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Presidential Documents

Title 3—

The President

Proclamation 7492 of November 1, 2001

National Prostate Cancer Awareness Month, 2001

By the President of the United States of America

A Proclamation

By observing National Prostate Cancer Awareness Month, we recognize the often devastating effects prostate cancer has on the lives of the more than 1 million American men currently suffering from it; and we commit ourselves to finding a cure for this disease. Prostate cancer is the most commonly diagnosed form of cancer in America, excepting skin cancer. And it is the second leading cause of cancer-related deaths among men in the United States. This year, almost 200,000 men will be diagnosed with prostate cancer, and over 31,000 will die from this disease.

Although the survival rate for those diagnosed with prostate cancer continues to rise, this disease nevertheless remains a serious threat to the health and well-being of all American men. Research shows that one out of every six men will be diagnosed with prostate cancer sometime during their lifetime.

By increasing awareness about the causes and signs of prostate cancer and by expanding research into preventative, remedial, and curative therapies, we can save more lives, improve the lives of those suffering from this cancer, and reduce its incidence in America. All men of middle age, and particularly those above the age of 50, should learn the risk factors, symptoms, and diagnostic tools that can help with the early recognition of prostate cancer, when treatment is most successful. It is important to consult a physician about available screening for prostate cancer, including digital examinations and prostate specific antigen blood tests. These techniques aid doctors in the early diagnosis of prostate cancer, and they are essential to continuing the reduction of prostate cancer death rates.

As with most other forms of cancer, modern medical research has produced promising new treatment options for prostate cancer that have greatly increased the likelihood of survival after diagnosis. However, much still remains to be learned about the causes and cures of prostate cancer, and I applaud the work of the Centers for Disease Control and Prevention in this area. My Administration also supports increasing Federal funding for programs that promote awareness, improve prevention, and expand research by the National Institutes of Health, the Department of Defense Congressionally Directed Medical Research Program, and the Department of Veterans Affairs.

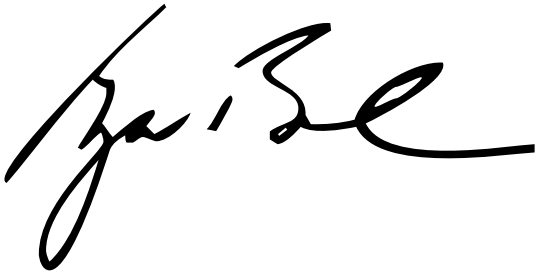
These research programs obtain important epidemiological data, develop prostate cancer awareness among the public and throughout the health care community, and serve as proving grounds for new prostate cancer treatments. Charitable organizations and the private sector also play important roles in advancing public awareness about the need for prostate cancer screening and research, and in serving as a therapeutic resource for those suffering from prostate cancer.

On this occasion, I commend the scientists, physicians, and other health professionals who are committed to achieving success in our struggle against prostate cancer. I call on all those potentially vulnerable to this disease to support this effort by taking preventative measures such as observing

a healthy lifestyle, talking to your doctor about regular screenings, and building awareness of prostate cancer. By working together, we will find new therapies to aid those living with prostate cancer, increase awareness about its causes and symptoms, and, I hope, eventually find a cure for this deadly disease.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2001 as National Prostate Cancer Awareness Month. I call upon government officials, businesses, communities, health care professionals, educators, volunteers, and all the people of the United States to publicly reaffirm our Nation's strong and continuing commitment to control and cure prostate cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, 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.



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Rules and Regulations

Federal Register

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Tuesday, November 6, 2001

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN 3206–AJ51

Absence and Leave; Use of Restored Annual Leave

AGENCY: Office of Personnel Management.

ACTION: Interim rule; correction.

SUMMARY: This document corrects the effective date of the interim regulations that were originally published in the **Federal Register** on Friday, November 2, 2001 (66 FR 55557). The interim regulations provide that employees who would forfeit excess annual leave because of their work to support the Nation during the current national emergency will be deemed to have scheduled their excess annual leave in advance. The correct effective date of the interim regulations is November 2, 2001.

EFFECTIVE DATE: The effective date of the interim rule published on November 2, 2001 at 66 FR 55557 is corrected to read ''November 2, 2001.''

FOR FURTHER INFORMATION CONTACT: Sharon A. Herzberg at (202) 606–2858, FAX (202) 606–0824, or email *payleave@opm.gov.*

SUPPLEMENTARY INFORMATION: On November 2, 2001, the Office of Personnel Management (OPM) issued interim regulations to aid agencies and employees responding to the ''National Emergency by Reason of Certain Terrorist Attacks'' on the World Trade Center and the Pentagon. The interim regulations provide that employees who would forfeit excess annual leave because of their work to support the Nation during the current national emergency will be deemed to have scheduled their excess annual leave in advance. These employees will be entitled to restoration of their annual leave under these regulations.

The effective date of the interim regulations were incorrect. The effective date of the interim regulations is November 2, 2001, the date of publication in the **Federal Register**. In its ''Waiver of Notice of Proposed Rule Making and Delay in Effective Date,'' OPM stated that there was good cause for making this rule effective in less than 30 days. The delay in the effective date is being waived to give affected employees the benefit of these new provisions as quickly as possible.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects 5 in CFR Part 630

Government employees.

Office of Personnel Management.

Jacquline D. Carter,

Federal Register Liaison Officer.

[FR Doc. 01–27959 Filed 11–2–01; 2:29 pm]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 00–010–2]

Horses From Iceland; Quarantine Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations regarding the importation of horses to exempt horses imported from Iceland from testing for dourine, glanders, equine piroplasmosis, and equine infectious anemia during the quarantine period. Given that Iceland has never had a reported case of dourine, glanders, equine piroplasmosis, or equine infectious anemia, we have determined that horses imported from Iceland pose a negligible risk of introducing those diseases into the United States. This action relieves certain testing requirements for horses imported from Iceland while continuing to protect against the introduction of communicable diseases of horses into the United States.

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Glen I. Garris, Supervisory Staff Officer, Regionalization and Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

On April 18, 2001, we published in the **Federal Register** (66 FR 19898–19899, Docket No. 00–010–1), a proposal to amend the animal importation regulations in 9 CFR part 93 to exempt horses imported from Iceland from testing for dourine, glanders, equine piroplasmosis and equine infectious anemia (EIA) during the quarantine period. Iceland has never had a reported case of dourine, glanders, equine piroplasmosis, or EIA. The Government of Iceland requested that the U.S. Department of Agriculture exempt horses imported from Iceland from testing for dourine, glanders, equine prioplasmosis, and EIA during the quarantine period.

We solicited comments concerning our proposal for 60 days ending June 18, 2001. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provision of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule exempts horses imported from Iceland from the requirement for testing for dourine, glanders, equine piroplasmosis, and EIA during the quarantine period based on our determination that horses from Iceland present a negligible risk of introducing those diseases into the United States. Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule exempts horses imported into the United States from Iceland from the requirement for testing for dourine, glanders, equine piroplasmosis, and EIA during the quarantine period. As explained previously in this document, we have determined that there is a negligible risk of horses imported from Iceland introducing dourine, glanders, equine piroplasmosis, and EIA into the United States.

As a result of this rule, U.S. importers of horses from Iceland will no longer be required to have those horses tested for dourine, glanders, equine piroplasmosis, and EIA during the quarantine period. The test for EIA costs $5; the tests for equine piroplasmosis cost $9 for each strain for a total of $18; the test for dourine costs $9; and the test for glanders costs $9. Therefore, importers will save a total of $41 on each horse imported from Iceland. Horses imported from Iceland will still be required to undergo a 3-day quarantine after arrival in the United States and undergo any other tests and procedures that may be required by APHIS to determine their freedom from communicable diseases.

According to the 1997 Census of Agriculture, the United States had a total population of at least 2,427,277 horses in that year. In 1999, the United States exported 78,702 horses valued at $293 million, and imported 30,398 horses valued at $326 million. However, only 166 (less than 1 percent) of those horses were imported from Iceland. The total number of horses imported from Iceland is small due in part to the prices of these horses, which averaged $4,367. All of the horses imported from Iceland in 1999 were nonpurebred horses. As a comparison, nonpurebred horses imported from Canada into the United States had an average value of $1,450 in 1999.

The overall economic impact of this rule will be minimal. Importers will save on the importation of horses, but the overall savings will be small. Had this rule been in place in 1999 and applied to the 166 horses imported from Iceland in that year, importers would have saved a total of $6,806.

APHIS does not expect that the number of horses imported from Iceland into the United States will increase significantly as a result of this rule. The cost reduction associated with this rule is less than 1 percent of the average price of horses imported from Iceland into the United States in 1999. Therefore, this rule is expected to have only minimal economic effects on U.S. importers of horses from Iceland, regardless of their size.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 93 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

2. In § 93.308, paragraph (a)(3) is revised to read as follows:

§ 93.308 Quarantine requirements.

(a) * * *

(3) To qualify for release from quarantine, all horses, except horses from Iceland, must test negative to official tests for dourine, glanders, equine piroplasmosis, and equine infectious anemia.[14] However, horses imported from Australia and New Zealand are exempt from testing for dourine and glanders. In addition, all horses must undergo any other tests, inspections, disinfections, and precautionary treatments that may be required by the Administrator to determine their freedom from communicable diseases.

* * * * *

Done in Washington, DC, this 31st day of October 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–27816 Filed 11–5–01; 8:45 am]

BILLING CODE 3410–34–U

[14] Because the official tests for dourine and glanders are performed only at the National Veterinary Services Laboratories in Ames, IA, the protocols for those tests have not been published and are, therefore, not available; however, copies of ''Protocol for the Complement-Fixation Test for Equine Piroplasmosis'' and ''Protocol for the Immunno-Diffusion (Coggins) Test For Equine Infectious Anemia'' may be obtained from the Animal and Plant Health Inspection Service, Veterinary Services, National Center for Import-Export, 4700 River Road Unit 38, Riverdale, MD 20737–1231.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

Change of Address; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to reflect a change in the address for the Center for Food Safety and Applied Nutrition (CFSAN). This action is editorial in nature and is intended to improve the accuracy of the agency's regulations.

EFFECTIVE DATE: December 14, 2001.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy, Planning, and Legislation (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: FDA is amending its regulations in 21 CFR parts 1, 5, 10, 70, 71, 73, 80, 100, 101, 102, 106, 107, 108, 109, 110, 130, 161, 165, 170, 172, 173, 175, 176, 177, 178, 180, 181, 184, 189, 190, 211, 701, 1240, and 1250 to reflect a change in the address for CFSAN. The current address listed in the above regulations is 200 C Street, SW., Washington, DC 20204. The

new address is 5100 Paint Branch Pkwy., College Park, MD 20740.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR chapter I is amended as follows:

1. Parts 1, 5, 10, 70, 71, 73, 80, 100, 101, 102, 106, 107, 108, 109, 110, 130, 161, 165, 170, 172, 173, 175, 176, 177, 178, 180, 181, 184, 189, 190, 211, 701, 1240, and 1250 are amended by removing ''200 C Street, SW., Washington, DC 20204'' or ''200 C St. SW., Washington, DC 20204'' wherever they appear and by adding in their place ''5100 Paint Branch Pkwy., College Park, MD 20740.''

Dated: October 31, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–27811 Filed 11–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's name from Marsam Pharmaceuticals, Inc., to Marsam Pharmaceuticals, LLC.

DATES: This rule is effective November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209, e-mail: lluther@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Marsam Pharmaceuticals, Inc., Bldg. 31, 24 Olney Ave., Cherry Hill, NJ 08034, has informed FDA of a change of sponsor's name to Marsam Pharmaceuticals, LLC. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor's name.

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

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for ''Marsam Pharmaceuticals, Inc.'' and in the table in paragraph (c)(2) in the entry for ''000209'' by removing ''Inc.'' and by adding in its place ''LLC''.

Dated: October 26, 2001.

Claire M. Lathers,

Director, Office of New Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–27813 Filed 11–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for an approved new animal drug application (NADA) from Elanco Animal Health, A Division of Eli Lilly & Co., to Ivy Laboratories, Div. of Ivy Animal Health, Inc.

DATES: This rule is effective November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, has informed FDA that it has transferred to Ivy Laboratories, Div. of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, ownership of, and all rights and interests in NADA 118–123 for COMPUDOSE 200 (estradiol) and COMPUDOSE 400 implants for cattle. Accordingly, the agency is amending the regulations in 21 CFR 522.840 to reflect the transfer of ownership.

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

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

§ 522.840 [Amended]

2. Section 522.840 *Estradiol* is amended in paragraph (b) by removing ''000986'' and by adding in its place ''No. 021641''.

Dated: October 26, 2001.

Claire M. Lathers,

Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–27812 Filed 11–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[USCG–2001–10936]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between April 1, 2001 and June 30, 2001 which were not published in the **Federal Register**. This quarterly notice lists temporary local regulations, security zones, and safety zones of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between April 1, 2001 and June 30, 2001. This notice also lists regulations that were effective and terminated between January 1, 2001, and March 31, 2001.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Christena Green, Office of Regulations and Administrative Law, telephone (202) 267–0133. For questions on viewing, or on submitting material to the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation, (202) 366–5149.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Special local regulations are issued to enhance the safety of participants and spectators at regattas and other marine events. Timely publication of these regulations in the **Federal Register** is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these special local regulations, security zones, or safety zones by Coast Guard officials on-scene prior to enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the **Federal Register**. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones, special local regulations and security zones listed in this notice have been exempted from review under Executive Order 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period April 1, 2001 and June 30, 2001, unless otherwise indicated. This notice also includes regulations that were not received in time to be included on the quarterly notice for the first quarter of 2001.

Dated: November 1, 2001.

S.G. Venckus,

Chief, Office of Regulations and Administrative Law.

DISTRICT QUARTERLY REPORT

District docket	Location	Type	Effective date
01–01–033	Portland, ME	Safety Zone	04/07/2001.
01–01–050	Bath Iron Works, Portland, ME	Safety Zone	04/11/2001.
01–01–072	Port of New York/New Jersey Fleet Week	Security Zone	05/23/2001.
01–01–073	Fireworks Display, Newport, RI	Safety Zone	06/29/2001.
01–01–080	Boston, MA	Safety Zone	04/09/2001.
01–01–086	Kennebec River, Bath, ME	Safety Zone	06/23/2001.
01–01–091	Fireworks Display, Orleans, MA	Safety Zone	06/30/2001.
01–01–094	USS Monterey Port Visit, Boston, MA	Safety Zone	06/08/2001.
01–01–097	Mayflower II Port Visit, Boston, MA	Safety Zone	06/24/2001.
01–01–106	USS Klakring Port Visit, Gloucester, MA	Safety Zone	06/28/2001.
01–01–109	USS Wasp Port Visit, Boston, MA	Safety Zone	06/29/2001.
05–01–010	Mantoloking, NJ	Special Local	05/20/2001.
05–01–012	Patuxent River, Solomons, MD	Special Local	05/27/2001.
05–01–014	James River, VA	Safety Zone	05/21/2001.
05–01–015	Presidential Visit, Annapolis, MD	Security Zone	05/25/2001.
05–01–016	Ocean City, MD	Safety Zone	06/18/2001.
05–01–017	Hampton Roads, VA	Safety Zone	06/14/2001.
05–01–024	Delaware City, Delaware	Special Local	06/16/2001.
05–01–025	Delaware River, Camden, NJ	Special Local	06/30/2001.
07–01–020	San Juan Harbor, Puerto Rico	Special Local	04/01/2001.
07–01–028	Charleston Harbor, Charleston, SC	Special Local	04/21/2001.
07–01–029	Savannah River, Savannah, GA	Special Local	05/21/2001.
07–01–032	Miami Beach, FL	Special Local	04/22/2001.
07–01–041	Myrtle Beach, SC	Special Local	06/01/2001.
07–01–044	Hardeeville, SC	Special Local	06/06/2001.
09–01–028	Muskegon, Michigan	Safety Zone	05/05/2001.
09–01–031	Algoma Harbor, Algoma, WI	Safety Zone	06/23/2001.
09–01–043	Milwaukee, WI	Safety Zone	06/02/2001.
09–01–056	Pridefest 2001, Milwaukee Harbor, WI	Safety Zone	06/08/2001.

