prosecution program.

The Department of Justice (DOJ), Office of Justice Programs, (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 66, Number 129, pages 35461–35462 on July 5, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 13, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Community Gun Violence Prosecution Program.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be as or required to respond, as well as a brief abstract:* Primary: State local or Tribal Government. Other: None. The Community Gun Violence Prosecution Program was authorized under Public Law 106–553, 114 Stat. 2762, App.–155 (2000) to provide funding directly to chief local or Tribal Government. Other: None. The Community Gun Violence Prosecution Program was authorized under Public Law 106–553, 114 Stat. 2762, App.–155 (2000) to provide funding directly to chief prosecutors (state, local and tribal) to hire assistant prosecutors who will focus their attention on the prosecution of cases involving violent crimes committed with guns and other violations of gun statutes involving drug trafficking and gang-related crimes in high firearms-related violence areas.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: The time burden of the estimated 1000 respondents to complete the application on-line is 4-hours per application.

(6) An estimate of the total public burden (in hours) associated with the collection: The total annual hour burden to complete applications for the Community Gun Violence Prosecution Program is 4000 annual burden hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States

Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: October 4, 2001.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–25488 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: new collection categorical assistance progress report.

The Department of Justice (DOJ), Office of Justice Programs, (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (Volume 66, Number 125, pages 34461–34462 on June 28, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 13, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additional, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* Categorical Assistance Progress Report.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is OJP Form 45871/1, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government, Local or Tribal. Other: Individuals or households; not-for-profit institutions.

The Uniform Administrative Requirements for grants and Cooperative Agreements—28 CFR, part 66, and OMB Circular A–110—authorizes the Department of Justice to collect information from grantees to report on project activities and project accomplishments. Grantees that are recipients of discretionary grant (and some formula grant) programs are required by OJP program offices to submit Categorical Assistance Progress Reports on project activities and accomplishments. It is expected that reports will include data appropriate to this stage of project development and in sufficient detail to provide a clear idea and summary of work and accomplishments to date. Progress reports are primarily designed to aid grant managers in carrying out their responsibilities for monitoring grant-support activities. The major focus of these reports is the progress achieved on each task in relation to the approved schedule and project milestones for that reporting period. The grantee's review of the project, its functions, and activities are included in the progress report. Generally, progress reports are brief (normally less than five pages) and are in chart form, narrative form, or both. Grantees must include the following information in progress reports submitted to the OJP grant manager: Description of the progress made during the reporting period toward accomplishing goals and objectives.

Changes in the overall project, its objectives, time schedule, organization, or staffing for the period. Favorable developments or events which enable the grantee to meet time schedules or milestones sooner than anticipated. Any problems, delays, or adverse conditions which have affected or will affect the ability on the grantee to attain project objectives, including the timely submission of products. Accomplishments during reporting period, such as statistics on measurable project outcomes (*e.g.,* number of people trained, manuals produced, etc.).

Need for technical assistance relating to programmatic or financial issues. Next steps; and other pertinent information including, where appropriate, analysis and explanation of expenditures.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 10,366 grantees will each take approximately two hours to complete each semi-annual submission of their Categorical Assistance Progress Report form for a total of four hours annually per grantee. A progress report is required from the grantee for each current grant.

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the progress report forms is 41,464 hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: October 4, 2001.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–25489 Filed 10–10–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents

summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of 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 subdivision 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–39,163; Bridgestone/Firestone Tire & Rubber Co., Inc. Decatur, IL

TA–W–39,453; Arnold Engineering Co., Ferrite Products Div. Sevierville, TN

TA–W–38,997; Emsig Manufacturing Corp., Villas, NJ

TA–W–39,618; Belding Hausman, Inc., Bogor City, NC

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–39,617; Silgan Plastic, Fairfield, OH

TA–W–38,967; Conexant, Inc., TTM Module System, El Paso, TX

TA–W–39,574; SGL Carbon Group, Morganton, NC

TA–W–38,670; Mayfiar Creamery, Somerset, PA

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–39,233; Fansteel Intercast, a/k/a Fansteel/Escast Co., Addison, IL: April 24, 2000.

TA–W–40,025; The Bramton Co., Retail Products Group, Dallas, TX: August 20, 2000.

TA–W–39,225; Panther Pacific, Lewisville, TX: April 16, 2000.

TA–W–39,455; Rivoli Mills, Jasper, TN: May 29, 2000.

TA–W–39,645; S.D. Warren, d/b/a Sappi Fine Paper, North America Mobile Operations, Mobile, AL: June 26, 2000.

TA–W–39,618; Winer Industries, Dallas, TX: June 27, 2000.

TA–W–39,723; & A, B; Springford Industries, Spring City, PA, Leesport, PA and Boyertown, PA: July 19, 2000.

TA–W–39,722; Rexnord Corp., Indianapolis, IN: August 11, 2000.

TA–W–39,376; Ocello, Inc., Richland, PA: May 17, 2000.

TA–W–39,577; Et Al Group, Inc., New York, NY: June 22, 2000.

TA–W–39,133; Ansell Protective Products, Tarboro, NC: April 12, 2000.

TA–W–39,777; & A; Allison Manufacturing, Brownsville TX and McAllen, TX: August 31, 2001.

TA–W–39,811; Howes Leather Corp., 500 Cooper Road & 101 Meadow Street, Curwensville, PA: July 30, 2000.

TA–W–39,280; Lear Corp., Interior Systems Div., Lewistown, PA: May 2, 2000.

TA–W–39,328; Komatsu Mining Systems, Inc., Peoria Operations, Peoria, IL: May 9, 2000.

TA–W–39,502; Recmix of Pennsylvania, Canonsburg, PA: June 12, 2000.

TA–W–39,620; Perry Manufacturing Co., Mount Airy, NC: July 2, 2000.

TA–W–39,323; Atlantic Wire and Cable Corp., College Point, NY: May 11, 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 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 of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05083; Ben Mer Manufacturing, Rochester, NY

NAFTA–TAA–05095; Rexnord Corp., Roller Chain Div., Indianapolis, IN

NAFTA–TAA–04700; Conexant, Inc., TTM Module Systems, El Paso, TX

NAFTA–TAA–05228; Realco Diversified, Inc., Meadville, PA

NAFTA–TAA–04900; Bangor Industries, Inc., Bangor, MI

NAFTA–TAA–05306; Alcatel Submarine Networks, Inc., Portland, OR

NAFTA–TAA–04946; Honeywell, Burkesville Div., Burkesville, KY

NAFTA–TAA–05232; Asarco, El Paso, TX

NAFTA–TAA–04941; Ocello, Inc., Richland, PA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

NAFTA–TAA–05150; Niedfeldt Trucking Services, LaCrosse, WI

NAFTA–TAA–05311; GE Capitol IT Solutions, Managed Services, Erlanger, KY

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05230; Aquatech, Inc., Cookeville, TN: August 13, 2000.

NAFTA–TAA–05145; KMA Manufacturing, Inc., Livingston, TN: July 27, 2000.

NAFTA–TAA–05287; UBI Soft Entertainment, Novato, CA: August 17, 2000.

NAFTA–TAA–05207; Bonifay Manufacturing, Inc., Bonifay, FL: August

NAFTA–TAA–05190; Sequa Corp., Men's Apparel Group, Athens, GA: August 10, 2000.

NAFTA–TAA–04897; Komatsu Mining Systems, Inc., Peoria Operations, Peoria, IL: May 2, 2000.

NAFTA–TAA–04898; Fansteel Intercast, a/k/a Fansteel/Escast Co., Addison, IL: May 16, 2000.

NAFTA–TAA–05255; Interroll Corp., Wilmington, NC: August 20, 2000.

NAFTA–TAA–05148; PasticSource, Inc., Kelly Staff Leasing, El Paso, TX: July 26, 2000.

NAFTA–TAA–05089; Malbon, Inc., Hiram, GA: July 16, 2000.

NAFTA–TAA–04434; Precise Cutting, Marking & Grading, Los Angeles, CA: December 20, 1999.

NAFTA–TAA–05036; Andrew Corp., RF Subsystems Group, Orland Park, IL: June 27, 2000.

NAFTA–TAA–04917; Pratt and Whitney HAC, Grand Prairie, TX: May 29, 2000.

NAFTA–TAA–05266; UniFirst Corp., Wilburton, OK: August 24, 2000.

I hereby certify that the aforementioned deteminations were issued during the month of 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 24, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–25467 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,725]

Ametek/Dixson Grand Junction, CO; Including Employees of Ametek/Dixson, Grand Junction, CO; Located in Sellersville, 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 April 17, 2001, applicable to workers of Ametek/Dixson, Grand Junction, Colorado. The notice was published in the **Federal Register** on May 3, 2001 (66 FR 22262).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred involving two employees of the Grand Junction, Colorado facility of Ametek/Dixson, located in Sellersvillle, Pennsylvania. These employees are engaged in employment related to the production of instrumention for trucks at the Grand Junction, Colorado location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of the Ametek/Dixson, Grand Junction, Colorado facility located in Sellersville, Pennsylvania.

The intent of the Department's certification is to include all workers of Ametek/Dixson adversely affected by increased imports.

The amended notice applicable to TA–W–38,725 is hereby issued as follows:

All workers of Ametek/Dixson, Grand Junction, Colorado including workers of the Grand Junction, Colorado facility located in Sellersville, Pennsylvania, who became totally or partially separated from employment on or after February 9, 2000, through April 17, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of September, 2001.

Edward A. Tomchick,

Director, Divisiion of Trade Adjustment Assistance.

[FR Doc. 01–25466 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate , as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 22, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 22, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution AVenue, NW, Washington, DC 20210.

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

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 9/10/2001]

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
39,950	Antec Plastic (Wkrs)	El Paso, TX	08/14/2001	Plastic Products—Telecommunications.
39,951	Rotorex Company (Wkrs)	Walkersville, MD	08/20/2001	Compressors for Air Conditioners.
39,952	MJM Knitwear (Wkrs)	Brooklyn, NY	08/16/2001	Ladies' and Men's Sweaters.
39,953	Zexel Valeo Compressor (Co.)	Decatur, IL	08/17/2001	Compressors.
39,954	Pulp and Paper of America (PACE)	Berlin, NH	08/21/2001	Hardwood and Softwood Pulp Bales.
39,955	Pennco Tool and Die (Co.)	Meadville, PA	08/20/2001	Custom Die Tooling—Automotive.
39,956	Commander Aircraft (Wkrs)	Bethany, OK	08/20/2001	Single Engine Aircraft and Parts.
39,957	Acushnet Rubber Co. (Co.)	New Bedford, MA	08/15/2001	Windshield Wiper Blades.
39,958	Akzo Nobel Functional (Co.)	Gallipolis Ferr, WV	08/17/2001	Flame Retardants.
39,959	Teccor Electronics (Wkrs)	Irving, TX	08/17/2001	Power Semiconductors.
39,960	B-way (Wkrs)	Elizabeth, NJ	07/24/2001	Cans Ridge Bottoms.
39,961	WRS Motion Picture (Wkrs)	Pittsburgh, PA	08/20/2001	Various Formats of Video Tape and Film.
39,962	Specialty Coatings of VA (Wkrs)	Ridgeway, VA	08/20/2001	Wallpaper Coating.
39,963	Thomasville Furniture (Co.)	West Jefferson, NC	07/20/2001	Mirrors, Chairs, Beds.
39,964	NACCO Materials Handling (ILTB)	Danville, IL	06/26/2001	Material Handling Equipment.
39,965	Fishman and Tobin (Wkrs)	Medley, FL	08/16/2001	Children's Pants and Jackets.
39,966	Blue Water Fiber Limited (Wkrs)	Port Huron, MI	08/17/2001	Recycled Paper Pulp.
39,967	Bethlehem Steel Corp. (USWA)	Lackawanna, NY	08/20/2001	Coke and Coke By-Products.
39,968	Sandvik Special Metals (PACE)	Kennewick, WA	08/28/2001	Zirconium Tubing for Nuclear Reactor.
39,969	DuPont Nylon (Co.)	Seaford, DE	08/21/2001	Nylon Fiber.
39,970	KOA Speer Electronics (Co.)	Bradford, PA	08/28/2001	Electronic Components—Telecommunications.
39,971	Rundel Products, Inc. (Co.)	Portland, OR	08/22/2001	Vinyl Binders.
39,972	Tyco Electronics (Wkrs)	East Carlisle, PA	08/23/2001	Stamping and Electroplated Connectors.
39,973	Interroll Corp. USA (Co.)	Wilmington, NC	07/12/2001	Carton Flow Storage.
39,974	Motorola, Inc. (Wkrs)	Arlington Hgts, IL	08/23/2001	Communication Equipment.
39,975	Pleatz LLC (UNITE)	New York, NY	08/10/2001	Spoprtswear.
39,976	VF Imagewear (West) (Co.)	Harriman, TN	08/22/2001	Occupational Apparel.
39,977	Lamtech LLC (Co.)	Hartsville, TN	08/22/2001	Sewing Machine Stands.
39,978	Hein Werner (Co.)	Baraboo, WI	08/22/2001	Collision Repair Equipment.
39,979	Fort Atkinson Industries (Wkrs)	Fort Atkinson, WI	08/23/2001	Grinding Castings—Automotive.
39,980	M and S Manufacturing (Wkrs)	Morenci, MI	08/18/2001	Automobile Brake Parts.
39,981	B and L Sportswear (Wkrs)	Four Oaks, NC	08/20/2001	Men's and Ladies' Knit Polos.
39,982	Auto Body Connection (Wkrs)	Erie, PA	08/10/2001	Automobile Fenders, Hoods and Doors.
39,983	Edgewater Steel (USWA)	Oakmont, PA	08/21/2001	Steel Train Wheels, Gear Blanks.
39,984	Hollander Home Fashions (UNITE)	Tignall, GA	08/23/2001	Blankets, Pillows and Comforters.
39,985	Salz Leathers (Co.)	Santa Cruz, CA	08/22/2001	Finish Bovine Leather.
39,986	Lexington Fabrics (Co.)	Geraldine, AL	08/22/2001	Textiles, Apparel.
39,987	GSI Lumonics (Wkrs)	Maple Grove, MN	08/21/2001	Laser Manufacturing Systems.
39,988	Stephens Pile (Wkrs)	Russel Springs, KY	08/23/2001	Farm Gates, Panel Stands, Wire Fences.
39,989	Crouse Hinds—Cooper Ind. (IBEW)	Syracuse, NY	08/24/2001	Sealing Fittings, Cable Fittings.
39,990	Eaton Corporation (Co.)	Pittsburgh, PA	08/14/2001	Power Management Products.
39,991	Broyhill Furniture (Wkrs)	Lenoir, NC	08/23/2001	Upholstered Furniture.
39,992	Saco Lowell (Co.)	Easley, SC	08/20/2001	Machinery for Textile Industry.
39,993	J and J Tool (Wkrs)	Guys Mills, PA	08/23/2001	Mill and Grind Plastic Parts.
39,994	Talbar Inc. (Co.)	Meadville, PA	08/27/2001	Tool and Die Makers.
39,995	Sintermet LLC (Wkrs)	Kitanning, PA	08/22/2001	Rod Mill Rolls.

[FR Doc. 01–25470 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 22, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 22, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200

Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 4th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 09/04/2001]

TA–W	Subject firm (Petitioners)	Location	Date of (petition)	Product(s)
39,918	Beloit Corporation (Wkrs)	Beloit, WI	08/13/2001	Paper Making Machines.
39,919	Antech Keptel (Wkrs)	Tinton Falls, NJ	08/08/2001	Telephone Switching Devices.
39,920	Fasco Industries (Wkrs)	Ozark, MO	08/15/2001	Shared Pole Motors.
39,921	Guilford Mills (Co.)	Lumberton, NC	07/18/2001	Knit Fabric.
39,922	Tessy Plastics (Wkrs)	Elbridge, NY	08/14/2001	Injected Molded Plastic Parts.
39,923	Illbruck Automotive (Co.)	Howell, MI	08/23/2001	Accoustic Parts for Automobiles.
39,924	FCI Electronics (Wkrs)	Clearfield, PA	08/15/2001	Electronics.
39,925	Baker Enterprises (USWA)	Alpena, MI	07/31/2001	Concrete Block Machinery.
39,926	Anvil Knitwear (Wkrs)	Kings Mountain, NC	08/03/2001	knited, Dyed and Finished Cloth.
39,927	Pechinery Plastic Packagin (Wkrs)	Cleveland, OH	08/10/2001	Flexible Packaging.
39,928	C.L. Fashions Express (Wkrs)	Panorama City, CA	08/16/2001	C.L. Fashions.
39,929	Pillowtex (Wkrs)	Hawkinsville, GA	08/13/2001	Towels, Wash Cloths and Dish Towels.
39,930	VC Sportswear (Wkrs)	New York, NY	08/17/2001	Childrens Clothing.
39,931	Minster Machine (USWA)	Minster, OH	08/16/2001	Metal Forming Dresses.
39,932	Rexam Beverage Can (USWA)	Houston, TX	08/17/2001	Cans.
39,933	Hecla Mining (USWA)	Mullan, ID	08/20/2001	Silver, Lead and Zinc.
39,934	Tech Books (Wkrs)	Shippensburg, PA	08/16/2001	Tech Books.
39,935	Contract Apparel (Wkrs)	El Paso, TX	08/15/2001	Clothing.
39,936	ASARCO (Wkrs)	El Paso, TX	08/24/2001	Cooper.
39,937	Sanmina Corporation (Wkrs)	Pleasant Prairi, WI	08/14/2001	Circuit Boards.
39,938	Honeywell (Co.)	Clearfield, UT	08/02/2001	Air Filter.
39,939	Willamette Industries (Co.)	Bend, OR	08/17/2001	Furniture and Cabinets.
39,940	Eaton Corp. Cutler Hammer (Co.)	Moon Township, PA	08/14/2001	Power Management Products.
39,941	Finet Technologies (Wkrs)	Dunmore, PA	08/16/2001	Pump Laser Amplifier.
39,942	Recycled Offices (Wkrs)	Sanford, NC	08/08/2001	Work Stations.
39,943	Realco Diversifeld (Wkrs)	Meadville, PA	08/14/2001	Tool and Die.
39,944	Hilton Corporate Casuals (Wkrs)	Thomasville, AL	08/13/2001	Polo Golf Shirts.
39,945	Galey and Lord Industries (Co.)	Asheboro, NC	08/17/2001	Polyester Cotton Fabric.
39,946	Valley Machining Co. (Co.)	Rock Valley, IA	08/13/2001	Custom Machine Parts.
39,947	Martin Marietta Magnesia (USWA)	Manistee, MI	08/13/2001	Magnesium Oxide and Hydroxide Products.
39,948	APW Magville (IAM)	Mayville, WI	08/08/2001	Telecommunications Switching Stations.
39,949	Eaton Corporation (USWA)	Shelbyville, TN	08/13/2001	Parts for Transmissions.