DISTRICT QUARTERLY REPORT—Continued

District docket	Location	Type	Effective date
09–01–061	Niagara River, Tonawanda, NY	Safety Zone	06/23/2001.
09–01–068	USS Silversides Filming, Lake Michigan	Safety Zone	06/25/2001.
09–01–077	Milwaukee Harbor, Milwaukee, WI	Safety Zone	06/28/2001.
13–01–009	Sub Ex-Narwhal, Puget Sound, WA	Safety Zone	05/27/2001.
13–01–014	Nana Provider, Swinomish Channel, WA	Safety Zone	06/21/2001.
13–01–016	Nana Provider, Swinomish Channel, WA	Safety Zone	06/24/2001.

COTP QUARTERLY REPORT

COTP Docket	Location	Type	Effective date
Charleston 01–126	Charleston, SC	Safety Zone	04/02/2001.
Guam 01–005	Agat Bay, Guam	Safety Zone	05/06/2001.
Guam 01–006	North of Glass Breakwater, Guam	Safety Zone	05/06/2001.
Guam 01–007	Agat Bay, Guam	Safety Zone	05/08/2001.
Guam 01–008	North of Glass Breakwater, Guam	Safety Zone	05/08/2001.
Guam 01–009	Cocos Lagoon, Guam	Safety Zone	05/27/2001.
Guam 01–011	North of Glass Breakwater, Guam	Safety Zone	06/08/2001.
Houston/Galveston 01–007	Gulf Intracoastal Waterway, M. 343	Safety Zone	06/04/2001.
Jacksonville 01–038	Fernandina Beach, FL	Safety Zone	05/04/2001.
Jacksonville 01–047	Fernandina Beach, FL	Safety Zone	05/28/2001.
LA/LB 01–002	Angels Gate, Los Angeles, CA	Safety Zone	04/19/2001.
LA/Long Beach 01–003	Long Beach, CA	Safety Zone	06/17/2001.
Louisville 01–002	Ohio River, M. 629 to 632	Safety Zone	05/23/2001.
Louisville 01–003	Riverbats Fireworks, Louisville, KY	Safety Zone	05/27/2001.
Louisville 01–007	Aurora, Indiana	Safety Zone	06/30/2001.
Memphis 01–005	Mississippi River, M. 532 to 528	Safety Zone	04/10/2001.
Memphis 01–006	Mississippi River, M. 7265.5 to 728.5	Safety Zone	04/14/2001.
New Orleans 01–009	Lwr Mississippi River	Safety Zone	04/19/2001.
New Orleans 01–019	Ouachita River, M. 166 to 168	Safety Zone	06/30/2001.
Paducah 01–001	Upr Mississippi River, M. 0 to 1	Safety Zone	05/18/2001.
Philadelphia 01–003	Port of Wilmington, Wilmington, DE	Security Zone	05/25/2001.
Port Arthur 01–004	Neches River, Beaumont, TX	Safety Zone	04/01/2001.
Port Arthur 01–005	Port of Orange, Beaumont, TX	Safety Zone	04/11/2001.
Port Arthur 01–006	Port of Orange/Port Arthur, TX	Safety Zone	06/23/2001.
Port Arthur 01–007	Gulf Intracoastal Waterway, M. 290	Safety Zone	06/15/2001.
San Diego 01–006	San Clemente Island, CA	Security Zone	04/18/2001.
San Diego 01–011	Colorado River	Safety Zone	05/01/2001.
San Diego 01–015	Bio-Tech 2001 Conference	Safety Zone	06/22/2001.
San Francisco Bay 01–001	San Francisco Bay, San Francisco, CA	Safety Zone	04/02/2001.
San Francisco Bay 01–002	Suisun Bay, CA	Safety Zone	04/21/2001.
San Juan 01–025	Guayanilla, Puerto Rico	Safety Zone	04/05/2001.
Savannah 01–051	Beaufort, SC	Safety Zone	06/04/2001.
St. Louis 01–001	Upper Mississippi River, M. 55.3 to 860	Safety Zone	04/14/2001.
Tampa 01–030	Tampa Bay, FL	Safety Zone	04/19/2001.
Tampa 01–031	Tampa Bay, FL	Security Zone	04/16/2001.
Tampa 01–036	Tampa Bay, FL	Security Zone	04/27/2001.

REGULATIONS NOT ON PREVIOUS 1ST QUARTERLY REPORT

District/COTP	Location	Type	Effective date
COTP Regulations			
Guam 01–003	Outer Apra Harbor, Guam	Safety Zone	03/13/01.
Houston/Galveston 01–004	Houston, TX	Safety Zone	03/21/01.
New Orleans 01–008	Lwr Mississippi River, M 108 to 110	Safety Zone	03/31/01.
Port Arthur 01–003	Port or Port Arthur/Orange, TX	Safety Zone	02/18/01.

[FR Doc. 01–27870 Filed 11–5–01; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 01–241, MM Docket No. 97–107, RM–9023]

FM Broadcasting Services; Pottsville and Saltillo, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review, denied.

SUMMARY: In MM Docket No. 97–107, the Commission denied an application for review filed by Olvie E. Sisk, licensee of Station WCNA(FM), Channel 240C3 (95.9 MHz), Potts Camp, Mississippi. Sisk had requested review of the Report and Order, 64 FR 38,592, published July 19, 1999, which the Commission denied because it found that the staff had properly denied in the Report and Order Sisk's petition for rulemaking (RM–9023) seeking the reallotment of Channel 240C3 from Potts Camp to Saltillo, Mississippi. The staff relied upon strong Commission policy against removal of a community's sole aural broadcast transmission service absent a compelling showing that a waiver of this prohibition is warranted. Sisk's allegations of his station's financial peril fell well short of justifying such a waiver. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Memorandum Opinion and Order, MM Docket 97–107, adopted August 23, 2001, and released August 29, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center (room CY–A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor, Qualex International Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–27781 Filed 11–5–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 011005243–1243–01; I.D. 102401B]

International Fisheries Regulations; Pacific Tuna Fisheries; Establishment of Incidental Catch Limit for Yellowfin Tuna Taken by the U.S. Purse Seine Fishery in the Eastern Pacific Ocean

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces that the 2001 yellowfin tuna quota has been reached and a 15-percent incidental catch limit is now in effect for yellowfin tuna taken in the U.S. purse seine fishery in the Commission's Yellowfin Regulatory Area (CYRA) of the Inter-American Tropical Tuna Commission (IATTC) through the remainder of 2001. This action is taken in accordance with a resolution adopted by the IATTC and approved by the Department of State (DOS).

DATES: Effective 12:01 a.m., October 28, 2001, through 11:59 p.m., December 31, 2001. Comments will be accepted through November 21, 2001.

ADDRESSES: Submit comments to Rodney R. McInnis, Acting Regional Administrator, Southwest Region (Regional Administrator), NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Svein Fougner at 562–980–4040.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of the regulations at 50 CFR part 300, subpart C, which implement the Tuna Conventions Act (16 U.S.C. 955). The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949. The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of tunas and tuna-like fishes in the Convention Area. The IATTC maintains a scientific research and fishery monitoring program and annually assesses the status of stocks of tuna and tuna fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of the stocks and promote viable fisheries. The Convention Area is all waters of the eastern Pacific Ocean between 40° N. lat. and 40° S. lat. and east of 150° W. long. The boundary of the CYRA is described at 50 CFR 300.21.

At its annual meeting in June 2001, the IATTC adopted a resolution (which was subsequently agreed to by the DOS) recommending that action be taken by member nations and other fishing nations to limit the catch of yellowfin tuna in 2001 to 250,000 metric tons (mt), with the potential to increase the quota by up to three increments of 20,000 mt each (or a total quota of 310,000 mt) if the Director of IATTC concluded, based on catch and effort data, that the higher level of harvest would not pose a substantial danger of overfishing to the stocks.

Under regulations at 50 CFR 300.29(a), the Regional Administrator is authorized to notify tuna purse seine vessel owners and agents directly of any quotas and associated regulatory measures that have been recommended by the IATTC and approved by the DOS. On September 12, 2001, the Regional Administrator notified the vessel owners and agents of the 2001 yellowfin tuna quota and the incidental catch limit that would go into effect when the quota was reached. NMFS also announced the 2001 yellowfin tuna quota and incidental catch limit to the public in the **Federal Register** at 66 FR 53735, October 24, 2001.

Under regulations at 50 CFR 300.29(b), when advised by the Director of Investigations of the IATTC that a quota has been or is projected to be reached, the Regional Administrator may close the fishery and establish incidental catch allowances by direct notification to the owners or agents of U.S. vessels who are fishing in or are eligible to fish in the Convention Area. As soon as practicable after being advised of the closure, NMFS will publish the announcement in the **Federal Register**. The Director of Investigations of the IATTC advised the Regional Administrator on October 11, 2001, that the 2001 quota, including all 3 incremental increases, was projected to be reached on October 27, 2001, and that incidental catch limits would be in effect for the rest of the year. Accordingly, the incidental catch limit for yellowfin tuna taken in purse seine gear will go into effect on October 28, 2001, and last through calendar year 2001. That is, from October 28, 2001, through December 31, 2001, any individual purse seiner when fishing for other species of tuna may retain a maximum of 15–percent of yellowfin

tuna relative to its total catch of all species of fish in that period.

For the reasons stated here and in accordance with the regulations at 50 CFR 300.29, NMFS announces that, after 12:01 a.m., October 28, 2001, through 1159 p.m., December 31, 2001, no U.S. vessel may use a purse seine fish to fish for tunas within the CYRA unless in compliance with the previously described measures.

Classification

This action is authorized by the regulations implementing the Tuna Conventions Act. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Acting Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR part 300, subpart C, and is exempt from review under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*, are not applicable.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553 (b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because the rule authorizing this action specifies that the Regional Director may close the fishery by direct notification to the owners or agents of U.S. vessels who are fishing in or are eligible to fish in the Convention Area. The AA finds for good cause under 5 U.S.C. 553 (d)(3) that a 30–day delay in effectiveness for this 2001 quota would be contrary to the public interest. Such a delay could allow the quota to taken and the quota exceeded before yellowfin tuna becomes an incidental catch fishery.

Authority: 16 U.S.C. 951–961 and 971 *et seq.*

Dated: October 31, 2001.

Bruce C. Morehead

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

[FR Doc. 01–27850 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010220043–1132–02; I.D. 102501A]

RIN 0648–AN78

Fisheries of the Northeastern United States; Atlantic Herring Fisheries; 2001 Specifications; Adjustment

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

ACTION: Inseason adjustment of the 2001 Atlantic herring specifications.

SUMMARY: NMFS adjusts the 2001 specifications for the Atlantic herring fishery by transferring 10,000 mt of U.S. at-sea processing (USAP) to joint venture processing (JVP). The intent is to reapportion allowable catches of herring within the fishery sectors to allow for the achievement of the objectives of the Fishery Management Plan for Atlantic Herring (FMP).

DATES: Effective November 6, 2001 through December 6, 2001. Comments must be received by December 6, 2001.

ADDRESSES: Comments on the inseason adjustment should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope ''Comments on Inseason Adjustment of 2001 Atlantic herring specifications.'' Comments may also be sent via facsimile (fax) to (978) 281–9371. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978–281–9288, fax at (978) 281–9135.

SUPPLEMENTARY INFORMATION: Joint Venture Processing (JVP) is the amount of herring purchased over the side from U.S. vessels and processed by foreign vessels in the Exclusive Economic Zone (EEZ); IWP is the amount of herring purchased over the side from U.S. vessels and processed by foreign vessels at anchor in state waters; the total amount allocated to processing by foreign ships (JVPt) is the sum of JVP and IWP; and USAP is the amount of herring purchased over the side from U.S. vessels and processed in the EEZ by vessels of the United States that are larger than 165 ft (50.29 m) in length or 750 gross registered tons. JVP operations are restricted to Areas 2 and 3.

The regulations found at 50 CFR 648.200(e) allow NMFS, after consulting with the New England Fishery Management Council (Council), to adjust annual Atlantic herring specifications and TACs during any fishing by publishing notification in the **Federal Register** stating the reasons for such action and providing an opportunity for prior public comment. Any adjustments must be consistent with the FMP objectives and other FMP provisions.

JVP and JVPt

For the 2001 herring fishery, NMFS specified 10,000 mt of JVP. As of October 6, 2001, six U.S. vessels had delivered 5658.8 mt of herring or 56.6 percent of the allocation to 3 vessels of the Russian Federation. Recently, NMFS has received several letters from boat owners, processors, and JVP domestic partners requesting an increase of 10,000 mt to the JVP specification. These requests are based on the success of ongoing JVP operations in allowing additional markets for herring harvested by U.S. vessels.

The New England Fishery Management Council (Council), through its Herring Oversight Committee (Committee), recommended not to increase the 2001 JVP specification. The Committee felt that herring acquired by foreign processing vessels could compete directly with herring sold by shoreside processors, thus, inhibiting those processors from increasing their supply to existing markets or entering new markets. Most of the opponents of the JVP increase expressed concern it could affect future prospects for the new herring plant that opened in Gloucester this year. Other Committee members disagreed and noted that one plant cannot process the amount of herring currently being harvested. The Council, in a tie vote, concurred with the Committee's recommendation. The Mid-Atlantic Fishery Management Council (MAFMC) voted unanimously on October 11, 2001, to recommend an increase in JVP. They believe that an increase in JVP will benefit U.S. vessels from Mid-Atlantic ports currently involved in JVP operations. Several of these vessels hope to continue to work with foreign operators.

The public was notified in meeting notices that it would have prior opportunity to comment on the subject action at the Committee meeting on June 6, 2001, and at the September, 2001, Council meeting. Several concerned citizens, addressing impacts of an increase in JVP, presented verbal testimony at those meetings.

After careful consideration of public comments and prior analyses regarding biological, economic, and social impacts of an increased JVP, NMFS has determined that there is no basis to conclude that an increase in JVP will have a substantially negative impact on shoreside processors. Furthermore, sufficient evidence exists to conclude that increasing JVP will have a substantially positive economic impact on the domestic harvesting sector and those entities that service vessels participating in the JVP. Descriptions of the economic and social impacts of this action are provided below.

USAP

The FMP requires a USAP specification to allow a specific amount of herring to be allocated to large U.S. processing vessels. The Council specified 20,000 mt of USAP, since specifying USAP at zero would have precluded large U.S. vessels from taking fish over the side while large foreign vessels are allowed to do so. Since the USAP specification has not been utilized, NMFS has determined that it is appropriate to transfer 10,000 mt from the USAP specification. This would leave 10,000 mt available for USAP.

Biological Impacts

Since the optimum yield (OY) of 250,000 mt is not affected by this inseason action, there would be no biological impacts to herring stocks that were not already contemplated in the environmental assessment accompanying the 2001 herring specifications. The only distinction between JVP and USAP, which does not alter the environmental assessment of the herring fishery in any significant way, is that JVP operations are restricted to Areas 2 and 3, while USAP operations could take place in any area.

Economic and Social Impacts

As of October 6, 2001, six U.S. vessels had delivered 5,658.8 mt of herring or 56.6 percent of the allocation to 3 vessels of the Russian Federation. Based on an estimated price of $110 per mt, this results in $622,468 in gross revenue earned collectively by the 6 vessels or, on the average, $103,745 per vessel. Using an average of gross revenue earned over the last 4 weeks to project the amount that could be harvested in the future, NMFS estimates that the full allocation of 10,000 mt, valued at around $1,100,000, could be harvested by early November. This additional 10,000 mt could potentially double gross revenues earned by domestic vessels.

As discussed in the economic analyses accompanying the 2001 submission for herring specifications, profits to U.S. vessels would be calculated by deducting the costs of participating in the JVP from revenues earned by selling over-the-side to foreign vessels. The calculation of economic value of the JVP to U.S. vessels requires a comparison of JVP and shoreside processing profitability. If there is limited shoreside processing demand, it is likely that vessels would derive substantial economic benefits from participating in joint venture operations. A positive impact of increased JVP is increased employment opportunities in affected communities. The JVP would benefit fuel and food providers and vessel servicing facilities as measured by economic multiplier effects.

If harvesting capacity was less than shoreside processing demand, and vessels that are participating in JVP operations would alternatively have landed herring in communities with processing facilities, negative economic and social impacts from reduced supply could result in reduced profits to shoreside processors, and reduced employment in processing plants, vessel servicing facilities, including stevedoring, and fuel and food vendors. However, as noted in the analyses accompanying the 2001 specifications, there is no evidence that shoreside processing demand is sufficient to meet harvesting capacity such that substantially negative economic and social impacts to processors or communities would ensue. Shoreside processing demand appears to be limited to the extent that the harvesting sector can easily participate in both an ongoing JVP and meet the demand of shoreside processors with limited economic impact on shoreside processing facilities and communities. In the future, this could change if shoreside facilities are able to increased the demand for their fish by developing export markets.

The 2001 Atlantic Herring Specifications adjusted for this inseason action are presented in the table below.

TABLE 1. 2001 ATLANTIC HERRING SPECIFICATIONS (ADJUSTED)

Specification	Amount (mt)
ABC	300,000
OY	250,000
DAH	245,000
TALFF	5,000
DAP	221,000
USAP	10,000
BT	4,000
JVPt	30,000
JVP–Area 2 and Area 3	20,000
IWP	10,000
Reserve	0
TAC–Area 1A	60,000
TAC–Area 1B	10,000
TAC–Area 2	50,000 (80,000 TAC reserve)
TAC–Area 3	50,000

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under E.O. 12866.

Because this action received prior public comment at Council meetings and any further delay would likely jeopardize the ability of U.S. and foreign vessels to access this increased herring allocation, there is good cause to waive additional opportunity for prior public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Similarly, because the inseason adjustment only provides for a transfer of the herring allocation from USAP to JVP and does not establish any requirements for which a regulated entity must come into compliance, it is unnecessary to delay for 30 days the effective date of this action. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the inseason adjustment.

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

Dated: October 31, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–27849 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010313064–1064–01; I.D. 103101B]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest

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

ACTION: Removal of haddock daily trip limit.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has projected that less than 75 percent of the 6,252 mt haddock target total allowable catch (TAC) will be harvested for the 2001 fishing year under the present landing limit, so the daily landing limit is being suspended until March 1, 2002. Therefore, between November 6, 2001, and February 28, 2002, vessels fishing under a multispecies day-at-sea (DAS) may possess no more than 50,000 lb (22,680 kg) per trip, but are not restricted to a limit of haddock per DAS. Unless subsequent projections indicate some other measure is required to ensure that the haddock target TAC is harvested but not exceeded, the existing daily trip limit of 5,000 lb (2,268 kg) per DAS will go back into effect on March 1, 2002.

DATES: Effective November 6, 2001, through February 28, 2002.

FOR FURTHER INFORMATION CONTACT: Rick A. Pearson, Fishery Policy Analyst, 978–281–9279.

SUPPLEMENTARY INFORMATION: Regulations implementing the haddock trip limit in Framework Adjustment 33 (65 FR 21658, April 24, 2000) became effective May 1, 2000, and were maintained for the current fishing year. To ensure that haddock landings remain within the target TAC of 6,252 mt established for the 2001 fishing year (66 FR 15812, March 21, 2001), Framework 33 established an initial landing limit of 3,000 lb (1,360.8 kg) per DAS fished and 30,000 lb (13,608 kg) per trip maximum, followed by an increased landing limit of 5,000 lb (2,268 kg) per DAS and 50,000 lb (22,680 kg) per trip from October 1 through April 30. Framework 33 also provided a mechanism to adjust the haddock trip limit based upon the percentage of TAC which is projected to be harvested.

Section 648.86 (a)(1)(iii)(B) specifies that if the Regional Administrator has projected that less than 75 percent (4,689 mt) of the haddock target TAC will be harvested in the fishing year, the landing limit may be adjusted. Further, this section stipulates that NMFS will publish a notification in the **Federal Register** informing the public of the date of any changes to the landing limit. Based on the available information, the Regional Administrator has projected that 4,689 mt will not be harvested by April 30, 2002, under the existing landing limit. The Regional Administrator has determined that removal of the daily landing limit of 5,000 lb (2,268 kg) per DAS through February 28, 2002, while retaining the 50,000 lb (22,680 kg) per trip possession limit, provides the industry with the opportunity to harvest at least 75 percent of the target TAC for the 2001 fishing year. However, because of difficulties inherent in collecting real-time haddock landings information, the Regional Administrator has determined that the daily trip limit will be reimposed on March 1, 2002, unless she can project that the haddock target TAC for fishing year 2001 will be harvested but not exceeded before the end of the fishing year. Therefore, pursuant to § 648.86(a)(1)(iii)(B), the haddock daily landing limit is suspended, while the 50,000 lb (22,680 kg) per trip maximum possession limit is retained, from November 6, 2001, until February 28, 2001. The Regional Administrator may adjust this possession limit again through publication of a notification in the **Federal Register**, pursuant to § 648.86(a)(1)(iii).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to remove the haddock daily trip limit in order to provide industry with the opportunity to harvest at least 75 percent of the target TAC for the 2001 fishing year constitutes good cause to waive the requirement to provide prior notice or opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement the measure that relieves a restriction (removal of the trip limit) in a timely fashion to allow for the additional harvest of haddock constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553 (d)(1), a delay in the effective date is hereby waived.

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

Dated: October 31, 2001.

Bruce Morehead,

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

[FR Doc. 01–27823 Filed 11–1–01; 3:13 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010220043–1132–1132; I.D. 103101A]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1A

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

ACTION: Closure of directed fishery for Management Area 1A.

SUMMARY: NMFS announces that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Management Area 1A (Area 1A) for the fishing year 2001 has been harvested. Therefore, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring harvested from Area 1A per trip or calendar day for the remainder of the 2001 fishery (through December 31, 2001). Regulations governing the Atlantic herring fishery require publication of this notification when 95 percent of the Atlantic herring TAC allocated to Area 1A has been harvested to advise vessel and dealer permit holders that no TAC is available for the directed fishery for Atlantic herring harvested from Area 1A.

DATES: Effective 0001 hrs local time, November 10, 2001, through 2400 hrs local time, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: David M. Gouveia, Fishery Policy Analyst, at (978) 281–9280.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. The specifications are allocated on an annual basis from January through December. The TAC allocated to Area 1A for the Atlantic herring fishery for the 2001 fishing year was 60,000 mt (66 FR 28846, May 25, 2001).

The regulations at 50 CFR 648.202 require the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Atlantic herring fishery in each of the four management areas designated in the FMP and, based upon dealer reports, state data, and other

available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated to that area. When such a determination is made, NMFS is required to publish notification in the **Federal Register** advising and notifying vessel and dealer permit holders that, effective upon a specific date, vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day from the specified management area for the remainder of the fishing year.

The Regional Administrator has determined, based upon dealer reports and other available information, that 95 percent of the Atlantic herring TAC allocated to Area 1A for the fishing year 2001 has been harvested. Therefore, effective 0001 hrs local time, November 10, 2001, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring harvested from Area 1A per trip or calendar day for the remainder of the 2001 fishery, through December 31, 2001, 2400 hrs local time. The fishing year 2002 TAC for the directed Atlantic herring fishery will open on January 1, 2002. Vessels may transit an area that is limited to the 2,000–lb (907.2–kg) limit with greater than 2,000 lb (907.2 kg) of herring on board, providing all fishing gear is stowed and not available for immediate use as required by § 648.23 (b). A vessel may land in an area that is limited to the 2,000–lb (907.2–kg) limit specified in § 648.202(a) with greater than 2,000 lb (907.2 kg) of herring on board, providing such herring were caught in an area or areas not subject to the 2,000–lb (907.2–kg) limit and providing all fishing gear is stowed and not available for immediate use as required by § 648.23 (b). Effective November 10, 2001, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1A through December 31, 2001, 2400 hrs local time.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: October 31, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–27822 Filed 11–1–01; 3:13 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 215
Tuesday, November 6, 2001

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

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1953

[Docket No. T–035]

RIN 1218–AB 91

Changes to State Plans: Revision of Process for Submission, Review and Approval of State Plan Changes

AGENCY: Occupational Safety and Health Administration (OSHA), Labor

ACTION: Proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is proposing to revise its regulation concerning changes to approved State plans. The proposed rule streamlines the process for submission, review and approval of plan supplements, including changes to occupational safety and health standards, and reorganizes Part 1953 to eliminate repetitive language.

DATES: Comments and requests for hearings must be received no later than January 7, 2002.

ADDRESSES: Written comments or requests for an informal hearing should be submitted to Docket T–035, Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3700, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room, N–3637, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–1999.

SUPPLEMENTARY INFORMATION:

A. Background

Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that States which wish to assume responsibility for developing and enforcing their own occupational safety and health standards relating to any occupational safety or health issues with respect to which a Federal standard has been promulgated may do so by submitting and obtaining Federal approval of a State plan. State plans may be ''complete'' plans covering both the private sector and State and local government employees (see 29 CFR part 1902) or State plans limited in scope to State and local government employees only (see 29 CFR part 1956). A State plan consists of the laws, standards and other regulations, and procedures under which the State operates its occupational safety and health program. From time to time after initial plan approval, States may, and in many cases are required to, make changes to their plans as a result of State and Federal legislative, regulatory or administrative actions. State plans and their subsequent modifications are required to be ''at least as effective as'' the Federal program. (See section 18(c) of the Act, and §§ 1902.2 and 1956.2.) The current regulation requires that if the State makes a change to its plan, either on its own initiative or in response to a change in the Federal program or as a result of program monitoring, the State must notify OSHA of the change, within an established time frame, provide a copy of the implementing documents, and submit a written description of the change, including the identification of and rationale for any differences from the Federal program (referred to as a plan supplement). This is currently required whether the change is identical to the Federal regulation, policy or procedure or if it differs. OSHA then reviews the change; if it meets the approval criteria, OSHA publishes a notice announcing the approval of the change; if it does not meet the criteria OSHA initiates procedures to reject the change. OSHA is proposing to amend its regulations regarding State plan changes to streamline the submission, review and approval process.

B. Proposed Changes

The current regulation requires the submission of a formal written plan supplement even if the State's change to its program is identical to the Federal program component. OSHA is proposing to amend this regulation to provide that States must submit written supplements only when the State change is different from the Federal program. State adoption of a standard, regulation, policy or procedure that is identical to the parallel Federal component, an ''identical change,'' would per se be at least as effective as the Federal program and could not ''pose a burden on interstate commerce'' or otherwise not meet the criteria for approval. (A state submission is considered ''identical'' if the State adopts the same program provisions and documentation as the Federal program with the only differences being those modifications necessary to reflect a State's unique structure (e.g., organizational responsibility within a State and corresponding titles or internal State numbering system).) Therefore, State submission and OSHA review of these changes has been superfluous as there is no issue as to approvability. Under the proposed revisions, States will be required to submit documentation of adoption of the identical Federal change, such as the cover page of an implementing State directive or a notice of State promulgation for inclusion in the State Plan documentation and maintain all other implementing documentation available for review within the State. No formal approval process will be undertaken for such ''identical change.'' However, if a State makes a change to its program which differs from (i.e., is not identical to) the Federal program, the State must notify OSHA of the change, within an established time frame, provide a copy of the implementing documents, and submit a written description of the change, including the identification of and rationale for the differences from the Federal program. OSHA will then review and either approve or reject the plan change.

The proposed amended regulation also streamlines procedures for the review of supplements to State plans and the issuance of advisory opinions. The new procedures were developed through a ''process improvement initiative'' with input from all State and Federal parties involved in the submission, review and approval of plan changes.

The revised regulation would expressly set forth OSHA's longstanding interpretation of the OSH Act to the

effect that states which have submitted and obtained Federal approval of a state plan under 18(b) may adopt modifications to their state plan (such new standards, amendments to state OSHA legislation, or revised enforcement procedures) and may implement these modifications under state law, without prior approval of each particular modification by OSHA. Since the inception of the state plans approval program, OSHA has understood that the Federal approval of a state plan under section 18(b) lifts the barrier of Federal preemption and allows the state to ''adopt and enforce standards'' under state law. Accordingly, OSHA has always viewed its enabling statute as not requiring pre-enforcement Federal approval of new regulations or other requirements issued by states with Federally-approved plans. Instead, OSHA reviews these state standards and regulations after they are enacted, and, if there is reason to believe a particular plan modification fails in some way to meet OSH Act requirements, OSHA regulations provide that OSHA will initiate an adjudicative rejection proceeding, in similar manner to that prescribed by section 18(d) for Federal rejection of a state plan. 29 CFR 1953.23(d)(2). Upon completion of such a rejection proceeding and any judicial review resulting therefrom, the state plan modification would be excluded from the plan and thus subject to preemption, but until the prescribed process for rejection is completed the state's health or safety regulation or other state plan modification would remain enforceable. OSHA's longstanding interpretation that section 18 of its enabling statute does not require pre-enforcement Federal approval for each new safety or health requirement adopted by a state with an approved state plan, is consistent with the wording of that statutory provision (which envisions that states with approved plans will ''adopt and enforce'' their own standards) as well as the Congressional objective set forth in section 2(b)(11) of the Act of ''encouraging the states to assume the fullest responsibility for the administration and enforcement of their own occupational safety and health laws.'' This interpretation has routinely been incorporated in OSHA **Federal Register** notices approving or requesting comment on various state plan modifications (see, e.g, Approval of California State Standard on Hazard Communication Incorporating Proposition 65, (62 FR 31159)), and has been judicially upheld in *Florida Citrus Packers* v. *California,* 549 F. Supp. 213 (N.D. Cal. 1982).

The current regulation provides that the OSHA Regional Administrators, by authority delegated from the Assistant Secretary, review and approve State change supplements involving occupational safety and health standards. The Assistant Secretary retained sole authority for review and approval of change supplements not involving standards. The proposed amended regulation simply states that OSHA will review and approve State plan supplements. Following final promulgation, OSHA will issue appropriate written, publicly available, procedures assigning organizational responsibility for Federal review and approval of State plan supplements. This change will provide the Assistant Secretary with the flexibility to modify the strictly internal review procedures without the need for formal rulemaking. It is OSHA's current intent to assign approval authority for all plan changes, including standards, to Regional Administrators.

The current regulation provides for an opportunity for public comment whenever a plan change differs significantly from the Federal program and the publication of a **Federal Register** notice approving all State plan changes, even those which are identical to a corresponding Federal program component. This proposed rule provides that generally, OSHA will seek public comment if a State plan change differs significantly from the comparable Federal program component and OSHA needs additional information on its compliance with the criteria in section 18(c) of the Act, including whether it is at least as effective as the Federal program and, in the case of a standard applicable to products used or distributed in interstate commerce, whether it is required by compelling local conditions or unduly burdens interstate commerce. After public comments are reviewed, a **Federal Register** notice will be published either approving the state plan modification or announcing OSHA's intention to initiate proceedings to reject it.

The current regulation discusses four types of plan changes (developmental, in response to Federal program changes, as a result of program evaluation, or at the State's initiative), with the submission and review process for each type addressed separately. Because all plan supplements will be subject to the same review and approval process, OSHA reorganized the proposed regulation to first address the submission of each of the four types of plan supplements, followed by one section on the review and approval of all types of supplements.

The current regulation requires States to submit six copies of all plan supplements. This proposal requires states to submit only one copy and provides for the electronic notification and submission of all required documentation.

Conforming technical amendments will also be made to sections in parts 1952, 1954 and 1955 which include references to particular sections in part 1953, to reflect the revisions.

C. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposed revision. These comments must be submitted on or before January 7, 2002, in duplicate to Docket T–035, Docket Office, Room N–2625, U.S. Department of Labor, OSHA, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2350. Comments under 10 pages long may be sent by telefax to the Docket Office at (202) 693–1648, provided that the original and one copy of the comment are sent to the Docket Office immediately thereafter. Electronic comments may be submitted on the Internet at: ecomments.osha.gov but must be followed by a mailed submission in duplicate. Written submissions must clearly identify the issues which are addressed and the position taken with respect to each issue.

D. Paperwork Reduction Act

On September 4, 2001, OSHA published notice in the **Federal Register** (66 FR 46291) providing a 60 day opportunity for public comment on the information collection requirements associated with Federal regulations governing OSHA-approved State plans (29 CFR parts 1902, 1952, 1953, 1954, 1955, 1954). This is part of a pre-clearance process under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), prior to review by the Office of Management and Budget (OMB). The burden associated with the current 1953 regulation was estimated to be 2,360 hours. This reflects the information that the States must provide to OSHA to keep their State plans up-to-date, but not the usual and customary activity associated with program operation, such as promulgation of standards, adoption of regulations, and development of policies. Final action on the proposed regulatory revision covered by today's notice will likely result in a reduction in that burden estimate. At that time, approval of appropriate adjustments to the related

information collection burden hours will be sought.

E. Regulatory Review

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) that the proposed revisions will not have a significant economic impact on a substantial number of small entities. These proposed regulations apply only to certain state agencies and would not place small units of government under any new or different requirements, nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan.