[FR Doc. 01–25471 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,000]

Brother, Industries, USA, Bartlett, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 17, 2001 in response to a petition filed on behalf of workers at Brother Industries, USA, Bartlett, Tennessee.

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 21st day of September, 2001.

Linda G. Poole,

Certifying Officer, Division Trade Adjustment Assistance.

[FR Doc. 01–25473 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,940]

Eaton Corporation Cutler-Hammer Moon Township, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 4, 2001, in response to a petition filed by a company official on behalf of workers at Eaton Corporation, Cutler-Hammer, Moon Township, Pennsylvania.

The company official submitting the petition 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 28th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–25465 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,990]

Eaton Corporation, Cutler-Hammer; Pittsburgh, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 10, 2001, in response to a petition filed by a company official on behalf of workers at Eaton Corporation, Cutler-Hammer, Pittsburgh, Pennsylvania.

The company official submitting the petition 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 28th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–25476 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 22, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than October 22, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 27th day of August, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 8/27/2001]

TA–W	SAbject firm (Petitioners)	Location	Date of petition	Product(s)
39,882	GHSP, Inc. (PACE)	Grand Haven, MI	08/10/2001	Front Bezels.
39,883	FB Johnston Group (Comp)	Hillsborough, NC	08/07/2001	Telecommunication Products.
39,884	VF Playwear (Wrks)	Cenreville, AL	08/02/2001	Children's Clothing.
39,885	Conveyco Manufacturing (Wrks)	Clackamas, OR	08/05/2001	Wood conveying chain.
39,886	Consolidated Steel Serv. (Wrks)	Fallentimber, PA	08/08/2001	Rail car parts.
39,887	Huntsman Polymers (Wrks)	Odessa, TX	08/10/2001	Plastic Products.
39,888	Alcatel USA (Wrks)	Raleigh, NC	08/02/2001	Printed circuit board for communications.
39,889	Wisne Automation (WAEA)	Novi, MI	08/06/2001	Capital Equipment for Automobiles.
39,890	Cutter-Hammer Power (Comp)	Pittsburgh, PA	08/06/2001	Electronic Devices & communication Prod.
39,891	CMS North America (Wrks)	Calidonia, MI	08/06/2001	CNC machines.
39,892	A and M Apparel, Inc. (Wrks)	Hamilton, AL	08/07/2001	Tee Shirts.
39,893	Union Apparel, Inc. (Wrks)	Norvelt, PA	08/08/2001	Men's and ladies' blazers and suit coats.
39,894	Del-Met Corp (Comp)	Portland, TN	08/01/2001	Plastic auto parts.
39,895	Crossville Rubber, Inc. (USWA)	Crossville, TN	08/15/2001	Industrial & commercial rubber floor mat.
39,896	KPT, Inc. (Wrks)	Bloomfield, IN	08/07/2001	Glazed ceramic tile.
39,897	Birmingham Steel (Wrks)	Cuyahoga Hts, OH	08/09/2001	Wire rod and bar.
39,898	Multilayer Technology Inc (Wrks)	Austin, TX	08/10/2001	Printed raw circuit boards.
39,899	Tyco Electronics Corp (Wrks)	East Berlin, PA	08/03/2001	Electrical connectors.
39,900	Bonifay Manufacturing (Comp)	Bonifay, FL	08/10/2001	Men's and Boys' Knit Shirts.
39,901	Providence Metallizing Co (Comp)	Pawtucket, RI	08/08/2001	Metal and plastic parts for lamps.
39,902	Suncook Trim Corp (Comp)	Allenstown, NH	08/16/2001	Weave fabric labels.
39,903	New Holland North America (Comp)	Belleville, PA	08/10/2001	Skid loaders, hay rakes, and mowers.
39,904	Tiffany Lincoln Textiles (Wrks)	New York, NY	08/13/2001	Imported fabrics used for sportswears.
39,905	Simonds Industries (Wrks)	Newcomerstown, OH	07/28/2001	Steel files.
39,906	Metals USA (Wrks)	Youngstown, OH	08/14/2001	Steel sheets and blanks.
39,907	Alcoa Fujikura Ltd (Wrks)	Houston, MS	08/13/2001	Fiber Optic Telecommunication.
39,908	Cleveland Caroknit (Wrks)	Lawndale,NC	08/13/2001	Knit Apparel.
39,909	R.F. Monolithics, Inc. (Comp)	Dallas, TX	08/13/2001	Electronic Components.
39,910	Delphi Harrison Thermal (Wrks)	Lockport, NY	08/14/2001	Automotive Products.
39,911	ABC Pressing and Finish (Wrks)	Los Angeles, CA	08/13/2001	Sewing machine.
39,912	Allen Edmonds/Maine Shoe (Wrks)	Wilton, ME	08/16/2001	Men's handsewn casual shoes.
39,913	Gilbert Wood Products (Wrks)	Greenwood, ME	08/13/2001	Rolling pin, cutting board & knife handle.
39,914	Reed Manufacturing Co (Comp)	Tupelo, MS	08/08/2001	Denim jeans, shorts and casual pants.
39,915	General Cable (EESMWA)	Montoursville, PA	08/09/2001	Dryer cords for construction use.
39,916	Steco and Co. (Wrks)	Birmingham, AL	06/19/2001	Buy & Sell Refractory Firebrick.

APPENDIX—Continued

[Petitions Instituted On 8/27/2001]

TA–W	SAbject firm (Petitioners)	Location	Date of petition	Product(s)
39,917	Curtron Curtains, Inc. (Wrks)	Travelers Rest, SC	08/10/2001	Curtains.

[FR Doc. 01–25472 Filed 10–11–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–38,717; TA–W–38,717A]

International Paper, Costigan Mill, Milford, ME; International Paper Passadumkeag Mill Passadumkeag, ME; Notice of Revised Determination on Reconsideration

On June 25, 2001, the Department of Labor issued a notice of affirmative determination regarding application for reconsideration of the denial of Trade Adjustment Assistance for workers of the subject firm. The notice was published in the **Federal Register** on July 11, 2001 (66 FR 36331).

The workers at International Paper, Costigan Mill, Milford, Maine and the Passadumkeag Mill in Passadumkeag, Maine, produced stud grade lumber. The petition was denied because the contributed importantly test of the group eligibility requirements of section 222 of the Trade Act of 1974, was not met.

On reconsideration, the Department conducted additional customer surveys. The surveys revealed that customers increased import purchases of stud grade lumber while reducing purchases from International Paper's Costigan and Passadumkeag mills.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with stud grade lumber produced by the workers of International Paper, Costigan Mill, Milford, Maine, and Passadumkeag Mill, Passadumkeag, Maine, contributed importantly to the declines in sales or production and to the total or partial separation of workers of the subject firms. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of International Paper, Costigan Mill, Milford, Maine, and Passadumkeag Mill, Passadumkeag, Maine, who became totally or partially separated from employment on or after February 5, 2000, through two years from the date of this revised determination, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 25th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade, Adjustment Assistance.

[FR Doc. 01–25468 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,420]

Price Pfister, Injection Molding Department Pacoima, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 11, 2001 in response to a worker petition which was filed on behalf of workers at Price Pfister, Injection Molding Department, Pacoima, California.

A negative determination applicable to the petitioning group of workers was issued on June 12, 2001 (TA–W–39,111). No new information was provided in the petition, which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 25th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–25474 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–4584; NAFTA–4584A]

International Paper, Costigan Mill, Milford, ME; International Paper, Passadumkeag Mill, Passadumkeag, ME; Notice of Revised Determination on Reconsideration

On June 25, 2001, the Department of Labor issued a notice of affirmative determination regarding application for reconsideration of the denial of NAFTA-Transitional Adjustment Assistance for workers of the subject firm. The notice was published in the **Federal Register** on July 11, 2001 (66 FR 36331).

The workers at International Paper, Costigan Mill, Milford, Maine and the Passadumkeag Mill in Passadumkeag, Maine, produced stud grade lumber. The petition was denied because criteria (3) and (4) of the group eligibility requirements of paragraph (a)(1) of section 250 of the Trade Act of 1974, as amended was not met.

On reconsideration, the Department conducted additional customer surveys. The surveys revealed that customers increased import purchases of stud grade lumber from Mexico and Canada while reducing purchases from International Paper's Costigan and Passadumkeag mills.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports from Mexico and Canada of articles like or directly competitive with stud grade lumber produced by the workers of International Paper, Costigan Mill, Milford, Maine, and Passadumkeag Mill, Passadumkeag, Maine, contributed importantly to the declines in sales or production and to the total or partial separation of workers of the subject firms. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of International Paper, Costigan Mill, Milford, Maine, and Passadumkeag Mill, Passadumkeag, Maine, who became totally or partially separated from employment on or after February 15, 2000, through two years from the date of this

revised determination, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 25th day of September 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–25469 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5187]

McMichal Enterprises Pahrump, NV; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–183) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on August 8, 2001, in response to a petition filed on behalf of workers at McMichal Enterprises, Pahrump, Nevada.

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, D.C. this 25th day of September, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–25475 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–30–M

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, October 18, 2001, and Friday, October 19, 2001, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW, Washington, DC. The meeting is tentatively scheduled to begin at 10 a.m. on October 18, and at 9 a.m. on October 19.

Topics for discussion include: quality improvement for health plans and providers; Medicare+Choice; consumer coalitions in Medicare; payment for outpatient pain management procedures; payment for outpatient hospital care in cancer hospitals; assessing payment adequacy; updating Medicare payments; payment for physician services; complexity and regulatory burden of the Medicare program; blood safety requirements; and modernizing the Medicare benefit package.

Agendas will be mailed on October 4, 2001. The final agenda will be available on the Commission's website (www.medpac.gov)

ADDRESS: MedPAC's address is: 1730 K Street, NW., Suite 800, Washington, DC 20006. The telephone number is (202) 653–7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 653–7220.

Murray N. Ross,

Executive Director.

[FR Doc. 01–25453 Filed 10–10–01; 8:45 am]

BILLING CODE 6820–BW–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that two meetings of the Combined Arts Advisory Panel to the National Council on the Arts (Access and Heritage/Preservation categories) will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506 as follows:

Media Arts: October 29–30, 2001, Room 716. A portion of this meeting, from 11:45 a.m. to 12:30 p.m. on October 30th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9:30 a.m. to 6 p.m. on October 19th, and from 9 a.m. to 11:45 a.m. on October 30th, will be closed.

Local Arts Agencies: November 7–8, 2001, Room 714. A portion of this meeting, from 10:45 a.m. to 12 p.m. on November 8th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 5 p.m. on November 7th, and from 9 a.m. to 10:45 a.m. and 12 p.m. to 1:15 p.m. on November 8th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: October 5, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–25535 Filed 10–10–01; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (#19719).

Date/Time: October 17, 2001, 2 PM–5 PM EDT.

Place: Room 130, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open Teleconference Meeting. Persons wishing to attend the meeting at NSF should contact Richard Hilderbrandt to arrange for a visitor's pass.

Contact Person: Dr. Richard Hilderbrandt, Program Director, Division of Advanced Computational Infrastructure and Research, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Tel: (703) 292–7093, e-mail: *rhilderb@nsf.gov*.

Purpose of Meeting: To develop a plan for the preparation of a report to the National

Science Foundation concerning the broad topic of advanced cyberinfrastructure and the evaluation of the existing Partnerships for Advanced Computational Infrastructure.

Agenda: Tentative.

Report on relevant developments since last meeting.

Report and discussion from each subcommittee:

Technology—Functions
Needs
PACI evaluation
NSF Issues

Discussion and agreement on next steps and schedule.

Matters arising.

Reason for Late Notice: Conflicting schedules of members and the necessity to proceed.

Dated: October 4, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–25452 Filed 10–10–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3101]

Consideration of an Exemption From Requirements of 10 CFR Part 70 for PermaFix Environmental Services

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an Order pursuant to section 274f of the Atomic Energy Act that would exempt PermaFix Environmental Services (PermaFix) from certain NRC regulations. PermaFix requested this exemption in a letter dated July 23, 2001. The proposed exemption would allow PermaFix, under specified conditions, to possess waste containing special nuclear material (SNM), in greater mass quantities than specified in 10 CFR part 150, at PermaFix's mixed waste (i.e., waste containing both radioactive and hazardous constituents) treatment facilities located in Oak Ridge and Kingston, Tennessee, and Gainesville, Florida, without obtaining an NRC license pursuant to 10 CFR part 70. NRC issued a similar Order to Envirocare of Utah, Inc. in May of 1999, and is considering issuing a similar Order to Waste Control Specialists, LLC. During the issuance of that Order, the Commission indicated that staff should consider similar requests from others prior to exploring rulemaking in this area (SRM–SECY–98–226).

PerfmaFix is licensed by the Tennessee Department of Environment and Conservation, Division of Radiological Health and the Florida Department of Health, to treat and temporarily store low-level radioactive waste. PermaFix is also licensed by the Tennessee Department of Environment and Conservation and the Florida Department of Environmental Protection to treat hazardous waste. The hazardous waste activities at the site are not subject to the Order currently under consideration.

Prior to the issuance of the Order, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

For Further Information Contact: Timothy E. Harris, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6613. Fax.: (301) 415–5398.

Dated at Rockville, Maryland, this 18th day of September 2001.

For the Nuclear Regulatory Commission.

Thomas H. Essig,

Chief, Environmental and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–25569 Filed 10–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339; Docket No. 72–16]

Virginia Electric and Power Company (VEPCO); North Anna Power Station, Units 1 and 2; North Anna Independent Spent Fuel Storage Installation; Notice of Consideration of Approval of Transfer of Facility Operating and Materials Licenses and Conforming Amendments, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the transfer of Facility Operating Licenses Nos. NPF–4 and NPF–7, for the North Anna Power Station Units 1 and 2; and Special Nuclear Material License No. SNM–2507 for the North Anna Independent Spent Fuel Storage Installation (ISFSI) currently held by VEPCO, as owner and licensed operator. The transfer would be to Dominion Generation Corporation (Dominion Generation), which, following certain steps occurring essentially contemporaneously, will be a subsidiary of Dominion Energy Holdings, Inc., which in turn will be a holding company subsidiary of Dominion Resources, Inc. (DRI), holding all of DRI's generation assets. DRI is presently the parent of VEPCO. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer.

According to applications for approval filed by VEPCO, Dominion Generation would assume title to the facility and ISFSI following approval of the proposed license transfers, and would be responsible for the operation, maintenance, and eventual decommissioning of the North Anna Power Station Units 1 and 2 and ISFSI. No physical changes to the facility or ISFSI or operational changes are being proposed in the applications.

The proposed amendments would replace references to VEPCO in the licenses with references to Dominion Generation to reflect the proposed transfer.

Pursuant to 10 CFR 50.80 and 72.50, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an ISFSI that does no more than conform the license to reflect the transfer action involves, respectively, no significant hazards consideration or no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to these specific license amendment applications. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer applications, are discussed below.

By October 31, 2001, any person whose interest may be affected by the Commission's action on the applications may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon David Lewis, Esq., counsel for VEPCO and Dominion Generation at Shaw Pittman, 2300 N Street, NW., Washington, DC 20037, Telephone 202–663–8474, fax 202–663–8007, e-mail *david_lewis@shawpittman.com;* the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: *OGCLT@NRC.gov*); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by November 13, 2001, persons may submit written comments regarding the license transfer applications, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the applications dated June 7, 2001, and July 2, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Dated at Rockville, Maryland this 4th day of October 2001.

For the Nuclear Regulatory Commission.

Stephen R. Monarque,

Project Manager, Project Directorate II, Section 1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–25566 Filed 10–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281; Docket No. 72–2]

Virginia Electric and Power Company (VEPCO); Surry Power Station, Units 1 and 2; Surry Independent Spent Fuel Storage Installation; Notice of Consideration of Approval of Transfer; of Facility Operating and Materials Licenses and Conforming Amendments, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the transfer of Facility Operating Licenses Nos. DPR–32 and DPR–37 for the Surry Power Station Units 1 and 2; and Special Nuclear Material License No. SNM–2501 for the Surry Independent Spent Fuel Storage Installation (ISFSI) currently held by VEPCO, as owner and licensed operator. The transfer would be to Dominion Generation Corporation (Dominion Generation), which, following certain steps occurring essentially contemporaneously, will be a subsidiary of Dominion Energy Holdings, Inc., which in turn will be a holding company subsidiary of Dominion Resources, Inc. (DRI), holding all of DRI's generation assets. DRI is presently the parent of VEPCO. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer.

According to applications for approval filed by VEPCO, Dominion Generation would assume title to the facility and ISFSI following approval of the proposed license transfers, and would be responsible for the operation, maintenance, and eventual decommissioning of the Surry Power Station Units 1 and 2 and ISFSI. No physical changes to the facility or ISFSI or operational changes are being proposed in the application.

The proposed amendments would replace references to VEPCO in the licenses with references to Dominion Generation to reflect the proposed transfer.

Pursuant to 10 CFR 50.80 and 72.50, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an ISFSI that does no more than conform the license to reflect the transfer action involves, respectively, no significant hazards consideration or no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to these specific license amendment applications. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with

respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer applications, are discussed below.

By October 31, 2001, any person whose interest may be affected by the Commission's action on the applications may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon David Lewis, Esq., counsel for VEPCO and Dominion Generation at Shaw Pittman, 2300 N Street, NW., Washington, DC 20037, Telephone 202–663–8474, fax 202–663–8007, e-mail *david__lewis@shawpittman.com;* the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: *OGCLT@NRC.gov*); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by November 13, 2001, persons may submit written comments regarding the license transfer applications, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the applications dated June 7, 2001, and July 2, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland this 4th day of October 2001.

For the Nuclear Regulatory Commission.

Gordon E. Edison, Sr.,

Project Manager, Project Directorate II, Section 1, Division of Licensing Project Manager, Office of Nuclear Reactor Regulation.