Unfunded Mandates Reform Act

The procedures in 29 CFR part 1953 for submission and approval of plan changes apply only to states which have voluntarily submitted a state plan for OSHA approval under the OSH Act, and accordingly these procedures do not meet the definition of a ''Federal intergovernmental mandate'' under section 421(5) of UMRA (2 U.S.C. 658(5)).

List of Subjects in 29 CFR Part 1953

Intergovernmental relations, Law enforcement, Occupational safety and health, Reporting and recordkeeping requirements.

Authority

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under section 18 of the OSH Act (29 U.S.C. 667), and Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

Signed at Washington, DC this 26th day of October, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

29 CFR Part 1953 would be revised as set forth below:

PART 1953—CHANGES TO STATE PLANS

Sec.

1953.1 Purpose and scope.
1953.2 Definitions.
1953.3 General policies and procedures.
1953.4 Submission of plan supplements.
1953.5 Special provisions for standards changes.
1953.6 Review and approval of plan supplements.

Authority: Sec. 18, 84, Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 3–2000 (65 FR 50017, August 16, 2000).

§ 1953.1 Purpose and scope.

(a) This part implements the provisions of section 18 of the Occupational Safety and Health Act of 1970 (''OSH Act'' or the ''Act'') which provides for State plans for the development and enforcement of State occupational safety and health standards. These plans must meet the criteria in section 18(c) of the Act, and part 1902 of this chapter (for plans covering both private sector and State and local government employers) or part 1956 of this chapter (for plans covering only State and local government employers), either at the time of submission or—where the plan is developmental—within the three year period immediately following commencement of the plan's operation. Approval of a State plan is based on a finding that the State has, or will have, a program, pursuant to appropriate State law, for the adoption and enforcement of State standards that is ''at least as effective'' as the Federal program.

(b) When submitting plans, the States provide assurances that they will continue to meet the requirements in section 18(c) of the Act and part 1902 or part 1956 of this chapter for a program that is ''at least as effective'' as the Federal. Such assurances are a fundamental basis for approval of plans. (See § 1902.3 and § 1956.2 of this chapter.) From time to time after initial plan approval, States will need to make changes to their plans. This part establishes procedures for submission and review of State plan supplements documenting those changes that are necessary to fulfill the State's assurances, the requirements of the Act, and part 1902 or part 1956 of this chapter.

(c) Changes to a plan may be initiated in several ways. In the case of a developmental plan, changes are required to document establishment of those necessary structural program components that were not in place at the time of plan approval. These commitments are included in a developmental schedule approved as part of the initial plan. These ''developmental changes'' must be completed within the three year period immediately following the commencement of operations under the plan. Another circumstance requiring subsequent changes to a State plan would be the need to keep pace with changes to the Federal program, or ''Federal Program Changes.'' A third situation would be changes required as a result of the continuing evaluation of the State program—''evaluation changes.'' Finally, changes to a State program's safety and health requirements or procedures initiated by the State without a Federal parallel could have an impact on the effectiveness of the State program—''State-initiated changes.'' While requirements for submission of a plan supplement to OSHA differ depending on the type of change, all supplements are processed in accordance with the procedures in § 1953.6.

§ 1953.2 Definitions.

(a) *OSHA* means the Assistant Secretary of Labor for Occupational Safety and Health, or any representative authorized to perform any of the functions discussed in this part, as set out in implementing Instructions.

(b) *State* means an authorized representative of the agency designated to administer a State plan under § 1902.3(b) of this chapter.

(c) *Plan change* means any modification made by a State to its approved occupational safety and health State plan which has an impact on the plan's effectiveness.

(d) *Plan supplement* means all documents necessary to accomplish, implement, describe and evaluate the effectiveness of a change to a State plan which differs from the parallel Federal legislation, regulation, policy or procedure. (This would include a copy of the complete legislation, regulation, policy or procedure adopted; an identification of each of the differences; and an explanation of how each provision is at least as effective as the comparable Federal provision.)

(e) *Identical* plan change means one in which the State adopts the same program provisions and documentation as the Federal program with the only differences being those modifications necessary to reflect a State's unique structure (e.g., organizational responsibility within a State and corresponding titles or internal State numbering system). *Different plan change* means one in which the State adopts program provisions and documentation that are not identical as defined in this paragraph.

(g) *Developmental change* is a change made to a State plan which documents the completion of a program component which was not fully developed at the time of initial plan approval.

(h) *Federal program change* is a change made to a State plan when OSHA determines that an alteration in the Federal program could render a State program less effective than OSHA's if it is not similarly modified.

(i) *Evaluation change* is a change made to a State plan when evaluations of a State program show that some substantive aspect of a State plan has an adverse impact on the implementation of the State's program and needs revision.

(j) *State-initiated change* is a change made to a State plan which is undertaken at a State's option and is not necessitated by Federal requirements.

§ 1953.3 General policies and procedures.

(a) *Effectiveness of State plan changes under State law.* Federal OSHA approval of a State plan under section 18(b) of the OSH Act in effect removes the barrier of Federal preemption, and permits the state to adopt and enforce state standards and other requirements regarding occupational safety or health issues regulated by OSHA. A State with an approved plan may modify or supplement the requirements contained in its plan, and may implement such requirements under State law, without prior approval of the plan change by Federal OSHA. Changes to approved state plans are subject to subsequent OSHA review. If OSHA finds reason to reject a State plan change, and this determination is upheld after an adjudicatory proceeding, the plan change would then be excluded from the State's Federally-approved plan.

(b) *Required State plan notifications and supplements.* Whenever a State makes a change to its legislation, regulations, standards, or major changes to policies or procedures, which affect the operation of the State plan, the State shall provide written notification to OSHA. When the change differs from a corresponding Federal program component, the State shall submit a formal, written plan supplement. When the State adopts a provision which is identical to a corresponding Federal provision, written notification, but no formal plan supplement, is required. However, the State is expected to maintain the necessary underlying State document (e.g., legislation or standard) and to make it available for review upon request. Submission of all notifications and supplements may be in electronic format.

(c) *Plan supplement availability.* Copies of all principal documents comprising the State plan, whether approved or pending approval, shall be available for inspection and copying at the Federal and State locations specified in the subpart of part 1952 of this chapter relating to each State plan. The underlying documentation for identical plan changes shall be maintained by the State and shall similarly be available for inspection and copying at the State locations. Annually, States shall submit updated copies of the principal documents comprising the plan, or appropriate page changes, to the extent that these documents have been revised. To the extent possible, plan documents will be maintained and submitted by the State in electronic format and also made available in such manner.

(d) *Advisory opinions.* Upon State request, OSHA may issue an advisory opinion on the approvability of a proposed change which differs from the Federal program prior to promulgation or adoption by the State and submission as a formal supplement.

(e) *Alternative procedures.* Upon reasonable notice to interested persons, the Assistant Secretary may prescribe additional or alternative procedures in order to expedite the review process or for any other good cause which may be consistent with the applicable laws.

§ 1953.4 Submission of plan supplements.

(a) *Developmental changes.*

(1) Sections 1902.2(b) and 1956.2(b) of this chapter require that each State with a developmental plan must set forth in its plan, as developmental steps, those changes which must be made to its initially-approved plan for its program to be at least as effective as the Federal program and a timetable for making these changes. The State must notify OSHA of a developmental change when it completes a developmental step or fails to meet any developmental step.

(2) If the completion of a developmental step is the adoption of a program component which is identical to the Federal program component, the State need only submit documentation, such as the cover page of an implementing directive or a notice of promulgation, that it has adopted the program component, but must make the underlying documentation available for Federal and public review upon request.

(3) If the completion of a developmental step involves the adoption of policies or procedures which differ from the Federal program, the State must submit one copy of the required plan supplement.

(4) When a developmental step is missed, the State must submit a supplement which documents the impact on the program of the failure to complete the developmental step, an explanation of why the step was not completed on time and a revised timetable with a new completion date (generally not to exceed 90 days) and any other actions necessary to ensure completion. Where the State has an operational status agreement with OSHA under § 1954.3 of this chapter, the State must provide an assurance that the missed step will not affect the effectiveness of State enforcement in any issues for which the State program has been deemed to be operational.

(5) If the State fails to submit the required documentation or supplement, as provided in § 1953.4(a)(2), (3) or (4) above, when the developmental step is scheduled for completion, OSHA shall notify the State that documentation or a supplement is required and set a timetable for submission of any required documentation or supplement, generally not to exceed 90 days.

(b) *Federal Program changes.*

(1) When a significant change in the Federal program would have an adverse impact on the ''at least as effective'' status of the State program if a parallel state program modification were not made, State adoption of a change in response to the Federal program change shall be required. A Federal program change that would not result in any diminution of the effectiveness of a State plan compared to Federal OSHA generally would not require adoption by the State.

(2) Examples of significant changes to the Federal program that would normally require a State response would include a change in the Act, promulgation or revision of OSHA standards or regulations, or changes in policy or procedure of national importance. A Federal program change that only establishes procedures necessary to implement a new or established policy, standard or regulation does not require a State response, although the State would be expected to establish policies and procedures which are ''at least as effective,'' which must be available for review on request.

(3) When there is a change in the Federal program which requires State action, OSHA shall advise the States. This notification shall also contain a date by which States must submit either a supplement if they adopt a change which differs from the Federal change, or documentation of adoption of a program component identical to the Federal program component, or, as explained in paragraph (b)(5) of this section, a statement why a program change is not necessary. This date will generally be six months from the date of notification, except where the Assistant Secretary determines that the nature or scope of the change requires a different time frame, for example, a change requiring legislative action where a State has a biennial legislature or a policy of major national implications requiring a shorter implementing time frame. State notification of intent may

be required prior to the plan supplement submission.

(4) If the State change is different from the Federal program change, the State shall submit one copy of the required supplement. The supplement shall contain a copy of the relevant legislation, regulation, policy or procedure and documentation on how the change maintains the ''at least as effective as'' status of the plan.

(5) If the State adopts a change identical to the Federal program change, the State is not required to submit a supplement. However, the State shall provide documentation, such as the cover page of an implementing directive or a notice of promulgation, that it has adopted the change.

(6) The State may demonstrate why a program change is not necessary because the State program is already the same as or at least as effective as the Federal program change. Such submissions will require review and approval as set forth in § 1953.6.

(7) Where there is a change in the Federal program which does not require State action but is of sufficient national interest to warrant indication of State intent, the State may be required to provide such notification within a specified time frame.

(c) *Evaluation changes.*

(1) Special and periodic evaluations of a State program by OSHA in cooperation with the State may show that some portion of a State plan has an adverse impact on the effectiveness of the State program and accordingly requires modification to the State's underlying legislation, regulations, policy or procedures as an evaluation change. For example, OSHA could find that additional legislative or regulatory authority may be necessary to effectively pursue the State's right of entry into workplaces, or to assure various employee or employer rights.

(2) OSHA shall advise the State of any evaluation findings that require a change to the State plan and the reasons supporting this decision. This notification shall also contain a date by which the State must accomplish this change and submit either the change supplement or a timetable for its accomplishment and interim steps to assure continued program effectiveness, documentation of adoption of a program component identical to the Federal program component, or, as explained in paragraph (c)(5) of this section, a statement demonstrating why a program change is not necessary.

(3) If the State adopts a program component which differs from a corresponding Federal program component, the State shall submit one copy of a required supplement. The supplement shall contain a copy of the relevant legislation, regulation, policy or procedure and documentation on how the change maintains the ''at least as effective as'' status of the plan.

(4) If the State adopts a program component identical to a Federal program component, submission of a supplement is not required. However, the State shall provide documentation, such as the cover page of an implementing directive or a notice of promulgation, that it has adopted the change and shall retain all other documentation within the State available for review upon request.

(5) The State may demonstrate why a program change is not necessary because the State program is meeting the requirements for an ''at least as effective'' program. Such submission will require review and approval as set forth in § 1953.6.

(d) *State-initiated changes.*

(1) A State-initiated change is any change to the State plan which is undertaken at a State's option and is not necessitated by Federal requirements. State-initiated changes may include legislative, regulatory administrative, policy or procedural changes which impact on the effectiveness of the State program.

(2) A State-initiated change supplement is required whenever the State takes an action not otherwise covered by this part that would impact on the effectiveness of the State program. The State shall notify OSHA as soon as it becomes aware of any change which could affect the State's ability to meet the approval criteria in parts 1902 and 1956 of this chapter and submit a supplement within 60 days. Other State initiated supplements may be submitted at any time generally not to exceed 6 months after the change occurred. The State supplement shall contain a copy of the relevant legislation, regulation, policy or procedure and documentation on how the change maintains the ''at least as effective as'' status of the plan. If the State fails to notify OSHA of the change or fails to submit the required supplement within the specified time period, OSHA shall notify the State that a supplement is required and set a time period for submission of the supplement, generally not to exceed 30 days.

§ 1953.5 Special provisions for standards changes.

(a) *Permanent standards.*

(1) Where a Federal program change is a new permanent standard, or a more stringent amendment to an existing permanent standard, the State shall promulgate a State standard adopting such new Federal standard, or more stringent amendment to an existing Federal standard, or an at least as effective equivalent thereof, within six months of the date of promulgation of the new Federal standard or more stringent amendment. The State may demonstrate that a standard change is not necessary because the State standard is already the same as or at least as effective as the Federal standard change. In order to avoid delays in worker protection, the effective date of the State standard and any of its delayed provisions must be the date of State promulgation or the Federal effective date whichever is later. The Assistant Secretary may permit a longer time period if the State makes a timely demonstration that good cause exists for extending the time limitation. State permanent standards adopted in response to a new or revised Federal standard shall be submitted as a State plan supplement in accordance with § 1953.4(b), Federal Program changes.

(2) Because a State may include standards and standards provisions in addition to Federal standards within an issue covered by an approved plan, it would generally be unnecessary for a State to revoke a standard when the comparable Federal standard is revoked or made less stringent. If the State does not adopt the Federal action, it need only provide notification of its intent to retain the existing State standard to OSHA within 6 months of the Federal promulgation date. If the State adopts a change to its standard parallel to the Federal action, it shall submit the appropriate documentation as provided in § 1953.4(b)(3) or (4)—Federal program changes. However, in the case of standards applicable to products used or distributed in interstate commerce where section 18(c)(2) of the Act imposes certain restrictions on State plan authority, the modification, revision, or revocation of the Federal standard may necessitate the modification, revision, or revocation of the comparable State standard unless the State standard is required by compelling local conditions and does not unduly burden interstate commerce.

(3) Where a State on its own initiative adopts a permanent State standard for which there is no Federal parallel, the State shall submit it in accordance with § 1953.4(d)—State-initiated changes.

(b) Emergency temporary standards.

(1) Immediately upon publication of an emergency temporary standard in the **Federal Register**, OSHA shall advise the States of the standard and that a Federal program change supplement shall be required. This notification must also

provide that the State has 30 days after the date of promulgation of the Federal standard to adopt a State emergency temporary standard if the State plan covers that issue. The State may demonstrate that promulgation of an emergency temporary standard is not necessary because the State standard is already the same as or at least as effective as the Federal standard change. The State standard must remain in effect for the duration of the Federal emergency temporary standard which may not exceed six (6) months.

(2) Within 15 days after receipt of the notice of a Federal emergency temporary standard, the State shall advise OSHA of the action it will take. State standards shall be submitted in accordance with the applicable procedures in § 1953.4(b)—Federal Program Changes, except that the required documentation or plan supplement must be submitted within 5 days of State promulgation.

(3) If for any reason, a State on its own initiative adopts a State emergency temporary standard, it shall be submitted as a plan supplement in accordance with § 1953.4(c), but within 10 days of promulgation.

§ 1953.6 Review and approval of plan supplements.

(a) OSHA shall review a supplement to determine whether it is at least as effective as the Federal program and meets the criteria in the Act and implementing regulations and the assurances in the State plan. If the review reveals any defect in the supplement, or if more information is needed, OSHA shall offer assistance to the State and shall provide the State an opportunity to clarify or correct the change.

(b) If upon review, OSHA determines that the differences from a corresponding Federal component are purely editorial and do not change the substance of the policy or requirements on employers, it shall deem the change identical. This includes ''plain language'' rewrites of new Federal standards or previously approved State standards which do not change the meaning or requirements of the standard. OSHA will inform the State of this determination. No further review or **Federal Register** publication is required.

(c) Federal OSHA may seek public comment during its review of plan supplements. Generally, OSHA will seek public comment if a State program component differs significantly from the comparable Federal program component and OSHA needs additional information on its compliance with the criteria in section 18(c) of the Act, including whether it is at least as effective as the Federal program and in the case of a standard applicable to products used or distributed in interstate commerce, whether it is required by compelling local conditions or unduly burdens interstate commerce under section 18(c)(2) of the Act.

(d) If the plan change meets the approval criteria, OSHA shall approve it and shall thereafter publish a **Federal Register** notice announcing the approval. OSHA reserves the right to reconsider its decision should subsequent information be brought to its attention.

(e) If a State fails to submit a required supplement or if examination discloses cause for rejecting a submitted supplement, OSHA shall provide the State a reasonable time, generally not to exceed 30 days, to submit a revised supplement or to show cause why a proceeding should not be commenced either for rejection of the supplement or for failure to adopt the change in accordance with the procedures in § 1902.17 or part 1955 of this chapter.

[FR Doc. 01–27728 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–26–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket Nos. 00–258 and 95–18, IB Docket No. 99–81; DA 01–2533]

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 reply comment period.

SUMMARY: In this document, the Commission extends the period for 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 reply 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: Reply Comments are due on or before November 8, 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 Reply Comment Period in ET Docket Nos. 00–258 and 95–18, and IB Docket No. 99–81, DA 01–2533, adopted October 30, 2001, and released October 30, 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 reply comment period established in the Order Extending Comment Period, in this proceeding (*See* Further Notice of Proposed Rulemaking at 66 FR 47618, September 13, 2001, and Order Extending Comment Period at 66 FR 51905, October 11, 2001) from November 5, 2001, to November 8, 2001.

Ordering Clause

2. Pursuant to section 1.46 of the Commission's Rules, 47 CFR 1.46, the October 26, 2001, request of CTIA to extend the deadline for filing reply comment in this proceeding is granted.

3. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's Rules, 47 CFR 0.131, 0.331.

Federal Communications Commission.

Thomas J. Navin,

Deputy Chief, Policy Division, Wireless Telecommunications Bureau.

[FR Doc. 01–27783 Filed 11–5–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–2001–10053–Notice 2]

RIN 2127–AI65

Consumer Information; Safety Rating Program for Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Section 14(g) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act requires that, by November 2001, a notice of proposed rulemaking be issued to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraint systems (CRS). In response to this mandate, NHTSA is proposing to establish such a program. The program would not impose any binding legal obligations on any child restraint manufacturer regarding the generation or distribution of information.

The details of the new program are set forth in a companion request for comments being published today in the **Federal Register**. In developing the program, NHTSA reviewed existing rating systems that other countries and organizations have developed, and conducted its own performance testing to explore a possible rating system for child restraints. In the request for comments, the agency has tentatively concluded that the most effective consumer information system is one that gives the consumer a combination of information about child restraints' ease of use and dynamic performance, with the dynamic performance obtained through higher-speed sled testing and/or in-vehicle NCAP testing. The agency is also giving consideration to conducting *both* higher-speed sled tests and in-vehicle NCAP testing in conjunction with the ease of use rating. That document provides a review of the information and reasoning used by the agency to reach that conclusion, describes the rating systems planned to meet the TREAD requirements, and seeks comment on this program.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than January 7, 2002.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For issues related to a performance rating, you may call Brian Park of the New Car Assessment Program (NPS–10) at 202–366–6012.

For issues related to a compatibility/ease of use rating, you may call Lori Miller of the Office of Traffic Safety Programs (NTS–12) at 202–366–9835.

You may send mail to both officials at National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Congress has directed the National Highway Traffic Safety Administration (NHTSA) to develop a child restraint safety rating system that is practicable and understandable (Section 14 (g) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, November 1, 2000, Pub. L. 106–414, 114 Stat. 1800) and that will help consumers to make informed decisions when purchasing child restraints. Section 14(g) reads as follows:

> (g) Child restraint safety rating program. No later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a notice of proposed rulemaking to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraints. No later than 24 months after the date of the enactment of this Act the Secretary shall issue a final rule establishing a child restraint safety rating program and providing other consumer information which the Secretary determines would be useful (to) consumers who purchase child restraint systems.

NHTSA notes that issuing requests for comments is the procedure that the agency has consistently used over the last several decades to provide for public participation in the development and selection of the performance criteria and test protocols to be used by the agency in generating consumer information. The agency selected this procedure, instead of the more formal step of issuing an NPRM, because establishing the various aspects of its consumer information program did not involve imposing any binding legal obligations on any party to generate or distribute any of the information. Since the performance criteria and test protocols are not binding, NHTSA does not place them in the Code of Federal Regulations when they are adopted. The most recent example of the agency's use of a request for comments in connection with a consumer information program is the one that the agency published to obtain comments on a draft test protocol to expand the New Car Assessment Program (NCAP) to provide brake performance information (July 17, 2001; 66 FR 37253). Several weeks earlier, the agency published a request for comments on developing a dynamic test on rollover pursuant to section 12 of the TREAD Act (July 3, 2001; 66 FR 37179). Unlike section 14(g), section 12 does not require the issuance of an NPRM to obtain public comment.

Nevertheless, to comply with the specific language of the TREAD Act, NHTSA is issuing this NPRM and a companion request for comments. In this NPRM, the agency proposes to establish a child restraint rating program. In the request for comments, the agency solicits comments on the details of that program. In developing the program, NHTSA reviewed existing rating systems that other countries and organizations have developed, and conducted its own performance testing to explore a possible rating system for child restraints. In the request for comments, the agency has tentatively concluded that the most effective consumer information system is one that gives the consumer a combination of information about child restraints' ease of use and dynamic performance, with the dynamic performance obtained through higher-speed sled testing and/or in-vehicle NCAP testing. The agency is also giving consideration to conducting *both* higher-speed sled tests and in-vehicle NCAP testing in conjunction with the ease of use rating. That document provides a review of the information and reasoning used by the agency to reach that conclusion, describes the rating systems planned to meet the TREAD requirements, and seeks comment on this program.

Submission of 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 address given above 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 above 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 above 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 above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

I. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

II. On that page, click on ''search.''

III. On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1999–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

IV. On the next page, which contains docket summary information for the docket you selected, click on the desired comments.

You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not 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 check the Docket for new material.

IX. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This document was not reviewed under Executive Order 12866. Since this NPRM would not establish a rule imposing binding legal obligations on any party, it does not involve a significant rule within the meaning of that Executive Order or the Department of Transportation's Regulatory Policies and Procedures. Further, preparation of a full regulatory evaluation is not required under these circumstances. As noted above, NHTSA is issuing this NPRM and a companion request for comments, instead of a request for comments alone, because section 14(g) of the TREAD Act expressly requires the issuance of an NPRM.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). 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)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this NPRM under the Regulatory Flexibility Act. For the reasons noted above in the section on Executive Order 12866 and DOT Regulatory Policies and Procedures, I certify that this NPRM does not involve a rule that would have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this NPRM does not involve a rule that would have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local

governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the regulation.

The agency has analyzed this NPRM in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it does not involve a rule that would have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The NPRM would not have any 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. Civil Justice Reform

This NPRM does not involve a rule that would 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.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This NPRM does not involve a rule that would require any collection of information.

G. 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 NHTSA 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 NHTSA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. The NTTAA does not apply to symbols.

The NTTAA does not apply to this NPRM since it does not involve regulatory activities. The NPRM would not impose binding legal obligations on any party.

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal 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 in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This NPRM would not require any expenditures by State, local, or tribal governments, or by private parties.

I. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 575

Consumer information, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 575 would be amended as follows:

PART 575—CONSUMER INFORMATION

1. The heading for part 575 would be revised to read as set forth above.

2. The authority citation for part 575 would be revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166 and Pub.L. 106–414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

3. The heading for subpart A would be revised to read as follows:

Subpart A—Regulations; General

4. The heading for subpart B would be revised to read as follows:

Subpart B—Regulations; Consumer Information Items

5. Subpart C would be added to read as follows:

Subpart C—Transportation Recall Enhancement, Accountability, and Documentation Act; Consumer Information

§ 575.201 Child restraint performance.

The National Highway Traffic Safety Administration has established a program for rating the performance of child restraints. The agency makes the information developed under this rating program available through a variety of means, including postings on its Web site, *www.nhtsa.dot.gov.*

Dated: October 29, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–27546 Filed 10–31–01; 9:54 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011005245–1245–01; I.D. 092401C]

RIN 0648–AP37

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Correction

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

ACTION: Proposed 2002 specifications for the Atlantic herring fishery; correction.

SUMMARY: This document corrects the information provided in the proposed specifications for the 2002 Atlantic herring fishery published in the **Federal Register** on October 29, 2001. This action is necessary because comments on the proposed specifications should be submitted to the Administrator, Northeast Region, NMFS (Regional Administrator), in a timely manner.

DATES: Comments must be received no later than 5 p.m., Eastern Standard Time, on November 28, 2001.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, (978) 281–9104.

SUPPLEMENTARY INFORMATION: NMFS published proposed specifications for the 2002 Atlantic herring fishery on October 29, 2001 (66 FR 54498). The **ADDRESSES** section of the proposed specifications indicated that comments on the proposed specifications should be sent to the Regional Administrator ''at the above address''. However, the address for the Regional Administrator was not provided. Therefore, this document corrects the **ADDRESSES** section of the proposed specifications by providing the mailing address for the Regional Administrator.

Correction

Accordingly, the publication on October 29, 2001, of the proposed 2002 specifications for the Atlantic herring fishery (I.D. 092401C), which was the subject of FR Doc. 01–27168, is corrected as follows:

On page 54498, in the third column, first full paragraph, third and fourth lines down remove, ''Regional Administrator at the above address.'', and in its place add, ''Pat Kurkul, Regional Administrator, NMFS, One Blackburn Drive, Gloucester, MA 01930.''

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

Dated: November 1, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–27851 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 215

Tuesday, November 6, 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

Forest Service

Gotchen Risk Reduction and Late-Successional Health Restoration, Gifford Pinchot National Forest, Skamania and Yakima Counties, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to determine appropriate actions to reduce the risk of losing late-successional habitat to fire, and insect and disease-related mortality; and to maintain or restore late-successional vigor, function and resiliency within the Gotchen landscape. The analysis will determine the best combination and placement of a variety of actions including silvicultural, limited aerial application of Btk spray (an insecticide), prescribed fire, road closures, and road decommissioning. These actions are to accomplish the following needs in the Gotchen planning area: reduce the risk of high intensity fires; reduce the risk-level of spruce budworm activity in late successional habitat; reduce the risk of remnant tree mortality; restore late-successional vigor, function, and resiliency; thinning live trees from overstocked stands less than 80 years old; salvage dead trees in stands greater than 10 acres in the Late Successional Reserve (LSR); regenerate dead and dying stands within the Matrix. The Gotchen landscape is comprised of the lands designated as the LSR and to its immediate south, Matrix. Both are interspersed with Riparian Reserves. These land allocations are described in the *Gifford Pinchot National Forest Land and Resource Management Plan* (1990) as amended by the *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (1994)—''Northwest Forest Plan''. Due to the extensive presence of insect and disease-susceptible tree species such as grand fir, the forests within the Gotchen landscape are in poor health and at risk of being consumed by high intensity, stand-replacing fires. The insect problems are from an ongoing epidemic infestation of the western spruce budworm, a well-known forest pest that has defoliated extensive areas of coniferous forest throughout the Gotchen planning area and adjacent National Forest System and non-federal lands. These defoliated and dead trees contribute to an increasing fire hazard throughout the Gotchen landscape and threaten the vigor, function, and resiliency of the late-successional habitat. Northern spotted owl habitat within the LSR is currently being lost due to insect and disease-related tree mortality.

DATES: Comments concerning issues and scope of this analysis should be received by November 30, 2001.

ADDRESSES: Send comments via post mail to the Gotchen Planning Team, Mount Adams Ranger District, 2455 Highway 141, Trout Lake, Washington 98650 or send comments via e-mail to *r6_gp_forest@fs.fed.us* Subject: Gotchen EIS.

FOR FURTHER INFORMATION CONTACT: Call Julie Knutson at (509) 395–3378, or e-mail: *jcknutson@fs.fed.us.*

SUPPLEMENTARY INFORMATION: A primary purpose of the LSR is to provide habitat for late-successional forest habitat dependant species such as the northern spotted owl. The northern spotted owl is listed as a ''threatened'' species under the Endangered Species Act. The Matrix is the portion of the National Forest that the Northwest Forest Plan allows to be managed for early successional habitat and commodity production, as well as provided connectivity and structural elements important to late-successional species. The Gotchen planning area is to the east of the Cascades in an area that had a mosaic of pine savannah and closed forest, at the time of European settlement. Today, the area is more uniformly forested and has supported up to six nesting pair of spotted owls. Although a century of fire suppression and selective harvest has led to the conditions that are now attractive to spotted owls, these practices contributed to development of an unstable landscape that is vulnerable to defoliation and mortality from insects, diseases, and high intensity fires. The attributes that make the area good late successional habitat are the same attributes that make the area vulnerable to budworm, root diseases, and ultimately, stand replacement fires.

Several issues associated the potential treatments have been identified to date: (1) *Mardon skipper butterfly:* which is currently listed by the State of Washington as an endangered species, and is a candidate species for federal listing under the Endangered Species Act. Aerial application of the pesticide Btk to suppress spruce budworm would kill all lepidopteron (moths and butterflies) that came in contact with the insecticide, including the mardon skipper. (2) *Smoke management:* The Gotchen area is on the south slope of Mt. Adams, immediately adjacent to the Mt. Adams Wilderness Area. This area is a Class I Airshed where, under the Clean Air Act, there is a need to keep the air clean and pristine. Prescribed burning would generate smoke and has the potential to drift into the Wilderness area and degrade the air quality. (3) *Gotchen Roadless Area:* Portions of the Gotchen Roadless Area lie within the planning area. It is possible that Silvicultural treatment could be proposed within the Roadless Area.

Several scoping notices have been sent out locally over the past year indicating the District's intent to plan and implement actions in the Gotchen landscape to address the forest health and risk concerns. Continued scoping and public participation efforts will be used by the interdisciplinary planning team to identify new issues, develop alternatives in response to the issues, and determine the level of analysis needed to disclose potential biological, physical, economic and social impacts associated with the project. The specific need and format for meetings and workshops will be determined by the comments received from this notice, and responses by individuals and organizations. This Notice and subsequent scoping notices will satisfy the requirements under 36 CFR 800.2(d) for seeking the views of the public on the potential effects of an undertaking on historic properties. A web site will be established in the near future on the Gifford Pinchot National Forest World Wide Web to enable interested parties to

access project information directly. The Forest Service is seeking information, comments, and assistance from other agencies, organizations or individuals who may be interested in or affected by the proposed project.

Comments received in response to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 4 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in February 2002. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final EIS is anticipated to be completed by July, 2002. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period on the draft EIS. Gregory L. Cox, Mount Adams District Ranger, is the Responsible Official. He will decide, which, if any, of the proposed project alternatives will be implemented. His decision and reasons for the decision will be documented in the Record of Decision, which will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: October 30, 2001.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 01–27778 Filed 11–5–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meeting:

Name: Grain Inspection Advisory Committee.

Date: December 4–5, 2001.

Place: Hilton Chicago Hotel, 720 South Michigan Avenue, Chicago, Illinois 60605.

Time: 7:30 a.m.–5 p.m. on December 4 and 7:30 a.m.–11:30 a.m. on December 5, 2001.

Purpose: To provide advice to the Administrator of the Grain Inspection, Packers and Stockyards Administration (GIPSA) with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*).

The agenda includes an overview of GIPSA's financial status, a panel discussion on the evolving bulk and value-enhanced commodity markets, and updates on biotechnology, policies, and procedures, and other related issues concerning the delivery of grain inspection and weighing services to American agriculture.

Public participation will be limited to written statements, unless permission is received from the Committee Chairman to orally address the Committee. Persons, other than members, who wish to address the Committee or submit written statements before or after the meeting, should contact the Administrator, GIPSA, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 3601, Washington, DC 20250–3601, telephone (202) 720–0219 or FAX (202) 205–9237.

The meeting will be open to the public. Persons with disabilities who require alternative means of communication of program information or related accommodation should contact Marianne Plaus, telephone (202) 690–3460 or FAX (202) 205–9237.

Dated: October 31, 2001.

David R. Shipman,

Acting Administrator.