[FR Doc. 01–25567 Filed 10–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–400]

Carolina Power & Light Company; Shearon Harris Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Title 10 of the Code of Federal Regulations (10 CFR) § 50.90 for Facility Operating License No. NPF–63, issued to Carolina Power and Light Company (CP&L, the licensee) for operation of the Shearon Harris Nuclear Power Station, Unit 1 (HNP), located in Wake and Chatham Counties, North Carolina. 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 allow CP&L to increase the maximum reactor core power level from 2775 megawatts thermal (MWt) to 2900 MWt, which is an increase of 4.5 percent of rated core thermal power for HNP. The proposed action is in accordance with the licensee's application for amendment dated October 4, 2000, and December 14, 2000, as supplemented on March 8, March 27, April 26, May 14, May 18, June 4, June 11, June 26, June 29, July 3, July 16 (2 letters), July 17, August 17, and September 20, 2001, to revise HNP Facility Operating License and Technical Specifications to support steam generator replacement and to allow operation at an uprated reactor core power level of 2900 MWt.

The Need for the Proposed Action

The proposed action permits an increase in the licensed core thermal power from 2775 MWt to 2900 MWt for HNP and provides the flexibility to increase the potential electrical output of HNP.

Environmental Impacts of the Proposed Action

CP&L has submitted an environmental evaluation supporting the proposed power uprate and provided a summary of its conclusions concerning the radiological and non-radiological environmental impacts of the proposed action.

Radiological Environmental Assessment

Radwaste Systems

The reactor coolant contains activated corrosion products, which are the result of metallic materials entering the water and being activated in the reactor region. Under power uprate conditions, the feedwater flow increases with power and the activation rate in the reactor region increases with power. The net result may be an increase in the activated corrosion product production. However, the evaluation has shown that the power uprate will not cause a significant change in the types or a significant increase in the amounts of any radiological effluent that may be released offsite.

Non-condensible radioactive gas from the main condenser, along with air in-leakage, normally contains activation gases (principally N–16, O–19 and N–13) and fission product radioactive noble gases. This is the major source of radioactive gas (greater than all other sources combined). These non-condensible gases, along with non-radioactive air, are continuously

removed from the main condensers, which discharge into the offgas system. The changes in gaseous effluents are small and are well within the uncertainty of the calculation of the original limits following implementation of the power uprate.

CP&L has concluded that there will be no significant change in the level of controls or methodology used for the processing of radioactive effluents; or handling of solid radioactive waste at HNP will not be impacted by operation at uprated power conditions, and the slight increase in effluents discharged would continue to meet the requirements of 10 CFR part 20 and 10 CFR part 50, appendix I. Therefore, the power uprate will not appreciably affect the ability to process liquid or gaseous radioactive effluents and there are no significant environmental effects from radiological releases.

Dose Consideration

CP&L evaluated the potential effects of power uprate conditions on the radiation sources within the plant and the radiation levels during normal and post-accident conditions. The original calculations for determining the normal operational doses and radiation shielding requirements were very conservative and had additional margin assumed in the calculations. It was determined that these margins are sufficient to accommodate any increases attributed to the 4.5 percent increase in rated thermal power. The power uprate has no significant effect on plant normal operation radiation zones and shielding requirements. In addition, the normal operation component of the total integrated dose used for radiological equipment qualification is not affected by the power uprate.

The power uprate does not involve significant increases in the offsite doses to the public from noble gases, airborne particulates, iodine, tritium, or liquid effluents. An upper bound analysis for the potential impact of the power uprate indicates that the increase in radiological releases and resultant dose impact is bounded by the percentage increase in the reactor core power. Therefore, the normal offsite doses are not significantly affected by operation at the uprated power level and remain below the limits of 10 CFR part 20 and 10 CFR part 50, Appendix I.

The uprate program included a reanalysis or evaluation of all other aspects of large-break loss-of-coolant accident (LBLOCA), small-break loss-of-coolant accidents (SBLOCA), non-LOCA accidents, and Nuclear Steam Supply System (NSSS) and balance-of-plant (BOP) structures, systems, and components. Major NSSS components (e.g., reactor pressure vessel, pressurizer, reactor coolant pumps, and steam generators); BOP components (e.g., turbine, generator, and condensate and feedwater pumps); and major systems and sub-systems (e.g., safety injection, auxiliary feedwater, residual heat removal, electrical distribution, emergency diesel generators, containment cooling, and the ultimate heat sink) have been assessed with respect to the bounding conditions expected for operation at the uprated power level. Control systems (e.g., rod control, pressurizer pressure and level, turbine overspeed, steam generator level, and steam dump) have been evaluated for operation at uprated power conditions. Reactor trip and Engineered Safety Feature actuation setpoints have been assessed and no needed changes were identified as a result of uprated power operations. The results of all of the above analyses and evaluations have yielded acceptable results and demonstrate that all design basis acceptance criteria will continue to be met during uprated power operations.

For post-accident conditions, the existing post-accident dose rate maps are adequate for power uprate conditions, and variances from existing calculated values are insignificant. The resulting radiation levels were determined to be within current regulatory limits, and there would be no effect on the plant equipment, access to vital areas, or habitability of the control room envelope and the Technical Support Center. The licensee has determined that access to areas requiring post-accident occupancy will not be significantly affected by the power uprate.

The calculated whole body and thyroid doses at the exclusion area boundary that might result from a postulated design basis LOCA were evaluated. All offsite doses evaluated at uprated power conditions remain below established regulatory limits. Therefore, the results of the radiological analyses remain below the 10 CFR part 100 guidelines and all radiological safety margins are maintained.

Non-Radiological Environmental Assessment

The licensee reviewed the non-radiological environmental impacts of the power uprate based on information submitted in the Environmental Report (ER), Operating License Stage (OL), the NRC Final Environmental Statement (FES), and the requirements of the Environmental Protection Plan. Based on this review, the licensee concluded that the proposed power uprate has no significant effect on the non-radiological elements of concern and the plant will be operated in an environmentally acceptable manner as established by the FES. In addition, the licensee states that existing Federal, State, and local regulatory permits presently in effect accommodate the power uprate without modification.

Effluent Analysis and Evaluation

According to the licensee, the proposed power uprate will result in cooling tower duty of approximately 4.2E+08 BTU/hr over the current operating condition, with a corresponding increase in evaporation, makeup, and cooling tower blowdown temperature. This heat duty includes a component from the normal service water system, which is not expected to change as a result of the power uprate, according to the licensee. However, the increase in cooling tower duty from 6.67E+09 BTU/hr evaluated in the ER-OL (for a single unit) is 2.4E+08 BTU/hr or 3.6 percent.

Cooling tower flowrate does not change as a result of the power uprate. However, the licensee has a concurrent project to retube the main condenser, which will result in an increase in the circulating water system flow by approximately 4,600 gpm. Cooling tower drift, which is a small fraction (0.002%) of the total cooling tower flowrate (circulating water system plus normal service water system), will increase slightly. However, the impact on the production of cooling tower drift is negligible.

The average temperature of the cooling tower blowdown is predicted by the licensee to increase by 0.4°F in the winter and 0.1°F in the summer. These values are based on the average January and July wet bulb temperatures presented in the ER–OL Table 3.4.2–2.

CP&L's original analyses predicted the mixing zone for the cooling tower blowdown to be 120 acres in the winter and 20 acres in the summer. The FES (Section 5.3.1.2.1) concluded that CP&L's original analysis conducted under extreme temperature conditions was conservative and protective of water quality standards. The analyses were done assuming two units in operation. The FES reported independent analyses that predicted that the mixing zone would remain less than 0.7 acres under all conditions.

The additional heat load to the Harris Lake associated with the power uprate of a single unit does not significantly impact the conclusions of the FES relative to the thermal impact, according to the licensee. The minimal increase in

blowdown temperature associated with the power uprate is conservative and protective of water quality standards. As discussed in the FES, adequate mixing occurs such that the size of the thermal plume is acceptably small. This remains valid in view of the fact that the original analyses were done assuming two units in operation.

The licensee had the thermal impact associated with the power uprate evaluated relative to the HNP National Pollutant Discharge Elimination System (NPDES) permit. North Carolina Department of Environment, Health, and Natural Resources issued NPDES Permit No. NC0039586 to HNP. The permit was last renewed on July 31, 1996. The NPDES permit specifies a mixing zone of an area no greater than 200 acres. The original NPDES permit contained a requirement to monitor the cooling tower blowdown to ensure compliance with the requirements of the mixing zone. However, the monitoring results subsequently led to the deletion of the requirement blowdown temperature in the NPDES. In view of the conservatism in the original CP&L analyses, the deletion of Unit 2, and the small change in cooling tower blowdown temperature, the licensee states that there will be no difficulty in meeting the 200 acre limitation on the size of the mixing zone.

The amount of water required to make up for forced evaporation from the cooling tower is expected to increase. The ER–OL predicted the annual average, forced evaporation at a power level of 100% to be 22.1 cubic feet per second (cfs). The revised comparable value for the power uprate is 22.8 cfs. The increase in the average forced evaporation loss is 0.7 cfs assuming 95% capacity factor and annual average meteorology according to the licensee.

The increase (0.7 cfs) is small relative to the total water demand from the operation of Unit 1 and the flow available from the inputs to the main reservoir. The total water consumption of 32.2 cfs includes forced evaporation (assuming a capacity factor of 95%), natural evaporation from the reservoirs, seepage, and miscellaneous plant consumption. The total inputs to the main reservoir averages 67.6 cfs. The licensee states that there is no significant impact on the main reservoir.

With regard to downstream water uses, the change is small compared to the total Cape Fear River flow (downstream of the main dam) of 3,125 cfs. The NRC, in FES Section 5.3.2.1 stated, ''* * * less than 1% of the average flow of the Cape Fear River (3,125 cfs) will be used by the plant. Thus, the staff's conclusion in the RFES–CP that the consumptive water use by a four-unit plant would not adversely affect other downstream water users is valid for a two-unit plant.'' The revised water consumption by HNP is approximately 1.03% of the average Cape Fear River flow.

Noise Evaluation

The noise effects due to operation of HNP at uprated power conditions were reviewed. No increase in noise from the turbine or reactor building will result due to uprated power operations. In addition, the turbine and the reactor building supply and exhaust fans will continue to operate at current speeds, and the associated noise levels will also be unaffected by uprated power operations. In summary, the overall noise levels at HNP will not increase due to the power uprate.

The non-radiological environmental impacts related to the proposed power uprate at HNP have been reviewed and there are no adverse impacts or significant changes required to the current NPDES Permits or other plant administrative limits. No changes to land use would result and the proposed action does not involve any historic sites. Therefore, no new or different types of non-radiological environmental impacts are expected.

Summary

The NRC has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of 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, but would reduce the operational flexibility that would be afforded by the proposed change. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for HNP.

Agencies and Persons Consulted

On October 3, 2001, the NRC staff consulted with the North Carolina State official, Mr. Johnny James, of the Division of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letters dated October 4, 2000, and December 14, 2000, as supplemented by letters dated March 8, March 27, April 26, May 14, May 18, June 4, June 11, June 26, June 29, July 3, July 16 (2 letters), July 17, August 17, and September 20, 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). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of October 2001.

For the Nuclear Regulatory Commission

Richard P. Correia,

Chief, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–25570 Filed 10–10–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

FirstEnergy Nuclear Operating Company, FENOC; Davis-Besse Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. NPF–3 issued to FirstEnergy Nuclear Operating Company, (FENOC, or the licensee), for operation of Davis-Besse Nuclear Power Plant (DBNPS), located in Oak Harbor, Ohio. 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 increase the number of fuel assemblies that can be stored in the DBNPS spent fuel pool (SFP) from 735 fuel assemblies to 1,624 fuel assemblies, an increase of 889 fuel assemblies. In addition, the new spent fuel storage racks will use Boral as the neutron absorber material.

The proposed action is in accordance with the licensee's application for amendment dated December 2, 2000.

The Need for the Proposed Action

DBNPS is a pressurized water reactor which commenced commercial operation in 1974 and its current operating license will expire in April 22, 2017. DBNPS was originally designed to accommodate 735 spent fuel assemblies.

DBNPS began operating Cycle 12 (May 1998) with insufficient storage capacity in the SFP to fully offload the entire reactor core (177 fuel assemblies). Since a full core offload into the SFP was required for the performance of the 10-year inservice inspection activities during the spring 2000 Twelfth Refueling Outage, DBNPS submitted License Amendment Request 98–007 on May 21, 1999, to allow the use of spent fuel racks in the cask pit area adjacent to the SFP to perform the 10-year inservice inspection activities the NRC staff approved this activity on February 29, 2000.

The purpose of this current license amendment request is to provide the necessary revisions to the DBNPS technical specifications (TSs) to reflect an increase in SFP storage capability from the current capacity of 735 fuel assemblies to a new capacity of 1,624 fuel assemblies. To provide additional temporary storage of fuel assemblies to support a complete re-racking of the SFP, the licensee also requested approval for up to 90 transfer pit storage locations. The transfer pit storage rack will be relocated into the SFP as part of the completion of the re-racking project. The resulting SFP fuel storage capacity will be sufficient to meet the storage needs through the current expiration date of the DBNPS operating license (April 22, 2017).

Environmental Impacts of the Proposed Action

Radioactive Wastes

DBNPS uses waste treatment systems designed to collect and process gaseous, liquid, and solid waste that might contain radioactive material. These radioactive waste treatment systems were evaluated in the Final Environmental Statement (FES) dated October 1975 (NUREG 75/097). The proposed SFP expansion will not involve any change in the waste treatment systems described in the FES.

Radioactive Material Released Into the Atmosphere

The expanded fuel storage capacity obtained by installing new fuel racks is not expected to affect the release of radioactive gases from the SFP. Gaseous fission products such as Krypton-85 and Iodine-131 are produced by the fuel in the core during reactor operation. A small percentage of these fission gases are released to the reactor coolant from the small number of fuel assemblies which are expected to develop leaks during reactor operation. During refueling operations, some of these fission products enter the SFP and are subsequently released into the air of the spent fuel building. Gaseous releases from the fuel storage area are combined with other plant exhausts. If radio-iodine levels become too high, the air can be diverted to charcoal filters for the removal of radio-iodine before release to the environment. Normally, the radioactive gas contribution from the fuel storage area is negligible compared to the gaseous releases from other areas of the plant. Since the frequency of refueling (and therefore the number of freshly off loaded spent fuel assemblies stored in the SFP at any one time) will not increase, there will be a negligible increase in the amounts of these types of fission products released to the atmosphere as a result of the increased SFP fuel storage capacity.

Tritium gases contained in the SFP are produced from two sources. The first source is the tritium from the reactor coolant system (RCS), which is a result of neutron capture in the reactor core by ^{10}B. This tritium can only enter the spent fuel pool during refueling outages when the SFP and the RCS are interconnected. Since the proposed amendment does not increase the frequency of refueling outages, this source of tritium does not change. The second source of tritium is a result of neutron capture by ^{10}B in the SFP water. The decay neutron flux from the old fuel in the SFP is considerably smaller than the neutron flux in the core of an operating reactor. Due to the small neutron flux associated with the fuel to be stored in the new racks, the affect on tritium production will be insignificant. Therefore, the release of tritium from the storage of additional spent fuel assemblies in the transfer canal will be insignificant.

In addition, the plant radiological effluent TSs, which are not being changed by this action, restrict the total releases of gaseous activity from the plant (including the SFP).

Solid Radioactive Wastes

Independent of the proposed modification, the concentration of radionuclides in the SFP is controlled by the filters and demineralizer of the SFP purification system as well as by the decay of short-lived isotopes. Spent resins are generated by the processing of SFP water through the SFP purification system. Both spent resins and filters are disposed of as solid radioactive waste. The spent fuel pool cooling and cleanup system currently generates approximately 50 cubic feet of solid radioactive waste annually. Re-racking activities may result in a one-time shortening of the resin change-out interval or an increase in filter usage, however, the long-term normal resin and filter replacement frequency is not expected to be significantly affected by the additional number of fuel assemblies in storage.

There will be a one-time increase in solid waste generation due to the need to dispose of 12 fuel storage rack modules, a module for 15 failed fuel storage locations, and miscellaneous piping runs currently located in the SFP that will be replaced with the new rack modules. However, this represents an insignificant incremental increase in the

total quantity of solid waste generated as a result of plant operation.

In conclusion, the staff does not expect that the additional fuel storage capacity will result in a significant change in the generation of solid radwaste at DBNPS.

Liquid Radioactive Wastes

The number of stored spent fuel assemblies does not affect the release of radioactive liquids from the plant. The contribution from the stored fuel assemblies of radioactive materials in the SFP water is insignificant relative to other sources of activity, such as the reactor coolant system. The volume of SFP water processed for discharge is independent of the quantity of stored spent fuel assemblies. Therefore, the installation of the new fuel racks is not expected to increase the amount of liquid radioactive wastes generated at the DBNPS.

In addition, the plant radiological effluent TSs, which are not being changed by this action, restrict the total releases of activity in liquids from the plant.

Radiological Impact Assessment

During normal operations, personnel working in the fuel storage area are exposed to radiation from the SFP. Operating experience has shown that area radiation dose rates originate primarily from radionuclides in the pool water. During refueling and other fuel movement operations, pool water concentrations might be expected to increase somewhat. Fuel movement operations as a result of rack installation activities may marginally increase dose rates above and around the SFP and cask pit perimeter. However, the dose fields should still approximate conditions seen during normal operating conditions. Therefore, the staff does not expect a significant increase in airborne radioactivity as a result of the expanded spent fuel storage capacity.

On the basis of our review of the licensee's proposal, the staff concludes that the DBNPS SFP expansion can be performed in a manner that will ensure that doses to workers will be maintained as low as is reasonably achievable and within the limits of 10 CFR part 20.The upcoming SFP rack installation will follow detailed procedures prepared with full consideration of as low as reasonably achievable principles. Personnel doses, including diving operations, is estimated to be no greater than 12 person-rem.

Accident Considerations

The licensee evaluated criticality safety calculations for normal conditions, criticality safety calculations for accident conditions, long-term reactivity changes, calculation of the transient decay heat load in the SFP, calculation of the resulting maximum SFP bulk temperature, calculation of the time-to-boil after a loss of forced cooling or makeup water capability, rack seismic/structural evaluations, rack fatigue analysis, SFP structural evaluation, bearing pad analysis and liner integrity analysis, shallow drop event, deep drop event, and object drop event.

The proposed expansion of the SFP will not affect any of the assumptions or inputs used in evaluating the dose consequences of a fuel handling accident and therefore will not result in an increase in the doses from a postulated fuel handling accident.

In summary, the Commission has completed its evaluation of the proposed action and concludes that there are no significant adverse environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure.Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological environmental impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

Shipping Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to a high-level radioactive storage facility is an alternative to increasing the onsite spent fuel storage capacity. However, the U.S. Department of Energy's (DOE's) high-level radioactive waste repository is not expected to begin receiving spent fuel until approximately 2010, at the earliest. To date, no location has been identified and an interim federal storage facility has yet to be identified in advance of a decision on a permanent repository. Therefore, shipping the spent fuel to the DOE repository is not considered an alternative to increased onsite fuel storage capacity at this time.

Shipping Fuel to a Reprocessing Facility

Reprocessing of spent fuel from DBNPS is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Therefore, spent fuel would have to be shipped to an overseas facility for reprocessing. However, this approach has never been used and it would require approval by the Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium; reprocessing represents an added cost. Therefore, the shipping of spent fuel overseas and the increased cost of reprocessing, do not provide a viable alternative.

Shipping the Fuel Offsite to Another Utility or Another FENOC Site

The shipment of fuel to another utility or transferring fuel to another of the licensee's facilities would provide short-term relief from the problems at DBNPS. The Nuclear Waste Policy Act of 1982, Subtitle B, Section 131(a)(1), however, clearly places the responsibility for the interim storage of spent fuel with each owner or operator of a nuclear plant. The SFPs at the other reactor sites were designed with capacity to accommodate spent fuel from those particular sites. Therefore, transferring spent fuel from DBNPS to other sites would create storage capacity problems at those locations. The shipment of spent fuel to another site is not an acceptable alternative because of increased fuel handling risks and additional occupational radiation exposure, as well as the fact that no additional storage capacity would be created.

Alternatives Creating Additional Storage Capacity

Alternative technologies that would create additional storage capacity include rod consolidation, dry cask storage, modular vault dry storage, and constructing a new pool. Rod consolidation involves disassembling the spent fuel assemblies and storing the fuel rods from two or more assemblies into a stainless steel canister that can be stored in the spent fuel racks. Industry experience with rod consolidation is currently limited, primarily due to concerns for potential gap activity release due to rod breakage, the

potential for increased fuel cladding corrosion due to some of the protective oxide layer being scraped off, and because the prolonged consolidation activity could interfere with ongoing plant operations.

Dry cask storage is a method of transferring spent fuel after storage in the pool for several years, to high capacity casks with passive heat dissipation features. After loading, the casks are stored outdoors on a seismically qualified concrete pad. The licensee has previously implemented dry cask storage onsite using the NUHOMS system, in accordance with 10 CFR 72.214, Certificate Number 1004. However, changes within the dry spent fuel storage industry have caused cost increases. The contracted supplier of the NUHOMS system voluntarily stopped fabrication activities and was unable to provide additional storage systems within a schedule acceptable to the licensee. Further use of this technology was re-evaluated by the licensee and determined not to be the best choice for future storage expansion at DBNPS.

Vault storage consists of storing spent fuel in shielded stainless steel cylinders in a horizontal configuration in a reinforced concrete vault. The concrete vault provides missile and earthquake protection and radiation shielding. Concerns for vault dry storage include security, land consumption, eventual decommissioning of the new vault, the potential for fuel or clad rupture due to high temperatures, and high cost.

The alternative of constructing and licensing new spent fuel pools is not practical for DBNPS because such an effort would require years to complete and would be an expensive alternative.

The alternative technologies that could create additional storage capacity involve additional fuel handling with an attendant opportunity for a fuel handling accident, involve higher cumulative dose to workers affecting the fuel transfers, require additional security measures that are significantly more expensive, and would not result in a significant improvement in environmental impacts compared to the proposed reracking modifications. Therefore, the alternative technologies, the increased risk to workers and security, and the increased costs of these measures, do not provide a viable alternative.

Reduction of Spent Fuel Generation

Generally, improved usage of the fuel and/or operation at a reduced power level would be an alternative that would decrease the amount of fuel being stored in the SFPs and, thus, increase the amount of time before the maximum storage capacities of the SFPs are reached.However, operating the plant at a reduced power level would not make effective use of available resources and would cause unnecessary economic hardship on the licensee and its customers. Therefore, reducing the amount of spent fuel generated by increasing burnup further or reducing power is not considered a practical alternative.

The No-Action Alternative

Also, the NRC staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative actions are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for DBNPS.

Agencies and Persons Contacted

In accordance with its stated policy, on August 30, 2001, the NRC staff consulted with Ohio State official, Carol O'Claire, Chief, Radiological Branch, Ohio 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.

For further details with respect to the proposed action, see the licensee's letter dated December 2, 2000. 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). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 4th day of October 2001.

For the Nuclear Regulatory Commission.

Anthony Mendiola,

Section Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–25568 Filed 10–10–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44905; File No. SR–DTC–2001–11]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Authorizing DTC To Act Upon Instructions Provided by a Central Matching Service Provider

October 4, 2001.

On June 27, 2001, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–2001–11) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on August 22, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

On April 17, 2001, the Commission approved DTC's proposal to combine its TradeSuite business with institutional trade processing services offered by Thomson Financial ESG in a newly-formed joint venture company, Omego LLC (''Omego'').[3] The Commission also granted an exemption from clearing agency registration to Global Joint Venture Matching Services—US, LLC, a wholly-owned subsidiary of Omego, with respect to Omego's provision of Central Matching Services.[4] DTC expects that other entities will seek to become Central Matching Services Providers.[5]

DTC neither engages in matching institutional trade information nor

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 44713 (August 16, 2001), 66 FR 44191.

[3] Securities Exchange Act Release No. 44189 (April 17, 2001), 66 FR 20502 [File No. DTC–00–10].

[4] Securities Exchange Act Release No. 44188 (April 17, 2001), 66 FR 20494 [File No. 600–32].

[5] GSTP AG has filed with the Commission an application for an exemption from registration as a clearing agency. If such exemption is granted, under the proposed rule change, DTC would accept and act upon instructions submitted by GSTP AG.

communicates to its participants or others prior to settlement that a transaction has been matched. DTC assumes that the Central Matching Services Provider,[6] Such as Global Joint Venture Matching Services—US, LLC, will make arrangements for the communication of this information to the DTC participants expected to settle matched transactions by book-entry delivery at DTC. DTC is prepared to accept from a Central Matching Service Provider a file of deliver order instructions to settle transactions between DTC participants that have authorized DTC to accept such instructions from the Central Matching Services Provider. This Order grants Commission approval of DTC's proposal whereby DTC will act upon delivery order instructions received from the Central Matching Services Provider and will collect service fees on behalf of the Central Matching Services Provider[7] without the delay and inconvenience to both Central Matching Services Providers and DTC participants that would result if DTC were to require each participant to execute a written form of authorization. DTC will provide notice to participants of its intention to act upon the instructions of a Central Matching Services Provider, as described above, giving each participant the opportunity to advice DTC not to accept such instructions with respect to its account.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[8] The Commission believes that the approval of DTC's rule change is consistent with this Section because it allows DTC to act upon deliver order instructions received from a Central Matching Services Provider. This will provide a means whereby DTC can help both Central Matching Services Providers and participants avoid the delay and inconvenience that would result were DTC to require each participant using a Central Matching Services Provider to independently submit deliver order instructions to DTC.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (Fine No. SR–DTC–2001–11) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25537 Filed 10–10–01; 8:45 am]

BILLING CODE 8010–01–M

[6] Central Matching Services Provider as such term is used in this proposed rule change refers to an entity that (i) provides a Central Matching Services and (ii) has registered with the Commission as a clearing agency or has been granted an exemption by the Commission from clearing agency registration. Central Matching Service means an electronic service to centrally match information between a broker-dealer and its institutional customer (so long as one or both such parties is a U.S. person) relating to transactions in securities issued by a U.S. issuer regardless of where the transactions are settled.

[7] While DTC will include such fees as debits in the participant's settlement account, DTC's collection of such amounts shall be on a ''best efforts'' basis.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44907; File No. SR–GSCC–2001–09]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Funds-Only Settlement Payment Deadlines

October 4, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 10, 2001, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by GSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant approval of the proposed rule change.

I.Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will require GSCC's netting members to pay a funds-only settlement amount owed to GSCC no later than 10 a.m. and require GSCC to pay its netting members funds-only settlement payments that it owes them by 11 a.m.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statement.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

IN 1989, GSCC established a methodology for mitigating the risks inherent in netting. One of the components of the risk management system is a funds-only settlement obligation due each day either from a netting members to GSCC or from GSCC to the netting member. GSCC initially determined that funds-only settlement amounts due from members to GSCC should be received by GSCC by 10 a.m. each day and that GSCC should pay members funds-only settlement amounts due them by 11 a.m. The funds-only settlement payment deadlines were set in the morning so that GSCC could receive the risk protection that the payments were designed to achieve soon after GSCC reports to its members its calculation of the amounts owed and soon after securities settlements begin. GSCC also gave members an appropriate amount of time after the issuance of the reports and after the opening of the cash FedWire to send their funds payments to GSCC.[3] These deadlines were incorporated in a rule filing approved by the Commission in 1989.[4]

In 1991, the Commission authorized GSCC to change the funds-only settlement payment deadline for members from 10 a.m. to 9 a.m.[5] With

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] The proposed text of this rule filing takes into account the subsequent change in the opening of the cash FedWire from 8:30 a.m. to 12:30 a.m. and also revises the amount of time after the opening of the cash FedWire that a member is given to remit its funds-only settlement obligation to GSCC.

[4] Securities Exchange Act Release No. 27006 (July 7, 1989); 54 FR 29798 (July 14, 1989).

[5] Securities Exchange Act Release No. 30135 (Dec. 31, 1991), 57 FR 942 (Jan. 9, 1992). This rule filing did not change GSCC's obligation to make funds payments to its members in a funds credit position by 11 a.m.

the benefit of two years of netting experience, GSCC determined that the earlier deadline would more sufficiently protect GSCC from the consequences of potential default by a netting member. However, GSCC was unable to implement the 9 a.m. deadline as a practical matter due to a widespread inability of members to wire funds to GSCC in a timely manner.

In 1997, the Commission authorized GSCC to provide members with the option of satisfying their funds-only settlement obligations through an ''auto-debit'' method.[6] This arrangement enabled netting members to authorize banks with which GSCC and those members have accounts to make and collect settlement payments early in the morning by debit/credit instructions given directly to such banks by GSCC. GSCC also determined that it would remit its funds-only settlement obligations to members by 10:00 a.m. (instead of 11 a.m.) because it would begin enforcing with the assistance of a new find schedule the 9 a.m. deadline that all netting members make their funds-only settlement payments. However, because GSCC continues to make certain manual adjustments to the final funds-only obligations until approximately 8:30 a.m., the auto-debit system could never be implemented and GSCC never enforced the 9 a.m. deadline.

Until such time as GSCC is able to report final funds-only settlement obligation amounts to its members well in advance of the 9 a.m. deadline, GSCC will continue to accept funds-only settlement payments at 10 a.m. and send members funds-only settlement payments that it owes them by 11 a.m. The purpose of this rule filing is to formally reflect these deadlines in all relevant places in GSCC's rules to ensure consistency with GSCC's current operating procedures.

GSCC believes that the proposed rules change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder because it clarifies GSCC's current practices with respect to funds-only settlement payment deadlines.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. GSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(A)[7] of the Act, which requires, among other things, that a clearing agency have the capacity to be able to comply with this provisions of the Act and the rules and regulations thereunder. The Commission finds that the proposed rule change is consistent with this obligation because this rule change will bring GSCC's written rules in line with its actual practice with respect to the deadlines for funds-only settlement procedure. The Commission notes that it is vital that the practices and operations of self-regulatory organizations, such as GSCC, be consistent with and conform to their rules.

GSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because such approval will allow GSCC to immediately amend its rules to accurately reflect GSCC's practice of requiring funds-only settlement payments to be paid to GSCC by 10 a.m. and to be paid by GSCC by 11 a.m.

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 in Washington, DC. Copies of such filing will also be available for inspection and copying at GSCC's principal office. All submissions should refer to File No. SR–GSCC–2001–09 and should be submitted by November 1, 2001.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–2001–09) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25536 Filed 10–10–01; 8:45 am]

BILLING CODE 8010–01–M

[6] Securities Exchange Act Release No. 39309 (Nov. 7, 1997), 62 FR 61158 (Nov. 14, 1997).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3368]

State of Illinois; (And a Contiguous County in the State of Indiana)

Cook County and the contiguous Counties of DuPage, Kane, Lake, McHenry, and Will in the State of Illinois, and Lake County in the State of Indiana constitute a disaster area due to damages caused by severe storms and flooding that occurred August 2, 25, and 30, 2001. Applications for loans for physical damage may be filed until the close of business on December 3, 2001 and for economic injury until the close of business on July 5, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000

	Percent
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 336811 for Illinois and 336911 for Indiana. For economic injury, the numbers are 9M9100 for Illinois and 9M9200 for Indiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 4, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–25463 Filed 10–10–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF SPECIAL COUNSEL

Appointment of Member to Agency Performance Review Board

AGENCY: Office of Special Counsel.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the following individual to serve as a new member of the Performance Review Board previously established by the OSC pursuant to 5 U.S.C. 4314(c)(2): Sharlyn A. Grigsby, Director, Office of Civil Service Personnel Management, Department of State.

Authority: 5 U.S.C. Sec. 4314 (c) (4).

FOR FURTHER INFORMATION CONTACT: M. Marie Glover, Director of Personnel, U.S. Office of Special Counsel, 1730 M Street, NW., Washington, DC 20036–4505, telephone (202) 653–8964.

Dated: October 3, 2001.

Elaine Kaplan,

Special Counsel.

[FR Doc. 01–25460 Filed 10–10–01; 8:45 am]

BILLING CODE 7405–01–P

DEPARTMENT OF STATE

[Public Notice 3748]

Shipping Coordinating Committee, International Maritime Organization Legal Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 a.m. on Friday, October 26, 2001, in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of this meeting is to report the results of the Eighty-Third Session of the International Maritime Organization (IMO) Legal Committee (LEG 83), scheduled for October 8 through 12, 2001.

It is anticipated that at LEG 83 the Committee will spend the majority of its time continuing work on the draft protocol to amend the Athens Convention Relating to the Carriage of Passengers and their Luggage By Sea. The Committee will also review two draft resolutions submitted by the Joint International Maritime Organization/International Labor Organization Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers (IMO/ILO Joint Ad Hoc Expert Working Group). The draft resolutions propose guidelines for the financial security of seafarers with regard to compensation in cases of death, personal injury or abandonment of seafarers. Discussions of drafting a Wreck Removal Convention will also continue. The Legal Committee will then turn its attention to the implementation of the International Convention on Liability andCompensation for Damage in Connection With the Carriage of Hazardous and Noxious Substances by Sea. Time also will be allotted to address any other issues on the Legal Committee's work program.

Members of the public are invited to attend the SHC meeting up to the seating capacity of the room. Due to building security, it is recommended that those who plan on attending call or send an e-mail two days ahead of the meeting so that we may place your name on a list for security personnel to reference. For further information please contact Captain Joesph F. Ahern or Lieutenant Junior Grade Carolyn Leonard-Cho, at U.S. Coast Guard, Office of Maritime and International Law (G–LMI), 2100 Second Street, SW., Washington, DC 20593–0001; e-mail cleonardcho@comdt.uscg.mil, telephone (202) 267–1527; fax (202) 267–4496.

Dated: October 1, 2001.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, U.S. Department of State.

[FR Doc. 01–25599 Filed 10–10–01; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 3797]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9 a.m. on Tuesday, 6 November 2001, in Room 6103, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparations for the 21st Extraordinary Session of Council, 87th Session of Council and 22nd Session of the Assembly of the International Maritime Organization (IMO) which are scheduled for November 16–30, 2001, at the IMO Headquarters in London. Discussion will focus on papers received and draft U.S. positions.

Items of particular interest include:

—Reports of Committees;
—Reports on Diplomatic Conferences;
—Work Program and Budget for 2002–2003; and
—Election of Members of the Council.

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Director, International Affairs, U.S. Coast Guard Headquarters, Commandant (G–CI), room 2114, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling: (202) 267–2280.

Dated: October 4, 2001.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, U.S. Department of State.

[FR Doc. 01–25600 Filed 10–10–01; 8:45 am]

BILLING CODE 4710–07–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services for Trade Policy Matters (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of a partially opened meeting.

SUMMARY: The Industry Sector Advisory Committee on Services for Trade Policy Matters (ISAC–13) will hold a meeting on October 16, 2001, from 9 a.m. to 12 noon. The meeting will be opened to the public from 9 a.m. to 9:45 a.m. and closed to the public from 9:45 a.m. to 12 noon.

DATES: The meeting is scheduled for October 16, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held in Conference Room 6057, of the Department of Commerce, located at 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Holderman (principal contacts), at (202) 482–0345, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opening portion of the meeting the following topics will be addressed:

- Report on October 2001 World Trade Organization (WTO) General Agreement on Trade in Services (GATS) Negotiations.
- Report on October Financial Services Seminar.
- Proposed Data Privacy Website and Asia Pacific Economic (APEC) Corporation Privacy Initiative.
- Report on TransAtlantic Business Dialogue (TABD) Proceedings.

Elizabeth A. Gianini,

Acting Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–25561 Filed 10–10–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement; Cincinnati/Northern Kentucky International Airport, Hebron, Kentucky

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) is making available the Final Environmental Impact Statement (FEIS) for proposed development at Cincinnati/Northern Kentucky International Airport, Hebron, Kentucky.

POINT OF CONTACT: Peggy S. Kelley, Federal Aviation Administration, Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, Tennessee 38116–3841, Telephone: (901) 544–3495 ext. 19.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) is making available the Final Environmental Impact Statement (FEIS) for the following proposed development: A new 8,000-foot Runway 17/35 (future 18R/36L) and all support facilities (i.e., additional taxiways or taxiway extensions, and associated lighting and NAVAIDS), and the development of a 2,000-foot westerly extension to existing Runway 9/27 and all support facilities. This FEIS also assesses the Federal action regarding installation of navigational aides, airspace use, approach and departure procedures and associated terminal and landside projects. One historic structure, the William A. Rouse house, would be affected. This document also assesses the impact of implementing the approved noise abatement air traffic actions recommended in the Kenton County Airport Board's 1999 FAR Part 150 Noise Compatibility Plan Update. The FAA Record of Approval for the Part 150 Noise Compatibility Program was signed December 5, 2000.