[FR Doc. 01–27718 Filed 11–5–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–852]

Creatine Monohydrate From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is currently conducting an administrative review of the antidumping duty order on creatine monohydrate from the People's Republic of China. The period of review is July 30, 1999 through January 31, 2001. This review covers imports of subject merchandise from one producer/exporter.

We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of review, we will instruct the Customs Service to assess antidumping duties based on the difference between the U.S. price and normal value.

We invite interested parties to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Blanche Ziv or Annika O'Hara, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4207, (202) 482–3798, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are 19 CFR part 351 (April 2001).

Background

On February 4, 2000, the Department published an antidumping order on creatine monohydrate from the People's Republic of China (''PRC''). *See Notice of Antidumping Duty Order: Creatine Monohydrate from the People's Republic of China*, 65 FR 5583 (February 4, 2000). On February 14, 2001, the Department published in the **Federal Register** an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 66 FR 10269 (February 14, 2001).

On February 23, 2001, in accordance with 19 CFR 351.213(b), a manufacturer/exporter of the subject merchandise, Blue Science International Trading (Shanghai) Co., Ltd. (''Blue Science''), requested that the Department conduct an administrative review of this order. On March 22, 2001, we published a notice of initiation of this review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 66 FR 16037 (March 22, 2001). The period of this review (''POR'') is July 30, 1999 through January 31, 2001.

On March 27, 2001, we issued a questionnaire to Blue Science. We issued a supplemental questionnaire on July 19, 2001. We received responses to the original and supplemental questionnaires on May 24 and August 24, 2001, respectively.

Scope of the Review

Imports covered by this review are creatine monohydrate, which is commonly referred to as ''creatine.'' The chemical name for creatine monohydrate is N-(aminoiminomethyl)-N-methylgycine monohydrate. The Chemical Abstracts Service (''CAS'') registry number for this product is 6020–87–7. Creatine monohydrate in its pure form is a white, tasteless, odorless powder, that is a naturally occurring metabolite found in muscle tissue. Creatine monohydrate is provided for in subheading 2925.20.90 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading and the CAS registry number are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Separate Rates

It is the Department's standard policy to assign all exporters of the merchandise subject to review in nonmarket economy (''NME'') countries a single rate unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*''Sparklers''*), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1944) (*''Silicon Carbide''*).

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

A *de facto* analysis of absence of government control over exports is based on four factors—whether the respondent: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587; *see also Sparklers*, 56 FR at 20589.

In the *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China* 64 FR 71104 (December 20, 1999) (''*LTFV Investigation*''), we determined that there was *de jure* and *de facto* absence of government control of each company's export activities and determined that each company warranted a company-specific dumping margin. For the POR, Blue Science responded to the Department's request for information regarding separate rates. We have found that the evidence on the record is consistent with the final determination in the *LTFV Investigation* and Blue Science continues to demonstrate an absence of government control, both in law and in fact, with respect to its exports, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.*

Export Price

For U.S. sales made by Blue Science, we calculated an export price, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated purchasers in the United States prior to importation into the United States and the facts did not otherwise warrant use of constructed value export price.

For these sales, we calculated export price based on the price to unaffiliated purchasers.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the normal value (''NV'') using a factors-of-production methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value (''CV'') under section 773(a) of the Act.

The Department has treated the PRC as an NME country in all previous antidumping cases. Furthermore, available information does not permit the calculation of NV using home market prices, third country prices, or CV under section 773(a) of the Act. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. The party in this proceeding has not contested such treatment in this review. Therefore, we treated the PRC as an NME country for purposes of this review and calculated NV by valuing the factors of production in a surrogate country.

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market

economy countries that: (1) are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development (*see* Memorandum from Jeff May, Director, Office of Policy, to Susan Kuhbach, Senior Director, AD/CVD Enforcement, Office 1, July 30, 2001). According to the available information on the record, we have determined that India is a significant producer of comparable merchandise. Although we have no information to indicate that India produces creatine, it does produce other products within the same customs heading, and it produces other fine chemicals with nutritional characteristics. Accordingly, we have calculated NV using Indian values for the PRC producer's factors of production. We have obtained and relied upon publicly available information wherever possible.

Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC which produced creatine for Blue Science during the POR. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian values.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For the distances reported, we added to Indian CIF surrogate values a surrogate freight cost using the reported distances from the PRC port to the PRC factory, or from the domestic supplier to the factory. This adjustment is in accordance with the United States Court of Appeals for the Federal Circuit's (''CAFC'') decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1807–1908 (Fed. Cir. 1997). For those values not contemporaneous with the POR and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics.*

Many of the inputs in the production of creatine are considered business proprietary data by the respondent. Due to the proprietary nature of this data, we are unable to discuss many of the inputs in this preliminary results notice. For a complete analysis of surrogate values, see the memorandum from the Team to the file (''Factors of Production Memorandum''), dated October 31, 2001.

We valued labor using the method described in 19 CFR 351.408(c)(3).

Consistent with our approach in *Manganese Metal from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 66 FR 15076 (March 15, 2001) (''*Manganese Metal*''), we calculated our surrogate value for electricity based on electricity rate data from the *Energy Data Directory & Yearbook*, (1999/2000) published by Tata Energy Research Institute. We based the value of diesel on prices reported by the International Energy Agency (''IEA''), 1st quarter 2000.

We based our calculation of factory overhead, SG&A, and profit on the financial statements of Sanderson Industries, Ltd. (''Sanderson''), an Indian chemical producer. The products produced by Sanderson appear to be manufactured using bulk chemical processes, similar to the processes used by the PRC creatine producers. These were the same values used in the *LTFV Investigation.*

To value truck freight rates, we used a 2000 rate from a quote from an Indian trucking company.

For packing materials we used import values from the *Monthly Foreign Trade Statistics of India; Volume II Imports.*

Preliminary Results of the Review

We preliminarily find the weighted average dumping margin for Blue Science for the period July 30, 1999, through January 31, 2001 to be 8.13 percent.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). Any hearing, if requested, will be held approximately 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. The Department will issue a notice of final results of this administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to the Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

Cash Deposit Requirements

To calculate the cash-deposit rate for the company included in this administrative review, we divided the total dumping margins for the company by the total net value of the company's sales during the review period.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of creatine entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for Blue Science will be the rate established in the final results of this administrative review; (2) for a company previously found to be entitled to a separate rate and for which no review was requested, the cash deposit rate will be the rate established in the most recent review of that company; (3) the cash deposit rate for all other PRC exporters will be 153.70 percent, the PRC-wide rate established in the *LTFV investigation*; and (4) the cash deposit rate for a non-PRC exporter of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These cash requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding

the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 31, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–27857 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–803]

Cut-to-Length Carbon Steel Plate From Romania; Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Rescission of the Antidumping Duty Administrative Review.

SUMMARY: On October 1, 2001, in response to a request made by Sidex S.A. (Sidex), the Department of Commerce (the Department) published a notice of initiation of antidumping duty administrative review of cut-to-length carbon steel plate from Romania, for the period August 1, 2000 through July 31, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 49924 (October 1, 2001). Because Sidex has timely withdrawn the only request for review, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2924 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Background

On August 19, 1993 the Department published the antidumping duty order on cut-to-length carbon steel plate from Romania. *See Antidumping Duty Order: Certain Cut-to-Length Carbon Steel Plate from Romania*, 58 FR 44167 (August 19, 1993). On August 1, 2001, the Department published a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order for the period August 1, 2000 through July 31, 2001. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 66 FR 39729 (August 1, 2001). On August 31, 2001, Sidex, a producer of the subject merchandise, requested that the Department conduct an administrative review for the period August 1, 2000 through July 31, 2001. There were no other requests for review. On October 1, 2001, the Department published a notice of initiation of antidumping duty administrative review of cut-to-length carbon steel plate from Romania, in accordance with 19 CFR 351.221(c)(1)(i). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 49924 (October 1, 2001). On October 10, 2001, Sidex withdrew its request for review.

Rescission of Review

The Department's regulations provide that the Department will rescind an administrative review ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' *See* 19 CFR 351.213(d)(1). Sidex's withdrawal of their request for review was within the 90-day time limit. As a result of the withdrawal of the request for review and because the Department received no other requests for review, the Department is rescinding the administrative review for the period August 1, 2000 through July 31, 2001, and will issue appropriate assessment instructions to the U.S. Customs Service.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: October 30, 2001.

Edward C. Yang,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–27858 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Extruded Rubber Thread From Malaysia; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by the petitioner, the Department of Commerce is conducting an administrative review of the antidumping duty order on extruded rubber thread from Malaysia. This review covers three manufacturers/exporters of the subject merchandise to the United States (Filati Lastex Sdn. Bhd., Heveafil Sdn. Bhd./Filmax Sdn. Bhd., Inc., and Rubberflex Sdn. Bhd.). This is the eighth period of review, covering October 1, 1999, through September 30, 2000.

We have preliminarily determined that sales have been made below the normal value by each of the three companies subject to this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0656 or (202) 482–3874, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

On October 20, 2000, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on extruded rubber thread from Malaysia (65 FR 63057).

In accordance with 19 CFR 351.213(b)(1), on October 27, 2000, the petitioner, North American Rubber Thread, requested an administrative review of the antidumping order covering the period October 1, 1999, through September 30, 2000, for the following producers and exporters of extruded rubber thread: Filati Lastex Sdn. Bhd. (Filati), Heveafil Sdn. Bhd./Filmax Sdn. Bhd. (Heveafil), and Rubberflex Sdn. Bhd. (Rubberflex).

On November 22, 2000, the Department initiated an administrative review for Filati, Heveafil, and Rubberflex (65 FR 71299). The Department also issued questionnaires to each of these companies in November.

In March 2001, we received responses from Filati, Heveafil, and Rubberflex.

In May and June 2001, we issued supplemental questionnaires to Filati, Heveafil, and Rubberflex. We received responses to these supplemental questionnaires in July and August 2001.

In August 2001, we conducted verification of Filati's U.S. branch, Filati Lastex Elastofibre (Filati USA).

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classifiable under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this review is dispositive.

Period of Review

The period of review (POR) is October 1, 1999, through September 30, 2000.

Normal Value Comparisons

To determine whether sales of extruded rubber thread from Malaysia to the United States were made at less than normal value (NV), we compared the constructed export price (CEP) to the NV for all three respondents, as specified in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice, below. We also compared the export price (EP) to the NV for Rubberflex, as specified in those sections.

When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of the Review'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade (*i.e.,* sales within the contemporaneous window which passed the cost test), we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in sections B and C of our antidumping questionnaire, or constructed value (CV), as appropriate.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as EP or CEP. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For EP, the U.S. level of trade is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (Nov. 19, 1997).

Filati, Heveafil, and Rubberflex claimed that they made home market sales at only one level of trade (*i.e.,* sales to original equipment manufacturers). Because each of these respondents performed the same selling activities for sales to all customers in the home market, we determined that all home market sales by each of these companies were at the same level of trade.

The respondents made CEP sales during the POR. In order to determine whether NV was established at a level of trade which constituted a more advanced stage of distribution than the level of trade of the CEP for these companies, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, which excludes economic activities occurring in the United States. We found that all of the respondents performed essentially the same selling functions in their sales offices in Malaysia for both home market and U.S. sales. Therefore, the respondents' sales in Malaysia were not at a more advanced stage of marketing and distribution than the constructed U.S. level of trade, which represents a F.O.B. foreign port price after the deduction of expenses associated with U.S. selling activities. Because we find that no difference in level of trade exists between markets, we have not granted a CEP offset to Filati, Heveafil, or Rubberflex.

In addition, Rubberflex made EP sales during the POR. We compared the selling functions performed for its home market and EP transactions in order to determine whether a level of trade adjustment is warranted. We found that

Rubberflex performed essentially the same selling functions for its U.S. and home market sales and that, therefore, no level of trade adjustment is warranted for it.

For further discussion, see the *Concurrence Memorandum* dated October 31, 2001.

Export Price and Constructed Export Price

For Filati and Heveafil, we based the U.S. price on CEP where sales to the unaffiliated purchaser took place after importation into the United States, in accordance with section 772(b) of the Act. We also based U.S. price on CEP for Filati and Heveafil where the merchandise was shipped directly to certain unaffiliated customers because we found that title passed from the U.S. affiliates of the respondents to the first unaffiliated U.S. customer after importation by the U.S. affiliate into the United States.

For Rubberflex, we based the U.S. price on EP, in accordance with section 772(a) of the Act, when the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation, and we based the U.S. price on CEP where sales to the unaffiliated purchaser took place after importation into the United States, in accordance with section 772(b) of the Act.

A. Filati

We calculated CEP based on the starting price to the first unaffiliated purchaser in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Malaysia. We made deductions from the starting price, where appropriate, for discounts.[1] In addition, where appropriate, we made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, U.S. brokerage and handling expenses, U.S. inland freight, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions from CEP, where appropriate, for commissions, credit expenses, and U.S. indirect selling expenses, including U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act. For those U.S. sales for which Filati did not report a date of payment, we have used the signature date of these preliminary results (*i.e.,* October 31, 2001) as the date of payment and calculated credit expenses accordingly.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Filati and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

B. Heveafil

We calculated CEP based on the starting price to the first unaffiliated customer in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Malaysia. We made deductions for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, U.S. brokerage and handling expenses, U.S. inland freight, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act. We disallowed the revenue earned on the sale of a building as an offset to warehousing expenses and recalculated warehousing expenses accordingly.

We made additional deductions to CEP, where appropriate, for credit expenses and U.S. indirect selling expenses, including U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act. We disallowed the full amount of revenue earned on the sale of a building as an offset to indirect selling expenses. Rather, we recalculated these expenses to allow an offset only in the amount of the gain on the building.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Heveafil and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

C. Rubberflex

We based EP or CEP, as appropriate, on the starting price to the first unaffiliated customer in the United States. We made deductions from the starting price, where appropriate, for foreign inland freight, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duty, and U.S. inland freight in accordance with section 772(c)(2)(A) of the Act. In addition, we made deductions from the starting price for Malaysian export taxes in accordance with section 772(c)(2)(B) of the Act.

We made additional deductions to CEP, where appropriate, for credit expenses and U.S. indirect selling expenses, including U.S. inventory carrying costs and U.S. warehousing expenses related to returned merchandise, in accordance with section 772(d)(1) of the Act. For those U.S. sales for which Rubberflex did not report a date of payment, we have used the signature date of these preliminary results (*i.e.,* October 31, 2001) as the date of payment and calculated credit expenses accordingly.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Rubberflex and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the POR. Consequently, we based NV on home market sales.

Pursuant to section 773(b)(2)(A)(ii) of the Act, there were reasonable grounds to believe or suspect that Filati, Heveafil, and Rubberflex had made home market sales at prices below their costs of production (COPs) in this review because the Department had disregarded sales below the COP for these companies in the most recent administrative review. *See Extruded Rubber Thread From Malaysia; Final Results of Antidumping Duty Administrative Review*, 65 FR 6140, 6143 (Feb. 8, 2000). As a result, the Department initiated an investigation to determine whether the respondents made home market sales during the POR at prices below their respective COPs.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A

[1] We reclassified credits related to quality problems from rebates to discounts because the customer paid Filati the invoice value less the credit amount.

and packing costs, in accordance with section 773(b)(3) of the Act.

We compared the COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges, discounts, rebates, and packing costs.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) in substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. *See* section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in ''substantial quantities'' within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

We found that, for certain models of extruded rubber thread, more than 20 percent of each respondent's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those U.S. sales of extruded rubber thread for which there were no comparable home market sales in the ordinary course of trade, we compared EP or CEP, as appropriate, to CV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

Company-specific calculations are discussed below.

A. Filati

Where NV was based on home market sales, we based NV on the starting price to unaffiliated customers. For all price-to-price comparisons, we made deductions from the starting price for rebates, where appropriate. We also made deductions, where appropriate, for foreign inland freight, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses and bank charges. For those home market sales for which Filati did not report a date of payment, we have used the signature date of these preliminary results (*i.e.,* October 31, 2001) as the date of payment and calculated credit expenses accordingly. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses, up to the amount of the U.S. commission.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

For CV-to-CEP comparisons, we made an adjustment, where appropriate, for differences in credit expenses, in accordance with sections 773(a)(6)(C)(iii) and 773(a)(8) of the Act. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses, up to the amount of the U.S. commission.