The EIS will be available during normal business hours at the following locations:

- Anderson Township City Building, 7954 Beechmont Avenue, Anderson Township, OH 45255.
- Boone County Board of Education, 8330 Highway 42, Florence, KY 41042.
- City of Villa Hills, 719 Rogers Road, Villa Hills, KY 41017.
- Cincinnati & Hamilton County Public Library, 800 Vine Street, Cincinnati, OH 45202.
- Boone County Planning Commission, 2995 Washington Street, Burlington, KY 41005.
- Boone County Public Library, Lents Branch, 3215 Cougar Path, P.O. Box 287, Hebron, KY 41048.
- Boone County Public Library, Florence Branch, 7425 Highway 42, Florence, KY 41042.
- Boone County Library, Scheben Branch, 8899 U.S. 42, Union, KY 41091.
- City of Crescent Springs, 739 Buttermilk Pike, Crescent Springs, KY 41017.
- City of Crestview Hills, Attn: Kevin Celarek, 50 Crestview Hills Mall Road, Crestview Hills, KY 41017.
- City of Erlanger, 505 Commonwealth Avenue, City Hall, Erlanger, KY 41017.
- City of Florence, 8100 Ewing Boulevard, Florence, KY 41042.
- City of Fort Mitchell, Mayor Thomas E. Holocher, 2355 Dixie Highway, P.O. Box 17157, Ft. Mitchell, KY 41017.
- City of Lakeside Park, 9 Buttermilk Pike, Lakeside Park, KY 41017.
- Delhi Township Administration Building, 934 Neeb Road, Delhi Township, OH 45233.
- Green Township Building, 6303 Harrison Avenue, Cincinnati, OH 45247.
- Kenton County Public Library, 502 Scott Street, Covington, KY 41011.
- Kenton County Public Library, 3130 Dixie Highway, Erlanger, KY 41018.
- Lawrenceburg Public Library, 123 W. High Street, Lawrenceburg, IN 47025.
- John Dowlin, Hamilton County Commissioner, County Administrative Building, Room 603, 138 E. Court Street, Cincinnati, OH 45202.
- Miami Township Administrative Offices, 112 S. Miami Avenue, Cleves, OH 45002.
- Sayler Park Community Center, 6720 Home City Avenue, Cincinnati, OH 45233.
- Village of Addyston, 235 Main Street, Addyston, OH 45001.
- Whitewater Township, 6125 Dry Fork Road, P.O. Box 554, Miami Town, OH 45041.

Issued in Memphis, Tennessee, October 3, 2001.

LaVerne F. Reid,

Manager, Memphis Airports District Office.

[FR Doc. 01–25593 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Policy for Control System Operation Tests

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of policy statement.

SUMMARY: This document announces the issuance of a policy statement pertaining to operation tests of normal, utility, acrobatic, and commuter category airplane control systems. This material is neither mandatory nor regulatory in nature and does not constitute a regulation.

DATES: On February 22, 2001, the Small Airplane Directorate issued a proposed policy statement. On March 9, 2001, (66 FR 14243) we published the proposed policy statement for public comments. The final policy statement becomes effective on the issue date, which is shown at the end of this policy statement.

FOR FURTHER INFORMATION CONTACT: Lester Cheng, Federal Aviation Administration, Small Airplane Directorate, Regulations and Policy Branch, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone 316–946–4111; fax 316–946–4407; email Lester.Cheng@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2001, (66 FR 14243) we published the proposed policy statement for public comments. Several comments were received, and those comments have been resolved. A copy of the final policy statement will be posted on the internet and directions to the location will be found at the ''Latest News'' page, which has the following address: http://www.faa.gov/programs_rsvp2/smart/faa_home_page/certification/ aircraft/small_airplane_directorate_ news_latest.html

After reviewing the compliance methods in Advisory Circular (AC) 23–17, the Directorate determined there was additional information related to the compliance methods in AC 23–17, paragraph 23.683, that might be beneficial.

Policy

What Is the General Effect of This Proposed Policy?

Applicants and FAA Aircraft Certification Offices (ACO) involved with certification of small airplanes should generally follow this policy. Applicants should expect that the ACO would consider this information when making findings of compliance. However, in determining compliance with certification standards, each ACO has the discretion to deviate from these guidelines when the applicant demonstrates a suitable need. To ensure standardization, the ACO should coordinate deviation from this policy with the Small Airplane Directorate.

As with all advisory material, this statement of policy identifies one method, but not the only method, of compliance.

Regardless of the amount of travel of a control surface when tested as described above, the airplane must have adequate flight characteristics as specified in § 23.141. Any airplane that is a close derivative of a previous type certificated airplane need not exceed the control surface travel of the original airplane; however, the flight characteristics should be tested to ensure compliance.

The method of showing compliance with § 23.683 presented in AC 23–17, paragraph 23.683, Operation Tests, discusses only the control system. It does not explicitly specify the consideration of loading on adjacent structures and elements. This is consistent with the wording in § 23.683 of the regulations. Testing, not analysis, must be used to show compliance with § 23.683. There are five other regulations, the control system, the control surfaces, and the adjacent fixed aerodynamic surfaces related to both the control system and the control surfaces, which must also be met. These include the following:

1. The first one, which is noted in AC 23–17, is section 23.305, paragraph (a), [Subpart C—Structure, General] Strength and Deformation. It requires that ''At any load up to limit loads, the deformation may not interfere with safe operation.''

2. Section 23.307, (Subpart C—Structure, General) Proof of Structure, states that ''Compliance with the strength and deformation requirements of § 23.305 must be shown for each critical load condition. Structural analysis may be used only if the structure conforms to those for which experience has shown this method to be reliable. In other cases, substantiating load tests must be made.''

3. Section 23.655, paragraph (a), (Subpart D—Design and Construction, Control Surfaces) Installation, requires that ''Moveable surfaces must be installed so that there is no interference between any surfaces, their bracing, or adjacent fixed structure, when one surface is held in its most critical clearance positions and the others are operated through their full movement.''

4. Section 23.681, paragraph (a), [Subpart D—Design and Construction, Control Surfaces] Limit Load Static Tests, requires that ''Compliance with the limit load requirements of this part must be shown by tests in which—

(1) The direction of the test loads produces the most severe loading in the control system; and

(2) Each fitting, pulley, and bracket used in attaching the system to the main structure is included.''

5. Section 23.141, (Subpart B—Flight, Flight Characteristics) General, states that ''The airplane must meet the requirements of §§ 23.143 through 23.253 at all practical loading conditions and operating altitudes for which certification has been requested, not exceeding the maximum operating altitude established under § 23.1527, and without requiring exceptional piloting skill, alertness, or strength.''

To ensure that these requirements will be satisfied in the conduct of the control system operation test, inclusion of loads on the adjacent structures or elements in the testing set-up may be required.

While testing is required for demonstration of compliance to § 23.683, in some cases analysis may be acceptable for showing compliance with § 23.305, paragraph (a). Section 23.307, paragraph (a), provides the criterion for when analysis is not acceptable and testing must be performed.

It is not appropriate to define specific quantitative criterion to determine when testing is required to demonstrate compliance with § 23.305, paragraph (a), in accordance with § 23.307, paragraph (a). One specific criterion will not work for all possible airplane designs. It is better that such determinations are made on a case-by-case basis, in which the appropriate details of a particular design can be considered.

However, this policy describes some of the factors that should be considered when determining if tests are required to demonstrate that clearance between controls and adjacent structure (under load) meets § 23.305, paragraph (a). These factors include, but are not limited to, the following:

(1) The clearance between control surfaces and adjacent structure, when at rest.

Suppose an applicant has experience with other airplanes that have a half-inch of clearance between controls and adjacent structure at rest. However, a new design is similar except it now has only a tenth of an inch clearance when at rest. Tests to demonstrate compliance with § 23.305, paragraph (a), may be required because the new structure may not conform to those for which experience has shown this method to be reliable in the past. The accuracy of past methods may not be suitable for the smaller clearances. Critical conditions assessed in past analysis may not have included a condition that is critical for the new smaller clearance.

(2) The amount of deformation (under limit loads) in the control surface or adjacent structure.

If analysis had been shown to be reliable in the past for a wing that had much smaller deflections than a current design, the current structure may not conform to those for which experience has shown this method to be reliable, and testing may be required. Previous analytical methods may no longer be reliable because the new design behaves in a more non-linear manner. It is possible that types of deflection that were neglected in past analysis may now become critical.

(3) New control surface attachment configurations or other local design changes could create new types of deformation that are critical for the new design but were not considered in past analysis.

If the FAA requires (or if an applicant voluntarily chooses) compliance with § 23.305, paragraph (a), to be shown by tests, the following test procedure is one means to simultaneously demonstrate compliance with both § 23.305, paragraph (a), and § 23.683. It also demonstrates compliance with § 23.681,

paragraph (a). These tests may be conducted as follows:

Except where otherwise specified, the tests described below in sections (1), (2), and (3) should be conducted within the following parameters (a. through h.)

Parameters

a. Conduct the control system operation tests by operating the controls from the pilot's compartment.

b. All the control surfaces must be installed to their adjacent fixed surface on the airframe (according to the type design).

c. The entire control system and adjacent fixed structure should be loaded.

d. The adjacent fixed surfaces (wings, horizontal stabilizers, vertical stabilizers, and so forth) should be loaded to provide deflections equivalent to critical limit load flight conditions.

e. The structural deflections should correspond to the limit flight conditions that represent the worst case conditions for increased cable tension, decreased cable tension, and control/fixed surface proximity for each control system as appropriate.

f. The entire control system must be loaded to either the limit airloads or the limit pilot forces, whichever is less (§ 23.683, paragraph (b)(1)). Per § 23.397, the automatic pilot effort must be used instead of limit pilot forces if it alone can produce higher control surface loads than the human pilot.

g. Minimum clearances around control surfaces and minimum tensions in cable systems should be defined and incorporated in the airplane's instructions for continued airworthiness. The test article should incorporate these minimum clearances and tensions, unless you otherwise account for them.

h. If reductions in the minimum clearances described in paragraph g above are possible due to environmental conditions expected in service, you must account for this. This can be accomplished through analysis or during testing by adjusting the test article clearances to encompass these effects.

Section (1)

Consider all airplane maneuver and gust loads, and inertial loads, represented by the airplane flight envelope (V-n diagram); consider unsymmetrical load cases.

(1) The tests described in this section support the demonstration that the control system is free from jamming, excessive friction, and excessive deflection as required by § 23.683, paragraphs (a)(1), (2), and (3). They also support the demonstration that structural deformations not interfere with safe operation as required by § 23.305, paragraph (a). Accomplish the following:

(i) Load the adjacent fixed aerodynamic surface (wing, horizontal tail, or vertical tail) in accordance with one of the conditions of paragraphs d, e, and f above.

(ii) Support the control surface being tested while it is located in the neutral position.

(iii) Load the control surfaces to the critical limit loads, as described in paragraph f above, and evaluate their proximity to the fixed adjacent structure for interference (contact).

(iv) Load the pilot's control until the control surface is just off the support.

(v) Determine the available control surface travel, which is the amount of movement of the surface from neutral when the cockpit control is moved through the limits of its travel.

(vi) The control surface under loads described in paragraph f above must have adequate flight characteristics as specified in § 23.141.

(vii) To address the possibility of a critical intermediate control surface loading, gradually remove load from the control surface (while maintaining the load on the adjacent fixed surface) until maximum control surface travel is achieved.

(viii) The above procedure should be repeated in the opposite direction.

(ix) With limit load applied to the adjacent fixed surface and limit or intermediate load applied to the control surface, no signs of jamming, or of any permanent set of any connection, bracket, attachment, and so forth, may be present.

(x) The control system should operate freely without excessive friction. Excessive friction is any increase under limit loads that results in exceeding the limit control forces and torques specified by the regulations.

(xi) Cable systems should be checked with the loads applied to ensure that excessive slack does not develop in the system. Excessive slack is any change in cables or cable hardware that results in reduced airplane control surface movement.

(xii) Repeat this process for each of the critical loading conditions as defined by paragraphs d and f above.

Section (2)

(2) The tests described in this section support the demonstration that structural deformations not interfere with safe operation as required by § 23.305, paragraph (a). Accomplish the following:

(i) Load the adjacent fixed aerodynamic surface (wing, horizontal tail, or vertical tail) in accordance with one of the conditions of paragraph d and e above.

(ii) Operate the unloaded control system from stop to stop.

(iii) No signs of interference (contact) may be present.

(iv) The control system should operate freely without excessive friction.

(v) Repeat this process for each of the critical adjacent fixed surface loading conditions as defined by paragraphs d and e above.

Note 1: An alternate procedure may be used to accommodate the testing described in sections (1) and (2) above during structural tests of a partial airplane. This method requires that all control system components that are attached to or enclosed by the loaded test structure be installed per type design. A sufficiently representative mockup of remaining control system components must be used to ensure that the full length of any cables which extend from the loaded test structure are included. This is necessary to make a reasonable assessment that slack that could develop in control cables is not excessive enough to cause an entanglement or jam. The control surface activation may be input at any convenient location between the mockup terminus and the cockpit.

Section (3)

(3) The tests described in this section will demonstrate that the control system is free from excessive deflection as required by § 23.683, paragraph (a)(3). These tests complete this means of compliance that the control system is free from jamming and excessive friction, as required by § 23.683, paragraphs (a)(1) and (2). They also demonstrate that structural deformations do not interfere with safe operation, as required by § 23.305, paragraph (a). These tests meet the limit load static test requirements of § 23.681, paragraph (a). Accomplish the following:

(i) With the adjacent fixed surface (wing, horizontal tail, or vertical tail) unloaded, support the control surface being tested while it is located in the neutral position.

(ii) Load the control surfaces to the critical limit loads, as described in paragraph f above, and evaluate their proximity to the fixed adjacent structure for jamming or contact.

(iii) Load the pilot's control until the control surface is just off the support.

(iv) Operate the cockpit control in the direction opposite the load to the extent of its travel.

(v) The above procedure should be repeated in the opposite direction.

(vi) The minimum loaded control surface travel must have adequate flight

characteristics as specified in Sec. 23.141.

(vii) Under limit load, no signs of jamming, or of any permanent set of any connection, bracket, attachment, and so forth, may be present.

(viii) The control system should operate freely without excessive friction.

Note 2: The tests described in section (3) above are normally accomplished using a complete airplane. As a minimum, they must be completed using an airframe/control system that completely represents the final product from the cockpit controls to the control surface.

Regardless of the amount of travel of a control surface when tested as described above, the airplane must have adequate flight characteristics as specified in § 23.141. Any airplane that is a close derivative of a previous type 1 certificated airplane need not exceed the control surface travel of the original airplane; however, the flight characteristics should be tested to ensure compliance.

Issued in Kansas City, Missouri, on September 12, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25085 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10779]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the coastwise trade laws for the vessel *Dragon Lady.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before November 13, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10779. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: *Dragon Lady.* Owner: Dr. Edson S. Lott.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''* * * documented for up to twelve passengers.'' ''* * * displaces 29 net tons.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''I would like to have wedding, funerals, and birthday parties for small groups aboard my vessel. * * * in Honolulu, Hawaii * * *''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1984. Place of construction: Kaohsiung, Taiwan, Republic of China.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''As it is right now there are no small vessels offering this service in Honolulu, Hawaii where I plan to operate. Most vessels performing this service in Hawaii are very large and licensed for hundreds of passengers. Small groups cannot afford these ships.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''It is very doubtful that this waiver would have any effect at all on U.S. shipyards.''

Dated: October 5, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–25594 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10780]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Sovereign of Malahide.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver

will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before November 13, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10780. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested.Name of vessel: *Sovereign of Malahide*. Owner: Timothy B White.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Length 64.0 ft. LOA; Breadth 18.7 ft.; Depth 7.0 ft.; Actual Weight 80.0 Tons.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Six (6) pack Seasonal Passenger charter in South East Alaska.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1973. Place of construction: Dublin, Ireland.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''A lengthy investigation has been performed on this topic matter and my conclusion, along with other operators in that market, is that there is a need and demand for this type of vessel of which there are few to fill the need and demand of high quality vessels of this length and appeal. Several of the leading Operators in that market have approached me with interest and the offer to participate and aid in the booking of such charter. This vessel will not adversely impact other existing operators.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''I purchased this vessel in 1999. I purchased it because it was a wooden ship and like none other I had ever seen. It was in a U.S. ship yard dry dock for two years undergoing complete and extensive refurbishment and improvement. This renewing process was in excess of one million dollars. This vessel was rebuilt or renewed to beyond conventional production standards. All documentation is available upon request to show that ''American'' labor and supplies were utilized in the renewing of this vessel. In its current condition experts have commented that it is the finest wooden ship in its class in the U.S.''

Dated: October 5, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–25595 Filed 10–10–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Atlantic Bonding Company, Inc.

AGENCY: Financial Management Service, Fiscal Service, Department of Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 4 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001 at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2001 Revision, on page 35029 to reflect this addition:

Company Name: Atlantic Bonding Company, Inc. *Business Address:* Suite 212, Hilton Plaza, Pikesville, Maryland, 21208. *Phone:* (410) 484–3100. *Underwriting Limitation b/*: $644,000. *Surety Licenses c/:* MD. *Incorporated in:* Maryland.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570/index.html.* A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: September 24, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–25603 Filed 10–10–01; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Secura Insurance, a Mutual Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 5 to the Treasury Department Circular 570; 2001 Revision, published July 2, 2001, at 66 FR 35024.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2001 Revision, on page 35054 to reflect this addition:

Secura Insurance, A Mutual Company. *Business Address:* P.O. Box 819, Appleton, WI 54912–0819. *Phone:* (920) 739–3161. *Underwriting Limitation* b/: $8,799,000. *Surety Licenses* c/: IL, IN, IA, KS, MI, MN, MO, ND, WI. *Incorporated in:* Wisconsin.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570/index.html.* A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: September 27, 2001.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 01–25604 Filed 10–10–01; 8:45 am]

BILLING CODE 4810–35–M

Federal Register

Thursday,
October 11, 2001

Part II

Department of Labor

Veterans' Employment and Training Service

41 CFR Part 61–250

Annual Report From Federal Contractors; Final Rule

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

41 CFR Part 61–250

RIN 1293–AA07

Annual Report From Federal Contractors

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Final rule.