B. Heveafil

In all instances, NV for Heveafil was based on home market sales. Accordingly, we based NV on the starting price to unaffiliated customers. We made deductions for foreign inland freight and foreign inland insurance, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(c)(ii) of the Act and 19 CFR 351.411.

C. Rubberflex

In all instances, NV for Rubberflex was based on home market sales. Accordingly, we based NV on the starting price to unaffiliated customers. For all price-to-price comparisons, we made deductions from the starting price for discounts,[2] where appropriate. We also made deductions from the starting price for foreign inland freight expenses, pursuant to section 773(a)(6)(B) of the Act. Rubberflex failed to report foreign inland freight expenses on certain sales delivered using its own trucks. Because Rubberflex failed to provide the requested information, pursuant to section 776(a)(2)(B) of the Act, as facts available, we have used the lowest third party inland freight expense reported in the home market for the freight expense on these transactions.

Pursuant to section 773(a)(6)(C)(iii) of the Act, we made circumstance-of-sale adjustments for differences in credit expenses.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business

[2] We reclassified credits related to quality problems from rebates to discounts because the customer paid Rubberflex the invoice value less the credit amount.

days. When we determine a fluctuation to have existed, we substitute the benchmark for the daily rate, in accordance with established practice.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period October 1, 1999, through September 30, 2000:

Manufacturer/exporter	Percent margin
Filati Lastex Sdn. Bhd.	18.66
Heveafil Sdn. Bhd./Filmax Sdn. Bhd.	0.83
Rubberflex Sdn. Bhd.	0.00

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of the publication. Any hearing, if requested, will be held seven days after the date rebuttal briefs are filed. Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs, within 120 days of the publication of these preliminary results.

Upon completion of this administrative review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We calculate importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales, where available. Where the entered value is not available, we calculate a quantity-based assessment rate. These rates will be assessed uniformly on all entries of particular importers made during the POR. Pursuant to 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries for any importer for whom the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent of entered value). The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of extruded rubber thread from Malaysia entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for Filati, Heveafil, and Rubberflex will be the rates established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.16 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. This administrative review and notice are in accordance with section 751(a)(1) of the Act and 777(i)(1) of the Act.

Dated: October 31, 2001.

Faryar Shirzad,

Assistant Secretary, for Import Administration.

[FR Doc. 01–27856 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–806]

Notice of Extension of Time Limit for Preliminary Results of Antidumping New Shipper Review: Natural Bristle Paintbrushes and Brush Heads From the People's Republic of China

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Sally Gannon Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–0162.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351 (2000).

Background

In accordance with 19 CFR 351.213(b)(2), the Department received a timely request from petitioner, Paint Applicator Division of the American Brush Manufacturers Association (Paint Applicator Division), that we conduct an administrative review of the sales of Hebei Founder Import & Export Company (Founder) and Hunan Provincial Native Products Import & Export Corp. (Hunan). On March 22, 2001, the Department initiated an administrative review of the antidumping duty order on natural bristle paintbrushes and paintbrush heads for the period of review (POR) of February 1, 2000 through January 31, 2001 for Founder and Hunan. On September 6, 2001, the Department rescinded the administrative review with respect to Founder because it did not sell, ship, or enter the subject merchandise during the POR. *See Natural Bristle Paintbrushes and Brush Heads from the People's Republic of China: Notice of Rescission in Part of Antidumping Duty Administrative Review*, 66 FR 47450 (September 12, 2001).

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of the preliminary results of a review if it determines that it is not practicable to complete the preliminary results within the statutory time limit of 245 days from the date on which the review was initiated. The Department has determined that it is not practicable to complete the preliminary results of this review for Hunan within the time limits mandated by section 751(a)(3)(A) of the

Act and section 351.213(h)(1) of the Department's regulations because certain complex issues need to be examined, including the terms of Hunan's business relationship with its supplier and whether Hunan's single sale during the POR was a sample sale.

Therefore, in accordance with these sections, the Department is extending the time limits for the preliminary results by 120 days, until no later than February 28, 2002. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: October 25, 2001.

Edward C. Yang,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–27853 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–122–838]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Constance Handley, Office 5, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0650 or (202) 482–0631, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that certain softwood lumber products from Canada are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on April 23, 2001. *See Notice of Initiation of Antidumping Duty Investigation: Certain Softwood Lumber Products From Canada,* 66 FR 21328, April 30, 2001 (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

On May 18, 2001, the United States International Trade Commission (the ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Canada of softwood lumber.

From the outset of this investigation, the Department has recognized that there is a large number of softwood lumber producers in Canada, who sell a myriad of different products through hundreds of thousands of individual transactions. The Department has sought to work with interested parties to appropriately limit the data reporting requirements, so as to make the proceeding more manageable for all concerned.

Accordingly, on April 25, 2001, in advance of issuing antidumping questionnaires, the Department issued a letter to interested parties, including the petitioners [1] and the 15 largest known producers/exporters of softwood lumber from Canada, soliciting comments on issues of respondent selection, fair value comparison methodology, and possible limitation of reporting of sales and cost data. We received comments from the interested parties on May 2, 2001, and rebuttal comments on May 8, 2001.

Upon consideration of the comments received with respect to respondent selection, on May 25, 2001, the Department selected as mandatory respondents the six largest producers/exporters of subject merchandise: Abitibi-Consolidated Inc. (Abitibi); Canfor Corporation (Canfor); Slocan Forest Products Ltd. (Slocan); Tembec Inc. (Tembec); West Fraser Timber Co. Ltd. (West Fraser), and Weyerhaeuser Company (Weyerhaeuser). The Department concluded also that, due to the vast workload entailed by the investigation of these six companies, it would not be able to examine voluntary respondents. *See Selection of Respondents,* below.

On May 25, 2001, the Department issued an antidumping questionnaire to the selected respondents.[2] In view of the large number of transactions involved, the Department instructed respondents to limit the reporting of U.S. and home market sales to identical products sold in both markets, provided that such products accounted for at least 33 percent of all merchandise sold to the United States during the period of investigation.

On June 7, 2001, the Department was contacted by Abitibi, who inquired whether the Department would consider further limiting the reporting requirements to certain major product groups. The Department agreed to consider such a proposal, provided that there was unanimous agreement among the interested parties. On June 19, 2001, the six mandatory respondents agreed to limit the reporting of sales and costs to specific products. On June 20, 2001, the petitioners submitted a letter proposing that the Department adopt the proposal set forth by the mandatory respondents. *See Product Comparisons,* below. The Department agreed to this proposal.

Throughout June and July 2001, several meetings were held with counsel for the six mandatory respondents and the petitioners, to discuss a number of company-specific reporting issues, which resulted in the Department agreeing to exclude certain additional sales from the reporting requirements. These meetings are described in memoranda placed in the official file. *See, e.g.,* Memorandum from the Team to the File (June 15, 2001) and Memorandum from the Team to the File (July 10, 2001).

The respondents submitted their initial responses to the antidumping questionnaire in late June 2001. After analyzing these responses, we issued supplemental questionnaires to the respondents to clarify or correct the initial questionnaire responses. We received timely responses to these questionnaires.

On August 9, 2001, we requested that interested parties submit comments on the appropriateness and feasibility of matching sales of U.S. merchandise to home market sales of similar

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[1] The petitioners are the coalition for Fair Lumber Imports Executive Committee; the United Brotherhood of Carpenters and Joiners; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation.

merchandise, in the event that all home market sales of the identical comparison merchandise were found to be sold at below the cost of production and disregarded. Each of the mandatory respondents stated that the Department must attempt to compare U.S. sales to home market sales of similar products before resorting to constructed value. *See Product Comparisons,* below. The petitioners argued that the Department should only make identical comparisons.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Section 351.210(e)(2) of the Department's regulations requires that exporters requesting postponement of the final determination must also request an extension of the provisional measures referred to in section 733(d) of the Act from a four-month period until not more than six months. We received requests to postpone the final determination from Canfor, Slocan, Tembec, West Fraser, and Weyerhaeuser. In their requests, the respondents consented to the extension of provisional measures to no longer than six months. Since this preliminary determination is affirmative, the request for postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondents' request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register**.

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition (*i.e.,* April 2, 2001).

Scope of Investigation

The products covered by this investigation are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Issues

In the *Initiation Notice,* we invited all interested parties to raise issues and comment regarding the product coverage under the scope of this investigation. We received numerous comments, including scope clarification requests, scope exclusion requests, and requests for determinations of separate classes or kinds. The requests covered approximately 50 products, ranging from species, like Western Red Cedar and Douglas Fir, to fencing products, bed frame components, pallet stock, and joinery and carpentry products. We published a preliminary list of scope exclusions in the *Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products from Canada,* 66 FR 43186–43188 (August 17, 2001) (*CVD Preliminary*).

In our review of the comments received since the first list of product exclusions was issued in the *CVD Preliminary,* we found that some of the excluded product definitions required further clarification. Based on our analysis of the comments received, we have amended the list of excluded products that was originally presented in the *CVD Preliminary*. The amended list of scope exclusions is divided into two groups:

A. Softwood lumber products excluded from the scope:

1. Trusses and truss kits, properly classified under HTSUS 4418.90
2. I-Joist beams
3. Assembled box spring frames
4. Pallets and pallet kits, properly classified under HTSUS 4415.20
5. Garage doors
6. Edge-glued wood, properly classified under HTSUS 4421.90.98.40
7. Properly classified complete door frames.
8. Properly classified complete window frames
9. Properly classified furniture

B. Softwood lumber products excluded from the scope only if they meet certain requirements:

1. *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

2. *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

3. *Radius-cut box-spring-frame components,* not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

4. *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4 inch or more.

We have preliminarily determined that the products listed in groups (A) and (B) above are outside the scope of

this investigation. (These findings will also apply to the companion CVD investigation.) *See Memorandum to Bernard T. Carreau from Maria MacKay, Gayle Longest, David Layton on Scope Clarification in the Antidumping and Countervailing Duty Investigations on Softwood Lumber from Canada* (October 30, 2001), which is on public file in the CRU, room B–099 of the main Commerce building. The Department will issue its preliminary findings on requests for separate class or kind treatment for certain softwood lumber products prior to the briefing period, to allow parties the opportunity to comment on these findings prior to the final determination.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

After consideration of the complexities expected to arise in this proceeding (including the complex corporate structures of many lumber manufacturers, the potential for collapse of respondents with affiliated producers/exporters, the large number of transactions involved, and issues of product matching), as well as the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. We found that given our resources, we would be able to investigate the six producers/exporters with the greatest export volume, as identified above. For a more detailed discussion of respondent selection in this investigation, *see* Memorandum from the Team to Bernard Carreau (May 25, 2001). In that memorandum, we indicated that the Department would not be able to investigate voluntary respondents, unless one of the mandatory respondents failed to answer the antidumping questionnaire or additional resources became available.

The Department received responses to the antidumping questionnaire from three producers/exporters of the subject merchandise, Weldwood of Canada Limited, Beaubois Coaticook Inc., and Saguenay Inc., each requesting that it be investigated as a voluntary respondent. On July 18, 2001, the Department issued a memorandum stating, and notified the parties, that, as indicated in the May 25, 2001, memorandum, because none of the mandatory respondents failed to respond, the Department would not be able to examine any voluntary respondents.

Collapsing Determinations

The Department's regulations provide for the treatment of affiliated producers as a single entity where: (1) Those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (2) the Department concludes that there is a significant potential for the manipulation of price or production.[3] In identifying a significant potential for the manipulation of price or production, the Department may consider such factors as: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.[4] These factors are illustrative, and not exhaustive.

In this investigation, we have preliminarily determined to collapse Abitibi with affiliate Scieries Saguenay Ltee. (Saguenay). *See* Memorandum from the Team to Bernard Carreau (July 18, 2001).[5] We have also determined to collapse Canfor with affiliates Howe Sound Pulp and Paper Limited Partnership (Howe Sound), Lakeland Mills Ltd. (Lakeland), and The Pas Lumber Company Ltd. (The Pas). *See* Memorandum from the Team to Bernard Carreau (August 23, 2001).[6]

In addition to the companies collapsed by the Department, certain respondents determined that they should be collapsed with their affiliates. Specifically, in its questionnaire response, Abitibi collapsed the sales of its affiliates Produits Forestiers Petit Paris, Inc., Produits Forestiers La Tuque, Inc., and Societe en Commandite Scierie Opticiwan. Tembec collapsed the sales of its affiliates Marks Lumber Ltd. (Marks) and Excel Forest Products (Excel)[7] in its questionnaire response. West Fraser collapsed the sales of its affiliates West Fraser Forest Products Inc. (WFFP) and Seehta Forest Products Ltd. in its questionnaire response. Weyerhaeuser collapsed the sales of its affiliate Weyerhaeuser Saskatchewan Ltd. in its questionnaire response. In addition, the Department excused Weyerhaeuser from reporting sales of its subsidiary, Monterra Lumber Mills Ltd., due to the fact that these sales were a small portion of its total sales.[8]

Product Comparisons

Pursuant to section 771(16) of the Act, all products produced by the respondents that meet the definition of the scope of the investigation and were sold in the comparison market during the POI fall within the definition of the foreign like product.

All parties to this proceeding have agreed, from the outset of the investigation, that the sheer number of different products sold by the respondents would significantly

[3] *See* 19 CFR 351.401(f)(1).

[4] *See* 19 CFR 351.401(f)(2).

[5] While the collapse of Abitibi and Saguenay was appropriate given the relationship of the two companies, the Department found that Saguenay made only a small volume of sales during the POI relative to the volume of sales made by Abitibi. We therefore instructed Abitibi not to report those sales. *See* Memorandum from the Team to Bernard Carreau (August 24, 2001). Nonetheless, consistent with the Department's decision to collapse Abitibi with Saguenay, the dumping margin calculated using Abitibi's data will extend to Saguenay.

[6] While the collapse of Canfor with Lakeland, The Pas, and Howe Sound was appropriate given the relationship of these companies, the Department found that Howe Sound made only a small volume of sales during the POI. We therefore instructed Canfor not to report sales by Howe Sound. *See* Memorandum from the Team to Bernard Carreau (September 6, 2001). Nonetheless, consistent with the Department's decision to collapse Canfor with Howe Sound, the dumping margin calculated using Canfor's data (including the data of Lakeland and The Pas) will extend to Howe Sound.

[7] While the collapse of Tembec with Marks and Excel was appropriate given the relationship of the companies, the Department found that Marks made only a small volume of sales during the POI relative to the volume of sales made by Tembec. We therefore instructed Tembec not to report those sales. *See* Memorandum from the Team to Gary Taverman (July 11, 2001). Additionally, Tembec stated in its section A questionnaire response that it would not report sales or costs for Excel unless otherwise instructed by the Department. In a letter submitted to the Department on June 15, 2001, the petitioners stated they would not object to the exclusion of sales made by Excel from the reporting requirements. The Department did not request that Tembec submit sales and cost information for Excel. Therefore, the dumping margin calculated using Tembec's data will extend to both Marks and Excel.

[8] *See* Memorandum from the Team to Gary Taverman (July 16, 2001).

complicate the investigation. With a view to easing this administrative burden, the Department's questionnaire initially instructed respondents to limit the reporting of U.S. and home market sales to identical products sold in both markets, provided that such products accounted for at least 33 percent of all merchandise sold to the United States during the period of investigation. In defining identical products, the Department instructed respondents to consider the following physical characteristics, which were identified after consideration of comments from interested parties: (1) Product category (*e.g.,* dimensional lumber, timbers, boards); (2) species (*e.g.,* Western SPF, Western Red Cedar), (3) grade, (4) moisture content, (5) thickness, (6) width, (7) length, (8) surface finish, (9) end trimming, (10) further processing (*e.g.,* edged, drilled, notched).

As noted above, on June 7, 2001, Abitibi contacted the Department, inquiring as to whether the Department would consider further limiting the reporting requirements to certain major product groups. The Department agreed to consider such a proposal, provided that (1) all of the respondents and the petitioners indicated, on the record, their agreement, (2) the submission provided a clear definition of each product for which the parties requested exclusion, and (3) to the extent that a product was excluded from the reporting requirements, it would be excluded for all respondents. *See* Memorandum from the Team to the File (June 7, 2001).

On June 19, 2001, the six mandatory respondents jointly submitted a letter proposing further narrowing of product reporting requirements. Specifically, the proposal was to limit reporting to dimension lumber of certain species (Western SPF, Eastern SPF, Douglas Fir/ Western Larch, Western Hemlock/ Amabilis Fir, and Western Red Cedar); the sole exception to this rule was that decking and timber would be reported for Western Red Cedar products. On June 20, 2001, the petitioners submitted a letter in which they encouraged the Department to adopt the joint proposal set forth by the mandatory respondents. The Department agreed to this proposal by letters to the parties on June 26, 2001.