SUMMARY: The Veterans' Employment and Training Service is issuing a final rule amending regulations to conform to provisions of the Veterans Employment Opportunity Act of 1998 (''VEOA''). VEOA amended the Vietnam Era Veterans' Readjustment Act of 1974, as amended (''VEVRAA''). The current implementing regulations require all contractors and subcontractors with Federal contracts in excess of $10,000 to use the Federal Contractor Veterans' Employment Report VETS–100 form (''VETS–100 Report'') to report their efforts toward the hiring of qualified veterans in two specified categories. Section 7 of VEOA raised the reporting threshold from $10,000 to $25,000, and added a third category of veterans to the required reports. This rule implements those changes, along with other changes that either are required by VEOA or will improve the administration of the related veterans' programs.

EFFECTIVE DATE: This regulation is effective November 13, 2001.

FOR FURTHER INFORMATION CONTACT: Norm Lance, Chief of Investigations and Compliance Division, VETS, at (202) 693–4731 or by e-mail at *Lance-Norman@dol.gov.* Individuals with hearing impairments may call (800) 670–7008 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The preamble to this final rule is organized as follows:

I. Background—provides a brief description of the development of this final rule.

II. Authority—cites the statutory provisions supporting this final rule.

III. Section-by-Section Review of the Rule—summarizes pertinent aspects of the regulatory text and describes its purposes and application.

IV. Regulatory Procedure—sets forth the applicable regulatory requirements.

I. Background

The Veterans Employment Opportunity Act was signed into law in October 1998. The statute extended the affirmative action and reporting responsibilities of Federal contractors and subcontractors. Prior to amendment, VEVRAA protected two classes of veterans: veterans of the Vietnam era and special disabled veterans. VEOA extended VEVRAA protections to a class of ''other protected veterans,'' that is, any veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. VEOA raised the reporting threshold for Federal contractors and subcontractors from $10,000 to $25,000. VEOA also added the requirement that contractors and subcontractors report the maximum number and the minimum number of persons they employed during the reporting period to the Secretary of Labor.

This rule also codifies the 1998 change in the annual deadline for submission of the VETS–100 Report from March 31 to September 30. This change aligns the VETS–100 reporting cycle to that of the Employer Information Report EEO–1, Standard Form 100 (EEO–1 Report). VETS believes this change will reduce the reporting burden on contractors and subcontractors.

The final rule incorporates the above substantive changes and additional stylistic and/or phrasing changes. The latter changes were prompted by the June 1, 1998, Presidential Memorandum on Plain Language, which instructed Federal Departments and Agencies to write regulations in language understandable to most people. Accordingly, VETS has reworded subsection topic header statements into the form of questions, replaced the term ''shall'' with ''must'' (to indicate an obligation) or ''will'' (to indicate a future action), as appropriate, and altered the wording of the regulations in other ways, as described below in Section III, ''Section-by-Section Review of the Rule.'' These changes are intended to enhance the readability and usefulness of the regulations.

On November 1, 2000, the Veterans Benefits and Health Care Improvement Act of 2000, Public Law (PL) 106–419 was signed. This act adds an additional group of protected veterans, ''recently separated veterans,'' to the list of veterans protected by VEVRAA. The statute defines a recently separated veteran as ''any veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty.'' VETS is developing a **Federal Register** Notice proposing a rule for reporting about this newly protected group of veterans in the VETS–100 Report.

II. Authority

Statutory Authority

The statutory authority for this final rule is 38 U.S.C. 101 *et seq.*, Pub. L. 93–508, 88 Stat. 1578, VEVRAA as amended.

III. Development of the Final Rule

On October 5, 2000, the Veterans' Employment and Training Service published a Notice of Proposed Rulemaking (NPRM) to implement changes to the existing regulations. A 60-day comment period, ending on December 5, 2000, was provided for those interested in submitting comments.

We received comments from four organizations representing employers either as employer associations or human resource associations. Generally, the comments requested clarification of issues or asserted difficulty in reporting information required by VEOA. Two comments addressed the relationship between the current Office of Federal Contract Compliance Programs (OFCCP) VEVRAA regulations and the proposed rule. All of the commentators provided recommended changes to the proposed rule.

We appreciate receiving the thoughtful comments. We have seriously considered all concerns and recommendations and have made several changes in the final rule based on the comments. The comments and changes are discussed in detail below. Briefly, however, we have:

- Provided guidance in counting minimum and maximum number of employees.
- Deleted the instructions concerning when employers may ask special disabled veterans to self-identify.
- Provided guidance on the change from the Standard Industrial Code (SIC) to the North American Industrial Classification System (NAICS).
- Clarified ''computer generated output'' and which employers may submit reports via the Internet.

IV. Section-by-Section Review of the Rule

Throughout the rule, minor language changes have been made to comply with the Presidential Memorandum on Plain Language by clarifying the wording of the regulations. Unless specified below, none of these changes are intended to alter the substantive meaning of the regulations.

In addition, throughout the rule, references to the United States Code have been corrected to reflect the numbering changes affected by VEOA and the Veterans' Benefit Improvement

Act of 1996 (VBIA); similarly, references to the regulations promulgated by the OFCCP have been amended to reflect changes to those regulations.

Sections or paragraphs of the rule that are not discussed in this preamble have not been changed in any substantive way from the previous version of the regulations.

Section 250.1 What are the purpose and scope of this part?

This section outlines the purpose and scope of the regulations. Paragraph (a) corrects the regulations' citation to the United States Code, reflects the new reporting threshold, and indicates which contractors are required to file reports under the regulations. Paragraph (d) directs readers to the OFCCP regulations that govern the affirmative action obligations of contractors and subcontractors toward protected veterans.

Section 250.2 What definitions apply to this part?

This section provides the definitions that apply to this part. Paragraph (b)(1) of the NPRM would have updated the reference to the Standard Industrial Classification (SIC) Manual from the 1972 edition to the 1987 edition, and would have added the acronym for the Employer Identification Number (EIN). As discussed below, Standard Industrial Code has been replaced by the North American Industrial Classification System (NAICS). Accordingly, the SIC definition is deleted in the final rule. The EIN requirement is retained in the final rule.

Paragraph (b)(4), the definition of ''special disabled veteran,'' is amended to clarify that in order to be covered, veterans must have served in the military, ground, naval, or air service of the United States, and not of any other nation. The definition of ''veteran of the Vietnam era'' in paragraph (b)(5) is amended to add the same clarification, and also to conform to the statutory definition of the term at 38 U.S.C. 101(29), which was altered by the Veterans' Benefits Improvement Act of 1996. Paragraph (b)(6) is amended to define ''other protected veterans,'' as required by VEOA. Paragraphs (b)(9) and (b)(10) add definitions for the terms ''states'' and ''eligibility period,'' respectively.

We received several comments in relation to definitions in this part. These comments referred to ''other veterans'' and ''hiring location.''

Comment: One commentator stated that the definition of ''other veterans'' was confusing. The commentator believed the term ''other veterans'' implied all veterans not otherwise defined by VEVRAA rather than the more limited class of veterans defined in section 61–250.2.

Response: ''Other veterans'' has been changed to ''other protected veterans'' and the paragraph will read, ''Other protected veterans means any other veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, other than special disabled veterans or veterans of the Vietnam era.''

Comment: Another commentator asserted that the definition of ''hiring location'' is contrary to the ''virtual workplace that has become a reality in today's economy.'' The commentator suggested that ''hiring location'' be defined as where the management or business unit of the employee is located.

Response: The definition of ''hiring location'' in the final rule is identical to the definition of ''establishment'' contained in the instructions for completing the Employer Information Report, EEO–1, Standard Form 100 (EEO–1 Report). In order to avoid confusion in the regulated community, VETS believes it is important to maintain as much consistency as possible between the VETS–100 Report and the EEO–1 Report. Therefore, to maintain consistency with the EEO–1 Report definition, the definition for ''hiring location'' has been retained.

Comment: One commentator noted that in the definition section we had incorrectly used the acronym ''OASVET'' to describe the agency.

Response: We have changed that acronym to ''VETS.''

Comment: One commenter recommended incorporating the category of ''recently separated veterans'' into the final rule, but that reporting on ''recently separated veterans'' be made optional for the 2001 reporting cycle. This commenter suggested several options by which this new class of protected veterans could be counted.

Response: As discussed in the Background section of this rule, the Veterans Benefits and Health Care Improvement Act of 2000 incorporated this new class of protected veterans into VEVRAA. VETS agrees with the commenter that there are multiple options for incorporating this new class of protected veterans into the rule. It is precisely for this reason that VETS believes it is not possible simply to include ''recently separated veterans'' in this final rule and that a new Notice of Proposed Rulemaking is required. Therefore, consistent with the commenter's concerns about changing the reporting requirement without adequate lead time, VETS will not be requiring reporting on ''recently separated veterans'' during the 2001 reporting cycle.

VETS considered and rejected the idea of delaying this final rule until a new NPRM could be published. A primary reason for this decision is that, due to the two-year lead time already provided, most covered contractors already have updated their VETS–100 recordkeeping databases to collect information on the new class of protected veterans created by VEOA. Therefore, withholding this final rule for the inclusion of the ''recently separated veterans'' would not prevent covered contractors from having to update their databases a second time. Consequently, the ''recently separated veterans'' category is not incorporated into this final rule.

Comment: Concerns have been raised that some covered contractors might not have sufficient time to update their record collection and keeping systems to collect data required by VEOA.

Response: Program year 2001 VETS–100 Reports are due by September 30, 2001. In response to the commenter's concerns, this regulation will take effect November 13, 2001. Therefore, contractor reporting of the VEOA required data will be optional for Program Year 2001, and reporting on the new VEOA data elements will become mandatory for the program year 2002 VETS–100 Report due September 30, 2002. The November 13, 2001 effective date will give covered contractors nearly a year to update their record collection and keeping systems.

Section 250.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?

This section continues the requirement that covered Federal contractors and subcontractors submit reports at least annually regarding their hiring and continued employment of veterans in the three categories defined in Section 250.2. This section also amends the required language for the contract clause that must be included in each covered Federal contract and subcontract. Paragraphs (a)(1) and (a)(2) of the amended clause add the requirement that contractors and subcontractors report on their employment of ''other protected veterans,'' as defined in Section 250.2. Paragraph (a)(3) requires contractors and subcontractors to report the maximum

number and minimum number of persons employed during the reporting period. These changes are required by VEOA.

Paragraph (c) of the amended clause changes the annual deadline for submitting the VETS–100 Report from March 31 to September 30. As explained in the ''Background'' section above, this change synchronizes the VETS–100 and EEO–1 reporting dates. This paragraph also defines the eligibility period for the report. Paragraph (d) amends the definition of the reporting period. Contractors and subcontractors will still be able to select an ending date for the period, however, the range of permissible dates is changed. The previous version of the clause permitted ending dates between January 1 and March 1; the amended version permits ending dates between July 1 and August 31.

Paragraph (e) is revised to indicate that both contractors and subcontractors must report the numbers of protected veterans known to them during the reporting period. Contractors' and subcontractors' knowledge of veterans status may be obtained in a variety of ways, including, in response to an invitation to applicants to self-identify in accordance with 41 CFR 60–250.42, voluntary self-disclosures by protected incumbent veterans, or actual knowledge of an employee's veteran status by a contractor or subcontractor.

Comment: Two comments were received concerning the reporting of ''minimum and maximum'' number of employees. One commentator expressed concern about the added reporting burden. The second asked for clarification about how to determine the minimum and maximum number of employees. The commentator asserted that there could be continuous employment fluxing at a company and that it was unclear exactly when the minimum and maximum number of employees had to be determined.

Response: This additional reporting item is statutorily required, consequently, it must be included in the final rule. In an attempt to provide flexibility in reporting this information and to reduce the burden on employers, VETS has added clarifying language to section 61–250.10(a)(3). The new language reads:''The maximum number and minimum number of employees of such contractor at each hiring location during the period covered by the report. The minimum and maximum number of employees reportable at each hiring location during the period covered by the report must be determined as follows: Contractors must review payroll records for each of the pay periods included in the report. The minimum number of employees is the total number of employees paid in the payroll period in which the contractor had the fewest number of employees. The maximum number of employees is the total number of employees paid in the payroll period in which the contractor had the greatest number of employees.''

Section 61–250.11 On what form must the data required above be submitted?

This section amends the VETS–100 form and instructions, and provides new avenues for submission of the report.

Paragraph (a): This paragraph provides a copy of the amended VETS–100 form and the text of the amended instructions provided with the form. The introduction to the instructions is amended to clarify that a separate report must be completed for each hiring location in all States. The term ''supplemental'' is deleted to emphasize that the obligation to complete and submit the VETS–100 Report is separate from the obligation to complete and submit the EEO–1 Report.

Instructions: The section of the instructions entitled ''How to Prepare Form'' is amended to insert an explanation of the meaning of shaded areas on the form, as well as instructions for determining the reporting period by selecting an ending date for the report. The latter information is not new. Under the rule, the information is moved from a different section of the instructions in order to emphasize that the reporting period applies to the entire report.

The section of the instructions entitled ''Company Identification'' was originally revised to request reporting of the contractor's Standard Industrial Code (SIC) and require the Dun and Bradstreet I.D. number (DUNS), if available, in addition to the EIN that is already required. These changes were to assist VETS in identifying Federal contractors and subcontractors.

Comment: We received one comment requesting that the SIC be changed to the North American Industrial Classification System (NAICS).

Response: On October 1, 2000, the SIC was replaced by the NAICS. VETS made corresponding changes in the VETS–100 reporting form. Covered contractors and subcontractors are now requested to report their NAICS Code, if available. To learn more about the NAICS, converting SIC codes to NAICS codes, and other information relating to the implementation of NAICS, visit the U.S. Census Bureau web page dedicated to NAICS: *http://www.census.gov/epcd/www/naics.html.* The Small Business Administration (SBA) also has an information web page for NAICS specific to SBA services at: *http://www.sba.gov/size/NAICS-cover-page.html.*

The section entitled ''Information on Employees,'' previously called ''Information on Veterans,'' is revised in several ways. The paragraph ''Counting veterans'' is added in response to numerous questions from contractors concerning how contractors must count veterans who fall into more than one category. The paragraph ''Data on Current Employees'' amends a currently untitled paragraph. This paragraph explains which payroll period may be used to provide the data, which full-time and part-time employees must be included in the data, and which data are optional. In addition, this paragraph expands the categories of veterans who must be included. The paragraph ''Data on New Hires'' (titled ''New Hires Data'' in the prior regulation) is amended to explain which data in this section are optional, and to delete the explanation of how to select the reporting period. This explanation, as noted above, is moved to the section headed ''How to Prepare Form.'' The new paragraph ''Maximum and minimum number of employees'' complies with VEOA by requiring contractors and subcontractors to report the maximum and minimum number of persons employed during the reporting period.

Comment: One comment was received concerning the proposed clarification that a veteran must be counted in all the categories in which he or she belongs. The commentator indicated appreciation for the clarification but believed this would impose a burden on those contractors who previously had tried to avoid double-counting of veterans and would require these employers to ask protected veterans to self-identify.

Response: VETS is not requiring employers to recount current employees to determine if they fall into more than one category. However, if an employer is aware that an employee meets the definitions of more than one category of protected veteran, the employee must be counted in each identified category. VETS is clarifying the language to read: ''Some veterans will fall into more than one of the protected veteran categories. For example, a veteran may be both a special disabled veteran and a Vietnam era veteran. In such cases the veteran must be counted in each category.''

In the ''Definitions'' section, the definitions of ''special disabled veteran'' and ''veteran of the Vietnam era'' are amended, and a definition of ''other

protected veterans'' is added, in the same ways, as these terms are defined in section 61–250.2. The section ''Legal Basis for Reporting Requirements'' is amended by incorporating the new class of covered veteran and the new reporting requirements required by VEOA.

Paragraph (b): This paragraph requires most contractors and subcontractors who submit computer-generated output to do so in the form of an electronic file, unless they submit reports for ten locations or less. This requirement is intended to reduce the cost to contractors and subcontractors of submitting the VETS–100 form and the cost to the Federal government of tallying the information on the form.

Comments: We received a comment concerning submitting computer-generated forms indicating that the instruction language did not clearly state that filers of more than 10 forms must do so electronically.

Response: VETS changed the language of the first sentence in 60–250.11(b) to read: ''Contractors and subcontractors that submit computer-generated output for more than 10 hiring locations to satisfy their VETS–100 reporting obligations must submit the output in the form of an electronic file.''

Comment: We also received a comment expressing concern ''that output using specifications from the Department of Labor, which may change from year to year, will involve an inordinate amount of programming time, not only at the outset to conform to the specification, but also on an annual basis to comply with any changes promulgated by the agency.''

Response: VETS does not intend to make changes in its electronic reporting specifications once they are specified, unless, for example, changes in technology require it to do so. However, if changes are made, VETS will ensure that the regulated community has ample time to make any necessary changes.

Paragraph (c): This paragraph provides small business the opportunity to submit their VETS–100 Report via the Internet and to obtain a company number via e-mail.

Comment: One commentator requested the language in this section be revised to state that any contractor or subcontractor that wishes to may file the VETS–100 Report via the Internet.

Response: VETS agrees with the commentator that any contractor or subcontractor should be allowed to file its VETS–100 Reports(s) via the Internet. Although the site was developed to accommodate small business, it may be utilized by any contractor or subcontractor. Accordingly, VETS changed the first sentence in Section 61–250.11(c) to read: ''Contractors or subcontractors may submit the VETS–100 Report via the Internet.''

Paragraph (e): This paragraph changes the VETS–100 Report filing deadline to September 30. As explained above, this will synchronize the VETS–100 and the EEO–1 reporting cycles. The paragraph also includes an Internet address where VETS–100 information may be obtained.

Comment: One commentator wrote ''The proposed rule indicates that it is the responsibility of each contractor or subcontractor to obtain the necessary supplies of the VETS–100 Report form before the annual September 30 filing date. [citation omitted] In light of the delays in the generation of both the EEO–1 and the VETS–100 forms for the 2000 reporting cycle, we propose to either strike this sentence, or modify it to read '* * * before the annual September 30 filing deadline, assuming that the department makes the form available to contractors and subcontractors at least 60 days prior to the filing deadline.' ''

Response: VETS is not aware of any problems this requirement has created in the past. VETS annually mails out the VETS–100 Report to contractors in the VETS–100 database during the month of July each year. The form also is available on the VETS–100 home page on the Internet at: *http://vets100.cudenver.edu.* VETS is leaving this paragraph unchanged.

Section 61–250.12 What invitation to self-identify must a contractor offer to veterans?

This section is deleted in the final rule. Section 61–250.12 originally required contractors and subcontractors to invite all applicants for employment who are protected veterans, and who wish to benefit under the affirmative action program, to identify themselves to the contractor or subcontractor.

Comment: Two commentators noted that the invitation to self-identify requirement was not consistent with the analogous requirements contained in the regulations implementing the affirmative action requirements of VEVRAA at 41 CFR 60–250.42 published by OFCCP.

Response: VETS deleted Section 61–250.12 to reduce potential confusion. VEVRAA's affirmative action requirements are administered and enforced by OFCCP. The responsibility of VETS under section 4212 of VEVRAA is limited to submission of the VETS–100 Report. Accordingly, VETS believes that it is not necessary to address the issue of invitations to self-identify as a protected veteran under the regulations relating to the VETS–100 Report.

Comment: A commentator inquired as to whether contractors are required or permitted to periodically invite *current* employees to self-identify.

Response: Contractors and subcontractors are not required to survey their workforces to solicit information about veterans' status for the purpose of completing the VETS–100 Report. Contractors and subcontractors are permitted to solicit information about veterans' status in any lawful manner.

Section 61–250.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?

The language of this section is amended to clarify that during the course of a compliance evaluation, OFCCP may determine whether a contractor or subcontractor has submitted the reports required by this part.

Section 61–250.99 What are the OMB control numbers for this part?

This section is updated to reflect the most recent regulations implementing the Paperwork Reduction Act.

IV. Regulatory Procedures

Executive Order 12866

The Department of Labor has determined that this Rule is not a ''significant regulatory action'' under Executive Order 12866 because this action will not: (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 Executive Order 12866. Therefore, a regulatory impact analysis is unnecessary.

Congressional Review Act

This regulation is not a major rule for purposes of the Congressional Review Act.

Unfunded Mandates

Executive Order 12875—This final rule does not create an unfunded

Federal Mandate upon any State, local, or tribal government.

Unfunded Mandate Reform Act of 1995—This final rule does not include any Federal mandate that may result in increased expenditures by State, local and tribal governments in the aggregate of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Executive Order 13132

These regulations have been reviewed in accordance with Executive Order 13132 regarding Federalism. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the requirements of section 6 of Executive Order 13132 do not apply to this rule.

Regulatory Flexibility Act

This rule does not substantially change the existing obligations of Federal contractors or subcontractors. The Department of Labor certifies that the rule will not have a significant economic impact on a substantial number of small business entities. Therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

This rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Sections 61–250.10 and 61–250.11 are revised paperwork sections that become effective after they have been approved by OMB. The rule revises regulations approved under OMB Notice of Action No. 1293–0005 for implementation of these information collection requirements. The rule codifies new reporting requirements mandated by the Veterans Employment Opportunity Act of 1998. We estimate the collection burden to be 30 minutes per respondent. The information collection requirements affected by this final rule have been identified in the NPRM. These information collection requirements and their predicted effect on recordkeeping and reporting burden hours maintained in the OMB Notice of Action file 1293–0005 are summarized below.

Contractors and subcontractors are required to collect data on a new category of veterans, ''other protected veterans.'' Additionally, contractors and subcontractors must report the maximum and minimum number of persons employed during the reporting period. Company identification information is revised to request the submission of a contractor's North American Industrial Classification System (NAICS) Code and require the Dun and Bradstreet I.D. number (DUNS), if available.

List of Subjects In 41 CFR Part 61–250

Government contracts, Reporting and recordkeeping requirements, Veterans.

Signed at Washington, DC, this 2nd day of October 2001.

Elaine L. Chao,

Secretary of Labor.

For the reasons set forth in the preamble, 41 CFR Chapter 61 is revised to read as follows:

CHAPTER 61—OFFICE OF THE ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING SERVICE, DEPARTMENT OF LABOR

PART 61–250–ANNUAL REPORT FROM FEDERAL CONTRACTORS

Sec.

61–250.1 What are the purpose and scope of this part?
61–250.2 What definitions apply to this part?
61–250.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?
61–250.11 On what form must the data required by this part be submitted?
61–250.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?
61–250.99 What are the OMB control numbers for this part?

APPENDIX A—Federal Contractor Veterans'Employment Report VETS–100

Authority: 38 U.S.C. 101 *et seq.*, Pub. L. 93–508, 88 Stat. 2578, VEVRAA as amended.

§ 61–250.1 What are the purpose and scope of this part?

(a) This part 61–250 implements 38 U.S.C. 4212(d). Each contractor or subcontractor who enters into a contract in the amount of $25,000 or more with any department or agency of the United States for the procurement of personal property and non-personal services (including construction), and who is subject to 38 U.S.C. 4212(a) and the Office of Federal Contract Compliance Programs (OFCCP) regulations at 41 CFR part 60–250, must submit a report according to the requirements of § 61–250.10.

(b) Notwithstanding the regulations in this part, the regulations at 41 CFR part 60–250, administered by OFCCP, continue to apply to contractors' and subcontractors' affirmative action obligations regarding veterans.

(c) Reporting requirements of this part regarding veterans will be deemed waived in those instances in which the Deputy Assistant Secretary, OFCCP, has granted a waiver under 41 CFR 60–250.4(b)(1), or has concurred in granting a waiver under 41 CFR 60–250.4(b)(2), from compliance with all the terms of the equal opportunity clause for those establishments not involved in government contract work. Where OFCCP grants only a partial waiver, compliance with these reporting requirements regarding veterans will be required.

(d) 41 CFR 60–250.42 and Appendix B to part 60–250 provide guidance concerning the affirmative action obligations of Federal contractors and subcontractors toward applicants for employment who are protected veterans.

§ 61–250.2 What definitions apply to this part?

(a) For purposes of this part, and unless otherwise indicated in paragraph (b) of this section, the terms set forth in this part have the same meaning as set forth in 41 CFR part 60–250.

(b) For purposes of this part:

(1) *Hiring location* (this definition is identical to *establishment* as defined by the instructions for completing Employer Information Report EEO–1, Standard Form 100 (EEO–1 Report)) means an economic unit which produces goods or services, such as a factory, office, store, or mine. In most instances the establishment is at a single physical location and is engaged in one, or predominantly one, type of economic activity. Units at different locations, even though engaged in the same kind of business operation, should be reported as separate establishments. For locations involving construction, transportation, communications, electric, gas, and sanitary services, oil and gas fields, and similar types of physically dispersed industrial activities, however, it is not necessary to list separately each individual site, project, field, line, etc., unless it is treated by the contractor as a separate legal entity with a separate Employer Identification Number (EIN). For these physically dispersed activities, list as establishments only those relatively permanent main or branch offices, terminals, stations, etc., which are either:

(i) Directly responsible for supervising such dispersed activities, or

(ii) The base from which personnel and equipment operate to carry out these activities. (Where these dispersed

activities cross State lines, at least one such establishment should be listed for each State involved.)

(2) *Employee* means any individual on the payroll of an employer who is an employee for purposes of the employer's withholding of Social Security taxes except insurance salespersons who are considered to be employees for such purposes solely because of the provisions of section 3121(d)(3)(B) of the Internal Revenue Code (26 U.S.C.). The term *employee* does not include persons who are hired on a casual basis for a specified time, or for the duration of a specified job, and who work on remote or scattered sites or locations where it is not practical or feasible for the employer to make a visual survey of the work force within the report period; for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employees' work at the site; persons temporarily employed in any industry other than construction, such as mariners, stevedores, waiters/waitresses, movie extras, agricultural laborers, lumber yard workers, etc., who are obtained through a hiring hall or other referral arrangement, through an employee contractor or agent, or by some individual hiring arrangement; or persons on the payroll of a temporary service agency who are referred by such agency for work to be performed on the premises of another employer under that employer's direction and control.

(3) *Job category* means any of the following: Officials and managers, professionals, technicians, sales workers, office and clerical, craft workers (skilled), operatives (semiskilled), laborers (unskilled), service workers, as required bythe Employer Information Report EEO–1, Standard Form 100 (EEO–1 Report), as defined as follows:

(i) *Officials and managers* means occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operation. Includes: Officials, executives, middle management, plant managers, department managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains and mates (except fishing boats), farm operators and managers, and kindred workers.

(ii) *Professionals* means occupations requiring either college graduation or experience of such kind and amount as to provide a background comparable to college education. Includes: Accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, surveyors, teachers, and kindred workers.

(iii) *Technicians* means occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: Computer programmers and operators, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

(iv) *Sales* means occupations engaging wholly or primarily in direct selling. Includes: Advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks and cashier-checkers, and kindred workers.

(v) *Office and clerical* includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. Includes bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.

(vi) *Craft workers (skilled)* means manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. These workers exercise considerable independent judgment and usually receive an extensive period of training. Includes: The building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, arts occupations, hand painters, coaters, decorative workers, and kindred workers.

(vii) *Operatives (semiskilled)* means workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: Apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dressmakers and sewers (except factory), dryers, furnace workers, heaters (metal), laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, stationary firefighters, truck and tractor drivers, weavers (textile), welders and flamecutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, handpackers and packagers, and kindred workers.

(viii) *Laborers (unskilled)* means workers in manual occupations which generally require no special training to perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and grounds keepers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

(ix) *Service workers* means workers in both protective and non-protective service occupations. Includes: Attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, charworkers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection workers, guards, doorkeepers, stewards, janitors, police officers and detectives, porters, servers, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

(4) *Special disabled veteran* means:

(i) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability:

(A) Rated at 30 percent or more, or

(B) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap; or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

(5) *Veteran of the Vietnam era* means a veteran:

(i) Who served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty was performed:

(A) In the Republic of Vietnam between February 28, 1961, and May 7, 1975, or

(B) Between August 5, 1964 and May 7, 1975 in any other location; or

(ii) Who was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability, if any part of such active duty was performed:

(A) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(B) Between August 5, 1964, and May 7, 1975, in any other location.

(6) *Other protected veterans* means any other veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, other than special disabled veterans or veterans of the Vietnam era.

(7) *OFCCP* means the Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor.

(8) *VETS* means the Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor.

(9) *States* means each of the several States of the United States, the District of Columbia, the Virgin Islands,the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Wake Island,and the Trust Territories of the Pacific Islands.

(10) *Eligibility period* means the calendar year (January 1 through December 31) preceding the year in which the report must be filed. This calendar year is the same year in which the contractor received the Federal contract.

(11) *NAICS* means the North American Industrial Classification System.

§ 61–250.10 What reporting requirements apply to Federal contractors and subcontractors, and what specific wording must the reporting requirements contract clause contain?

Each contractor or subcontractor described in § 61–250.1 must submit reports in accordance with the following reporting clause, which must be included in each of its covered government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract). Such clause is considered as an addition to the equal opportunity action clause required by 41 CFR 60–250.5. The reporting requirements clause is as follows:

Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Protected Veterans

(a) The contractor or subcontractor agrees to report at least annually, as required by the Secretary of Labor, on:

(1) The number of current employees in each job category and at each hiring location who are special disabled veterans, the number who are veterans of the Vietnam era, and the number who are other protected veterans;

(2) The total number of new employees hired during the period covered by the report, and of that total, the number who are special disabled veterans, the number who are veterans of the Vietnam era, and the number who are other protected veterans; and

(3) The maximum number and minimum number of employees of such contractor at each hiring location during the period covered by the report. The minimum and maximum number of employees reportable at each hiring location during the period covered by the report must be determined as follows: Contractors must review payroll records for each of the pay periods included in the report. The minimum number of employees is the total number of employees paid in the payroll period in which the contractor had the fewest number of employees. The maximum number of employees is the total number of employees paid in the payroll period in which the contractor had the greatest number of employees.

(b) The above items must be reported by completing the form entitled ''Federal Contractor Veterans'' Employment Report VETS–100.''

(c) VETS–100 reports must be submitted no later than September 30 of each year beginning September 30, 2001. The eligibility period (the period during which an employer received a Federal contract) for this report and all subsequent reports is the calendar year (January 1 through December 31) that precedes the year in which the report is submitted.

(d) The employment activity report required by paragraphs (a)(2) and (a)(3) of this clause must reflect total new hires and maximum and minimum number of employees during the 12-month period preceding the ending date that the contractor selects for the current employment report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period July 1 through August 31 of the year the report is due; or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO–1,Standard Form 100 (EEO–1 Report).

(e) The number of veterans reported according to paragraph (a) above must be based on data known to contractors and subcontractors when completing their VETS–100 Reports. Contractors' and subcontractors' knowledge of veterans status may be obtained in a variety of ways, including, in response to an invitation to applicants to self-identify in accordance with 41 CFR 60–250.42, voluntary self-disclosures by protected incumbent veterans, or actual knowledge of an employee's veteran status by a contractor or subcontractor. Nothing in this paragraph (e) relieves a contractor from liability for discrimination under 38 U.S.C. 4212. (OMB No. 1293–0005)

§ 61–250.11 On what form must the data required by this part be submitted?

(a) Data items required in paragraph (a) of the contract clause set forth in § 61–250.10 must be reported for each hiring location on the VETS–100 form. This form is mailed annually to those contractors who are included in the VETS–100 data base. The form, and instructions for preparing it, are also set forth as follows:

The Vets–100 Report Form is Reprinted as Appendix A to 41 CFR Part 61–250

This report is to be completed by all nonexempt contractors and subcontractors with contracts (or subcontracts) for the furnishing of supplies and services or the use of real or persona1 property (including construction) for $25,000 or more. Reports must be completed for each hiring location in any State, as defined in 41 CFR 61–250.2(b).

All multi-establishment employers, i.e., those doing business at more than one hiring location, must file: (1) a report covering the principal or headquarters office; (2) a separate report for each hiring location employing 50 or more persons; and (3) either (i) a separate report for each hiring location employing fewer than 50 persons, or (ii) consolidated reports, by State, covering the hiring locations within the State that have fewer than 50 employees. Each consolidated report must also list the names and addresses of all hiring locations covered by the report.

How to Prepare Form

Shaded areas designate optional information. Answers to questions in all other areas of the form are mandatory.

Contractors should determine the period covered by the report (''the reporting period'') by selecting an ending date for the report. The ending date may fall either: (1) At the end of any pay period during the

period July 1 through August 31 of the year the report is due; or (2) On December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to use that date for purposes of submitting the Employer Information Report EEO–1, Standard Form 100 (EEO–1 Report). The report must cover the twelve consecutive months preceding the selected ending date.

Company Identification

Parent Company. Please provide the company name, address, and employer identification number (EIN) of the headquarters office of the multi-hiring location company that owns the hiring location for which this report is filed. The EIN is mandatory; the Dun and Bradstreet I.D. number (DUNS) is mandatory if available; and the North American Industrial Classification System (NAICS) also must be reported if available.

Hiring Location For Which This Report Is Filed. Please provide the name, address, and EIN for each hiring location for which this report is filed. The EIN is mandatory; the NAICS and the DUNS also must be reported if available.

Information on Employees (Veterans and non-veterans)

Counting veterans: Some veterans will fall into more than one of the protected veteran categories. For example, a veteran may be both a special disabled veteran and a Vietnam era veteran. In such cases the veteran must be counted in each category.

Data on Current Employees: The payroll period for this data is the period that ends on the date the contractor selects as the ending date for the entire report, according to the instructions above in ''How to Prepare Form.'' The data must include all permanent full-time and part-time employees who were employed as of the ending date of the selected payroll period, except those employees specifically excluded as indicated in 41 CFR 61–250.2(b)(2). Employees must be counted by veteran status (columns L, M, and N—special disabled veterans, Vietnam-era, or other protected veterans as defined below) for each of the nine occupational categories. Entries in the Total line of columns L, M, and N are optional.

Data on New Hires: Report on the Total line in columns O through R the number of regular full-time and part-time employees, by veteran status (columns O, P, and Q) and total employees (column R), who were included in the payroll for the first time during the reporting period. Entries in lines 1 through 9 (shaded area) of columns O through R are optional.

Maximum and minimum number of employees:

The minimum and maximum number of employees reportable at each hiring location during the period covered by the report must be determined as follows: Contractors must review payroll records for each of the pay periods included in the report. The minimum number of employees is the total number of employees paid in the payroll period in which the contractor had the fewest number of employees. The maximum number of employees is the total number of employees paid in the payroll period in which the contractor had the greatest number of employees.

Definitions

Hiring location means an establishment as defined at 41 CFR 61–250.2(b).

Special disabled veteran means:

(i) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability:

(A) Rated at 30 percent or more; or

(B) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap; or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

Veteran of the Vietnam era means a veteran:

(i) who served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty was performed:

(A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(B) between August 5, 1964 and May 7, 1975 in any other location; or

(ii) who was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability, if any part of such active duty was performed:

(A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(B) between August 5, 1964, and May 7, 1975, in any other location.

Other protected veterans means any other veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, other than special disabled veterans or veterans or the Vietnam era.

Legal Basis for Reporting Requirements

Title 38, United States Code, Section 4212(d), requires that Federal contractors and subcontractors report at least annually on the number of current employees in each job category and at each hiring location who are special disabled veterans, the number who are veterans of the Vietnam era, and the number who are other protected veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized, other than special disabled veterans or veterans of the Vietnam era. Also required are the total number of new hires during the reporting period, the number of new hires who fall into each of the three categories of veterans listed above, and the maximum and minimum number of persons employed during the reporting period. The regulations implementing these statutory provisions are found at 41 CFR part 61–250.

Description of Job Categories

Officials and managers means occupations requiring administrative and managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operation. Includes: Officials, executives, middle management, plant managers, department managers and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains and mates (except fishing boats), farm operators and managers, and kindred workers.

Professionals means occupations requiring either college graduation or experience of such kind and amount as to provide a background comparable to college education. Includes: Accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dietitians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, surveyors, teachers, and kindred workers.

Technicians means occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post-high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: Computer programmers and operators, drafters, engineering aides, junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.

Sales means occupations engaging wholly or primarily in direct selling. Includes: Advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks and cashier-checkers, and kindred workers.

Office and clerical includes all clerical-type work regardless of level of difficulty, where the activities are predominantly non-manual though some manual work not directly involved with altering or transporting the products is included. Includes bookkeepers, cashiers, collectors (bills and accounts), messengers and office helpers, office machine operators, shipping and receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.

Craft Workers (skilled) means manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. These workers exercise considerable independent judgment and usually receive an extensive period of training. Includes: The building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors

and typesetters, electricians, engravers, job setters (metal), motion picture projectionists, pattern and model makers, stationary engineers, tailors, arts occupations, hand painters, coaters, decorative workers, and kindred workers.

Operatives (semiskilled) means workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: Apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, dressmakers and sewers (except factory), dryers, furnace workers, heaters (metal), laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (except construction and maintenance), photographic process workers, stationary firefighters, truck and tractor drivers, weavers (textile), welders and flamecutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, handpackers and packagers, and kindred workers.

Laborers (unskilled) means workers in manual occupations which generally require no special training to perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, gardeners (except farm) and grounds keepers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.

Service Workers means workers in both protective and non-protective service occupations. Includes: Attendants (hospital and other institutions, professional and personal service, including nurses aides and orderlies), barbers, charworkers and cleaners, cooks (except household), counter and fountain workers, elevator operators, firefighters and fire protection workers, guards, doorkeepers, stewards, janitors, police officers and detectives, porters, servers, amusement and recreation facilities attendants, guides, ushers, public transportation attendants, and kindred workers.

(b) Contractors and subcontractors that submit computer-generated output for 10 or more hiring locations to satisfy their VETS–100 reporting obligations must submit the output in the form of an electronic file. This file must comply with current Department of Labor specifications for the layout of these records, along with any other specifications established by the Department for the applicable reporting year. Contractors and subcontractors that submit VETS–100 Reports for ten locations or less are exempt from this requirement, but are strongly encouraged to submit an electronic file. In these cases, state consolidated reports count as one location each.

(c) Contractors and subcontractors may submit the VETS–100 Report via the Internet. The Internet address for the site is http://vets100.cudenver.edu/vets100login.htm. A company number is required to access this site. The number is provided to employers on the VETS–100 Report form that is mailed annually to those employers who are included in the VETS–100 database. Other employers may obtain a company number by e-mailing their request to newcompany@vets100.com, or by calling the VETS–100 Reporting System at (703) 461–2460.

(d) VETS or its designee will use all available information to distribute the required forms to contractors identified as subject to the requirements of this part.

(e) It is the responsibility of each contractor or subcontractor to obtain necessary supplies of the VETS–100 Report form before the annual September 30 filing deadline. Contractors and subcontractors who do not receive forms should request them in time to meet the deadline. Requests for the VETS–100 Report form may be made by mail by contacting: Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor 200 Constitution Avenue, NW,Washington, DC 20210, Attn: VETS–100 Report Form Request or on the Internet at *http://vets100.cudenver.edu* (OMB No. 1293–0005).

§ 61–250.20 How will DOL determine whether a contractor or subcontractor is complying with the requirements of this part?

During the course of a compliance evaluation, OFCCP may determine whether a contractor or subcontractor has submitted its report as required by this part.

§ 61–250.99 What are the OMB control numbers for this part?

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and its implementing regulations at 5 CFR part 1320, the Office of Management and Budget has assigned Control No. 1293–0005 to the information collection requirements of this part.

Appendix A to Part 61–250—Federal Contractor Veterans' Employment Report VETS–100

BILLING CODE 4510–79–P

FEDERAL CONTRACTOR VETERANS' EMPLOYMENT REPORT VETS-100

OMB NO:1293-0005
Expires

Persons are not required to respond to this collection of information unless it displays a valid OMB number

RETURN COMPLETED REPORT TO:
U.S. DEPARTMENT OF LABOR
VETERANS' EMPLOYMENT AND TRAINING SERVICE
VETS-100 REPORTING
6101 STEVENSON AVE
ALEXANDRIA, VA 22304

TYPE OF CONTRACTOR (Check one or both as applicable)	TYPE OF FORM (Check only one)
☐ Prime Contractor ☐ Subcontractor	☐ Single Establishment ☐ Multiple Establishment-Headquarters ☐ Multiple Establishment-Hiring Location ☐ Multiple Establishment-State Consolidated (specify number of locations) _____.(MSC)

COMPANY IDENTIFICATION INFORMATION (Omit if items preprinted above)

COMPANY No:	TWELVE MONTH PERIOD ENDING M M D D Y Y Y Y		
NAME OF PARENT COMPANY:	ADDRESS (NUMBER AND STREET):		
CITY:	COUNTY:	STATE:	ZIP CODE:

NAME OF HIRING LOCATION:	ADDRESS (NUMBER AND STREET):		
CITY:	COUNTY:	STATE:	ZIP CODE:

NAICS:	DUNS: — —	EMPLOYER I.D. No. (IRS TAX No.) —

INFORMATION ON EMPLOYEES

REPORT ALL REGULAR FULL-TIME OR PART-TIME EMPLOYEES AND NEW HIRES WHO ARE VETERANS, AS DEFINED ON REVERSE. DATA ON NUMBER OF EMPLOYEES ARE TO BE ENTERED IN COLUMN L, M, AND N LINE 1-9. DATA ON NEW HIRES ARE TO BE ENTERED IN COLUMNS O, P, Q, AND R. ENTRIES IN COLUMNS O THROUGH R, LINES 1 THROUGH 9, AND COLUMNS L, M, AND N, LINE 10 (GRAY SHADED AREAS) ARE OPTIONAL. ENTER THE MAXIMUM AND MINIMUM NUMBER OF EMPLOYEES. INSTRUCTIONS ARE FOUND ON THE REVERSE OF THIS FORM.

JOB CATEGORIES	NUMBER OF EMPLOYEES			NEW HIRES (PREVIOUS 12 MONTHS)			
	SPECIAL DISABLED VETERANS (L)	VIETNAM ERA VETERANS (M)	OTHER PROTECTED VETERANS (N)	SPECIAL DISABLED VETERANS (O)	VIETNAM ERA VETERANS (P)	OTHER PROTECTED VETERANS (Q)	TOTAL NEW HIRES, BOTH VETERANS AND NON-VETERANS (R)
OFFICIALS AND MANAGERS 1							
PROFESSIONALS 2							
TECHNICIANS 3							
SALES WORKERS 4							
OFFICE AND CLERICAL 5							
CRAFT WORKERS 6							
OPERATIVE 7							
LABORERS 8							
SERVICE WORKERS 9							
TOTAL 10							

Report the total maximum and minimum number of regular employees on board during the period covered by this report.

Maximum Number	Minimum Number

FEDERAL CONTRACTOR VETERANS' EMPLOYMENT REPORT (VETS-100)

WHO MUST FILE

The Vets-100 report is to be completed by all nonexempt federal contractors and subcontractors with contracts or subcontracts for the furnishing of supplies and services or the use of real or personal property for $25,000 or more. Services include but are not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. The existence of $25,000 or more in a federal contract or subcontract during a given calendar year establishes the requirement to file a VETS-100 Report during the following calendar year.

WHEN TO FILE

This annual report must be filed no later than September 30. Mail to the address pre-printed on the front of the form.

LEGAL BASIS FOR REPORTING REQUIREMENTS

Title 38, United States Code, Section 4212(d) and PL 105-339, require that federal contractors report at least annually the numbers of: 1) special disabled veterans, 2) veterans of the Vietnam era, and 3) other protected veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized, other than special disabled veterans or veterans of the Vietnam era. Reporting is required by hiring location and includes both the number employed and the number of new hires, within the three categories listed above. The number of veterans employed within these categories is to be broken out by job category and maximum and minimum total employment is to be reported as well.

HOW TO SUBMIT THE VETS-100 REPORTS

Single-establishment employers must file one completed form. All multi-establishment employers, i.e., those doing business at more than one hiring location, must file (A) one form covering the principal or headquarters office: (B) a separate form for each hiring location employing 50 or more persons: and (C) EITHER, (I) a separate form for each hiring location employing fewer than 50 persons, OR (ii) consolidated reports that cover hiring locations within one State that have fewer than 50 employees. Each state consolidated report must also list the name and address of the hiring locations covered by the report. Company consolidated reports such as those required by EEO-1 reporting procedures are NOT required for the VETS-100 report. Completed reports for the headquarters location and all other hiring locations for each company should be mailed in one package to the address indicated on the front of the form.

RECORD KEEPING

Employers must keep copies of the completed annual VETS-100 report submitted to DOL for a period of two years.

HOW TO PREPARE THE FORMS

Multi-establishment employers submitting hard copy reports should produce facsimile copies of the headquarters form for reporting data on each location

Type of Reporting Organization Indicate the type of contractual relationship (prime contractor or subcontractor) that the organization has with the Federal Government. If the organization serves as both a prime contractor and a subcontractor on various federal contracts, check both boxes.

Type of Form If a reporting organization submits only one VETS-100 Report form for a single location, check the Single Establishment box. If the reporting organization submits more than one form, only one form should be checked as Multiple Establishment-Headquarters. The remaining forms should be checked as either Multiple Establishment-Hiring Location or Multiple Establishment-State Consolidated. For state consolidated forms, the number of hiring locations included in that report should be entered in the space provided. For each form, only one box should be checked within this block.

COMPANY IDENTIFICATION INFORMATION:

Company Number Do not change the Company Number that is printed on the form. If there are any questions regarding your Company Number, please call the VETS-100 staff at (703) 461-2460 or e-mail HELPDESK@VETS100.COM.

Twelve Month Period Ending Enter the end date for the twelve month reporting period used as the basis for filing the VETS-100 Report. To determine this period, select a date in the current year between July 1 and August 31 that represents the end of a payroll period. That payroll period will be the basis for reporting Number of Employees, as described below. Then the twelve month period preceding the end date of that payroll period will be your twelve month period covered. This period is the basis for reporting New Hires, as described below. Any federal contractor or subcontractor who has written approval from the Equal Employment Opportunity Commission to use December 31 as the ending date for the EEO-1 Report may also use that date as the ending date for the payroll period selected for the VETS-100 Report.

Name and Address for Single Establishment Employers COMPLETE the identifying information under the Parent Company name and address section. LEAVE BLANK all of the identifying information for the Hiring Location.

Name and Address for Multi Establishment Employers **For parent company headquarters location,** COMPLETE the name and address for the parent company headquarters, LEAVE BLANK the name and address of the Hiring Location. **For hiring locations of a parent company,** COMPLETE the name and address for the Parent Company location, COMPLETE the name and address for the Hiring Location.

NAICS Code, DUNS Number, and Employer ID Number Single Establishment and Multi Establishment Employers must COMPLETE the Employer ID Number, NAICS Code, DUNS Number, if available, as described below.

NAICS Code Enter the six (6) digit NAICS Code applicable to the hiring location for which the report is filed. If there is not a separate NAICS Code for the hiring location, enter the NAICS Code for the parent company.

Dun and Bradstreet I.D. Number (DUNS) If the company or any of its establishments has a Dun and Bradstreet Identification Number, please enter the nine (9) digit number in the space provided. If there is a specific DUNS Number applicable to the hiring location for which the report is filed, enter that DUNS Number. Otherwise, enter the DUNS number for the parent company.

Employer I.D. Number (EIN) Enter the nine (9) digit numbers assigned by the I.R.S. to the contractor. If there is a specific EIN applicable to the hiring location for which the report is filed, enter that EIN. Otherwise, enter the EIN for the parent company.

INFORMATION ON EMPLOYEES

Counting Veterans Some veterans will fall into more than one of the protected veteran categories. For example, a veteran may be both a special disabled veteran and a Vietnam era veteran. In such cases the veteran must be counted in each category.

Number of Employees Select any payroll period ending between July 1 and August 31 of the current year. Provide all data for regular full-time and part-time employees who were special disabled veterans, Vietnam-era veterans, or other protected veterans employed as of the ending date of the selected payroll period. Do not include employees specifically excluded as indicated in 41 CFR 61-250.2(b)(2). Employees must be counted by veteran status for each of the nine occupational categories (Lines 1-9) in columns L, M, and N. The information in column N, lines 1-9 is required for the 2002 reporting cycle. Blank spaces will be considered zeros.

New Hires Report the number of regular full-time and part-time employees by veteran status who were hired (both veterans and non-veterans) and who were included in the payroll for the first time during the 12-month reporting period ending between July 1 and August 31 of the current year. The totals in columns O, P, Q, and R (Line 10) are required Enter all applicable numbers, including zeros.

Maximum/Minimum Employees Report the maximum and minimum number of regular employees on board during the period covered as indicated by 41 CFR 61-250.10(a)(3).

DEFINITIONS:

'Hiring location' means an establishment as defined at 41 CFR 61 250.2(b).

'Special Disabled Veteran' means (i) a veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans' Affairs for a disability (A) rated at 30 percent or more, or (B) rated at 10 or 20 percent in the case of a veteran who has been determined under section 38 U.S.C. 3106 to have a serious employment handicap or (ii) A person who was discharged or released from active duty because of a service-connected disability.

'Veteran of the Vietnam-era' means a veteran who: (i) served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty was performed: (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (B) between August 5, 1964, and May 7, 1975, in all other cases; or (ii) was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability if any part of such active duty was performed (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (ii) between August 5, 1964, and May 7, 1975, in any other location.

'Other Protected Veterans' means veterans who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, other than special disabled veteransor veterans of the Vietnam era. To identify the campaigns or expeditions that meet this criterion, contact the Office of Personnel Management (OPM) and ask for the OPM VETS Guide, Appendix A. A local OPM telephone number may be found in the telephone book under Federal Government or consult Directory Assistance for your area code for the nearest OPM location. For those with Internet access, the information required to make this determination also is available at http://www.opm.gov/veterans/html/vgmedal2.htm.

Public reporting burden for this collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data source, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Department of Labor, Office of Information Management, Room N-1301, 200 Constitution Avenue, NW, Washington D.C. 20210. All completed VETS-100 Reports should be sent to the address indicated on the front of the form.

[FR Doc. 01–25232 Filed 10–10–01; 8:45 am]

BILLING CODE 4510–79–C

Federal Register

Thursday,
October 11, 2001

Part III

The President

Proclamation 7482—Columbus Day, 2001

Executive Order 13229—Amendment to Executive Order 13045, Extending the Task Force on Environmental Health Risks and Safety Risks to Children

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 7482 of October 8, 2001

Columbus Day, 2001

By the President of the United States of America

A Proclamation

More than 500 years ago, Christopher Columbus set sail from Spain on his historic voyage to what would be called the ''New World.'' His celebrated journey inaugurated an age of exploration that changed the course of history and enormously expanded our understanding of the world. Columbus' willingness to brave the unknown led to his remarkable find, bringing about further explorations that enormously enhanced the intellectual, commercial, and demographic fabric of Europe and the Americas. The stories of Columbus' voyage became a symbol of the quest for knowledge and understanding of the world, and it laid the historical foundation upon which much of America's future progress was built.

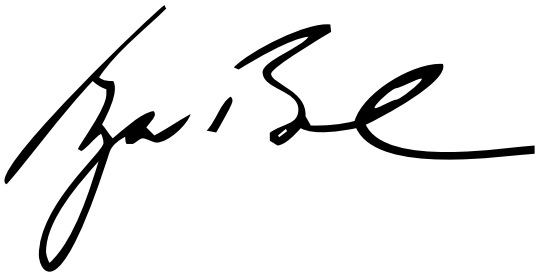
Reflecting on Christopher Columbus' legacy, we remember his great courage in choosing to sail across uncharted waters, we recall the power of his adventurous spirit, and we are inspired by his willingness to assume considerable risks for the sake of knowledge and progress. These virtues have been echoed down through history by some of America's greatest pioneers, from Meriwether Lewis and William Clark's daring explorations of our western frontier to the Apollo astronauts planting the American flag on the moon. Our Nation continues to follow the example of Columbus' bold desire to push the horizon, pursuing new paths of research and using our discoveries to benefit all of mankind.

Columbus' voyage represented the first linking of the lands and cultures separated by the Atlantic Ocean, and it served as a precursor to the close ties that exist today between America and Europe. His discovery connected continents separated by substantial geographic, religious, and cultural barriers; and America has since formed partnerships with nations across the seas that have sought to overcome those and other barriers through agreements affecting such areas as trade, human rights, and military support.

In commemoration of Columbus' momentous journey 509 years ago, the Congress, by joint resolution of April 30, 1934 (48 Stat. 657), and an Act of June 28, 1968 (82 Stat. 250), has requested that the President proclaim the second Monday of October of each year as ''Columbus Day.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 8, 2001, as Columbus Day. I urge the people of the United States to reflect on the contributions of Christopher Columbus with appropriate means of celebration. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.



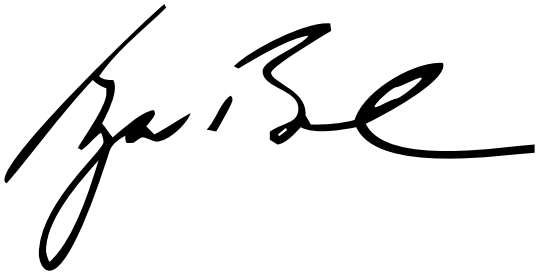
[FR Doc. 01–25787
Filed 10–10–01; 8:54 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13229 of October 9, 2001

Amendment to Executive Order 13045, Extending the Task Force on Environmental Health Risks and Safety Risks to Children

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to extend the Task Force on Environmental Health Risks and Safety Risks to Children, it is hereby ordered that Executive Order 13045 of April 21, 1997, is amended by deleting in section 3–306 of that order ''for a period of 4 years from the first meeting'' and inserting in lieu thereof ''for 6 years from the date of this order''.



THE WHITE HOUSE,
October 9, 2001.

[FR Doc. 01–25788
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TRANSPORTATION DEPARTMENT

Class E airspace; comments due by 10-15-01; published 8-29-01

TREASURY DEPARTMENT

Community Reinvestment Act regulations; review; comments due by 10-17-01; published 7-19-01

TREASURY DEPARTMENT

Administrative rulings; comments due by 10-17-01; published 8-28-01

TREASURY DEPARTMENT

Community Reinvestment Act regulations; review; comments due by 10-17-01; published 7-19-01

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H.R. 2510/P.L. 107–47

Defense Production Act Amendments of 2001 (Oct. 5, 2001; 115 Stat. 260)

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