The petitioners argued that the Department should proceed immediately from identical matches to constructed value when identical comparisons are below cost. *See* the petitioners' August 21, 2001 submission. All six of the mandatory respondents stated that the Department must attempt to compare U.S. sales to home market sales of similar products before resorting to constructed value. Upon consideration of those comments, the Department requested that each respondent submit a complete home market sales listing, subject to the reporting limitations outlined in the Department's June 26, 2001 letter.[9] The Department received timely responses to these requests. *See* letters from the Department of Commerce to Abitibi, Canfor, Slocan, Tembec, West Fraser, and Weyerhaeuser (September 14, 2001).

In limiting the reporting requirements in this manner, it was our initial intention to compare U.S. sales to home market sales of identical products only. However, during the course of this investigation, it became apparent that a very large number of home market sales might have been made at below the cost of production (*see Cost of Production,* below), raising the issue of whether we should compare the U.S. products to similar merchandise sold in Canada or to a normal value based on constructed value. Although we have established limited reporting requirements for this investigation, this does not preclude our attempting to compare U.S. sales to similar home market sales where possible, before relying on CV as the basis for normal value. This is consistent with the practice implemented under Policy Bulletin 98.1, *Basis for Normal Value When Foreign Market Sales Are Below Cost* (February 23, 1998), where the Department stated that it ''will use constructed value as the basis for normal value only when there are no above-cost sales that are otherwise suitable for comparison.'' (Pursuant to the decision by the Court of Appeals of the Federal Circuit in *Cemex* v. *United States,* 133 F.3d 897,904 (Fed. Cir.1998), the Department does not automatically resort to constructed value, in lieu of comparison market sales, as the basis for normal value, where sales of merchandise identical to that sold in the United States are disregarded as below cost.) Accordingly, the Department considered whether it was feasible and appropriate in this investigation to make comparisons of similar products, where identical comparisons are below cost. On August 9, 2001, we requested that interested parties comment on this issue.

In accordance with the Department's established practice, we have determined that, where possible, it is appropriate to make comparisons of similar products. To this end, the Department has developed a product hierarchy which takes into account the expressed views of the interested parties.

To the extent that the grades reported by the respondents did not follow the grading system established by the National Lumber Grading Association (NLGA), the Department requested that all respondents assign the NLGA equivalent grade for all sales, along with supporting documentation describing the physical characteristics of any non-NLGA grade. Certain of Slocan's proprietary grades have specifications above existing NLGA grade categories. For these grades, we assigned a new code representing a non-NLGA, premium grade product. For certain other grades, the grade codes and descriptions did not match each other. We have recoded these grades. *See* October 30, 2001 memorandum to Gary Taverman: Treatment of Slocan Forest Products Ltd.s Proprietary Lumber Grades.

Further, we note that spruce-pine-fir is designated as a species combination by the NLGA. Otherwise, Eastern and Western Spruce-Pine-Fir are identical from the viewpoints of the markets and with respect to end-use. The ''eastern'' and ''western'' designations are simply a regional distinction which is irrelevant for purposes of product comparison in this investigation. Therefore, we have combined Eastern Spruce-Pine-Fir and Western Spruce-Pine-Fir into a single species. *See* October 30, 2001, memorandum to Gary Taverman: Comparability of Eastern and Western Spruce-Pine-Fir, which is on file in the CRU.

Section 773(a)(6)(C)(ii) of the Act provides for an adjustment to normal value for differences in physical characteristics of the products being compared (*i.e.,* a difference in merchandise (difmer) adjustment). Where we do not have home market sales within the ordinary course of trade on which to base normal value for comparison with sales of the identical products sold to the United States, we have attempted to base normal value on sales of the most similar product for which we have adequate information to perform a difmer adjustment.

As noted above, where we determine that the merchandise sold to the United States does not have the same physical characteristics as the merchandise sold

[9] Certain respondents had already submitted databases containing data for similar merchandise, while others had not. Among those respondents that had submitted data for similar merchandise, some had reported all similar sales, while others had reported only selected similar sales. In order to ensure consistency across all respondents, the Department instructed all companies to submit home market sales on a uniform basis.

in the foreign market, and where those differences have an effect on prices, the statute provides for a reasonable allowance for such differences in the Department's calculation of normal value. As explained in Policy Bulletin 92.2, *Differences in Merchandise; 20% Rule,* (July 29, 1992), the Department has ''rarely been able to determine the direct price effect of a difference in merchandise.'' As a result, difmer ''adjustments are based almost exclusively on the cost of the physical difference.'' Nevertheless, in addressing comments to its proposed regulations in 1997, the Department specifically retained language preserving, as an option, the use of market value in measuring a difmer.[10]

In applying our normal methodology for calculating a difmer adjustment, we first attempted to adjust normal value by the net difference in the variable manufacturing costs associated with the differences in the physical characteristics of the two products. For purposes of the preliminary determination, the Department is relying on the cost databases submitted by the respondents, which allocate costs by quantity. *See Cost of Production Analysis, Value-Based* vs. *Quantity-Based Allocation* section, below. While the companies reported their variable manufacturing costs for each unique product, there were a number of actual physical differences between products for which the respondents were unable to identify a cost difference. For instance, Abitibi stated that ''cost differences were provided so as to permit the calculation of cost-based difmers, for example, between Eastern SPF and Western SPF, between green and dried products, and between rough and dressed products. There are certain other product characteristics for which it will not be possible in this case to calculate a difference in production costs.'' [11] Likewise, none of the other respondents was able to report differences in production costs for certain differences in physical characteristics, including, *e.g.,* thickness, width, and length. As a result, for most situations where we attempted to compare U.S. sales to home market sales of similar products, we were unable to make a cost-based difmer adjustment.

Therefore, for this preliminary determination, we have concluded that it is not appropriate to match products that do not have the following identical physical characteristics: grade, thickness, width and length. These are significant physical characteristics that cannot be accounted for by means of a cost-based difference-in-merchandise adjustment. The respondents in this investigation have reported that their methods of tracking costs and the nature of producing lumber do not allow them to distinguish costs by grade or size. Specifically, the respondents have reported that they cannot report costs that distinguish between factors other than moisture, surface finish, end trim and further manufacturing. Our analysis confirms that most lumber produced within a given species has the same production cost. *See Cost of Production Analysis, Value-Based* vs. *Quantity-Based Allocation* section, below.

The respondents have cited to *UHFC Company* v. *United States,* 916 F.2d 689 (Fed. Cir. 1990), where the Court of Appeals for the Federal Circuit (CAFC), in that specific case, instructed the Department on remand to match across different strengths/grades, despite the fact that differences in costs could not be calculated. In that case, the product involved was animal glue, where different strengths/grades were produced at the same time, using the same production process. The respondents claim that in accordance with the Court's decision in that case, ''the Department must calculate a value-based difference-in-merchandise in this case in those instances where similar products are compared and there is no variable cost data available to permit the calculation of a cost-based difmer.'' *See* August 16, 2001, letter from Abitibi (at 8). Among the suggested bases for a value-based difmer adjustment were data published in Random Lengths, respondents' own reported sales data covering the POI, or historical pricing data.

We disagree that the *UHFC* decision requires the calculation of a value-based difmer adjustment in this case. First, this investigation is distinguishable from the circumstances of the *UHFC* case, where there was only a single difference, *i.e.* glue strength, between the products. In the instant investigation, there are several significant differences in physical characteristics which affect price. As a result, we have determined that we have no comparable basis on which to adjust for physical differences between similar products based upon market value, as has been suggested by the respondents. By Abitibi's own admission, Random Lengths data are not comprehensive enough to identify all of the differences among the entire range of products. *See* Abitibi's submission of August 16, 2001, at page 8, footnote 4.

Second, even if the Department had the pricing data needed to make a value-based difmer adjustment, it would not be appropriate to base the adjustment on sales outside the ordinary course of trade. As there were no home market sales in the ordinary course of trade during the POI of many of the products involved here, no value-based difmer adjustment could be calculated for many of the comparisons based on POI sales. With respect to sales outside the POI, we have no basis on which to determine that those sales were in the ordinary course of trade, particularly regarding products for which all sales during the POI were outside the ordinary course of trade.

Furthermore, using the prices of U.S. sales as the basis for a value-based difmer adjustment is also not appropriate, as the fairness of these prices is the focus of this investigation. The fact that these sales are the basis of an allegation of dumping renders them inappropriate for any consideration in the calculation of normal value. While value-based difmer adjustments involving U.S. sales may be attributable to differences in physical characteristics between two products, they may also be attributable to dumping. For these reasons, we find no basis for comparing sales of similar products using a value-based difmer adjustment.

As a result, we have matched sales of subject merchandise to comparison market sales of similar products only where we were able to quantify a cost-based difmer adjustment for differences in end trim, surface finish and further processing. While the respondents did report costs for the moisture content characteristic, we were unable to consider those costs for purposes of the difmer adjustment because to do so would have resulted in bypassing other physical characteristics (*i.e.,* width, length and thickness) for which we could not quantify a difmer adjustment.

This methodology is consistent with other antidumping proceedings that involved foreign like product with significant differences in physical characteristics that cannot be accounted for by means of a cost-based difmer adjustment. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Fresh Tomatoes from Mexico,* 61 FR 56608, 56610 (November 1, 1996), and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Fresh Atlantic Salmon from Chile,* 63 FR 2664, 2666 (January 16, 1998), accord, *Notice of*

[10] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27370 (May 19, 1997) and section 351.411(b) of the Department's regulations.

[11] *See* Abitibi's August 16, 2001 letter to the Secretary (at 5–6).

Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile, 63 FR 31411 (June 9, 1998) (*Atlantic Salmon*). *See,* also, *Notice of Preliminary Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada,* 66 FR 51010, 51012 (October 5, 2001), where the Department stated: ''Since the respondents have reported that they cannot report costs that distinguish between factors other than type, we have matched sales of subject merchandise to home-market sales of identical type, color, size, and grade, but not to home-market sales of similar merchandise.''

Fair Value Comparisons

To determine whether sales of softwood lumber from Canada were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the *Export Price and Constructed Export Price and Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs and compared these prices to weighted-average normal values or CVs, as appropriate.

Export Price and Constructed Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act.

For all respondents, we calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States. We found that all of the respondents made a number of EP sales during the POI. These sales are properly classified as EP sales because they were made outside the United States by the exporter or producer to unaffiliated customers in the United States prior to the date of importation.

We also found that each respondent made CEP sales during the POI. Some of these sales involved softwood lumber sold through vendor-managed inventory (VMI). Because such sales were made by the respondent after the date of importation, the sales are properly classified as CEP sales. In addition, both West Fraser and Weyerhaeuser made sales to the United States through U.S. subsidiaries.

We generally relied on the date of invoice as the date of sale. Consistent with the Department's practice, where the invoice was issued after the date of shipment, we relied on the date of shipment as the date of sale.

The POI overlaps with the last year of the Softwood Lumber Agreement (SLA). Under the SLA, Canadian exporters paid fees for exports over certain quantities. We allocated the SLA fees of each respondent across all transactions in its U.S. sales file and treated them as an export tax in making adjustments to U.S. prices.

We made company-specific adjustments as follows:

(A) Abitibi

Abitibi made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Abitibi to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Abitibi to the U.S. customer through VMI or reload centers after importation into the United States. EP and CEP sales were based on the packed, delivered, ex-mill, FOB reload center, and CIF U.S. port (ocean freight paid) prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include internal freight incurred in transporting merchandise to reload and VMI centers, ocean freight and associated expenses for shipments by ocean vessel, as well as freight to the U.S. customer, warehousing, U.S. and Canadian brokerage, inland insurance, and, when applicable, marine insurance. We also deducted any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (credit and advertising expenses) and imputed inventory carrying costs. Abitibi did not report any other indirect selling expenses incurred in the United States. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(B) Canfor

We based EP on delivered and FOB prices to unaffiliated customers in the United States. We adjusted the starting price by the amount of billing adjustments, early payment discounts, and rebates. We reduced the starting price, where appropriate, for movement expenses including foreign inland freight, U.S. customs duty, U.S. freight, warehousing, and miscellaneous movement charges. We offset the amount of freight expenses by the amount of reported rebates from the freight carriers. We also deducted export taxes from the starting price.

In addition to these adjustments, for CEP sales, in accordance with section 772(d)(1) of the Act, we adjusted the starting price by the amount of direct selling expenses and revenues (*i.e.,* credit expenses and interest revenue). We further reduced the starting price by the amount of indirect selling expenses incurred in the United States. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(C) Slocan

Slocan made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Slocan to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Slocan to the U.S. customer through VMI or reload centers after importation into the United States. EP and CEP sales were based on the packed, delivered, ex-mill, and FOB reload center prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include domestic freight incurred in transporting merchandise to reload centers and to VMI customers, as well as freight to U.S. customer, warehousing, U.S. and Canadian brokerage. We also deducted from the starting price any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (*i.e.,* credit and inventory carrying costs)

and imputed inventory carrying costs. Slocan did not report any other indirect selling expenses incurred in the United States. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(D) Tembec

Tembec made both EP and CEP transactions during the POI. We calculated an EP for sales where the merchandise was sold directly by Tembec to the first unaffiliated purchaser in the United States prior to importation. We calculated a CEP for sales made by Tembec to the U.S. customer through U.S. reload facilities and through VMI facilities. EP and CEP sales were based on the packed, delivered prices.

Tembec did not report making CEP sales during the POI. However, because the date of sale is the date the products are shipped from the reload centers and the invoice date is either the date of shipment or the following business day, the Department is treating sales made through U.S. reload centers as CEP sales. For these same reasons, the Department has determined that all sales made to Tembec's VMI customer are properly classified as CEP sales.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include inland freight incurred in transporting merchandise to Canadian reload centers and warehousing expenses, as well as freight to the U.S. customer or reload facility, warehousing expenses, and U.S. brokerage. We also deducted from the starting price any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including indirect selling expenses and direct selling expenses (credit expenses). Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(E) West Fraser

West Fraser made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by West Fraser to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by West Fraser to the U.S. customer through VMI or reload centers after importation into the United States. EP and CEP sales were based on the packed, delivered, ex-mill, and FOB reload center prices, as applicable.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include internal freight incurred in transporting merchandise to reload centers, to VMI customers, and freight to the U.S. customer, warehousing, U.S. and Canadian brokerage and inland insurance. We also deducted any discounts, rebates and export taxes from the starting price.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses, (*e.g.,* credit and advertising expenses) and imputed inventory carrying costs. Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

(F) Weyerhaeuser

Weyerhaeuser made both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by Weyerhaeuser to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated a CEP for sales made by Weyerhaeuser to the U.S. customer through reload centers, VMI and its affiliated reseller Weyerhaeuser Building Materials (WBM–US) after importation into the United States. EP and CEP sales were based on the packed, delivered or FOB prices.

From its customer service centers in the United States and Canada, Weyerhaeuser made sales of merchandise which had been commingled with that of other producers. Weyerhaeuser provided a weighting factor to determine the quantity of Weyerhaeuser-produced Canadian merchandise for these sales. We are using the weighting factors to estimate the volume of Weyerhaeuser-produced merchandise sold from customer service centers. Where a manufacturer other than Weyerhaeuser was identified, we removed those sales from the database.

We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include freight to U.S. and Canadian warehouses or reload centers, warehousing expense in Canada and the United States, brokerage and handling, and freight to the final customer. For the purposes of this preliminary determination, we also deducted remanufacturing costs incurred at the warehouse with movement expenses, as Weyerhaeuser was unable to separate these costs from warehousing costs for all of its warehouses. We also deducted from the starting price any discounts, rebates and export taxes.

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including indirect selling expenses and direct selling expenses (*e.g.,* credit expenses). Finally, in accordance with section 772(d)(3) of the Act, we deducted an amount of profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than 5 percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. We found that all six mandatory respondents had viable home markets for lumber.

To derive NV, we made the adjustments detailed in the *Calculation of Normal Value Based on Home Market Prices* and *Calculation of Normal Value Based on Constructed Value,* sections below.

B. Cost of Production Analysis

Based on allegations contained in the petition, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that softwood lumber sales were made in Canada at prices below the cost of production (COP). *See Initiation Notice,* 66 FR at 21331. As a result, the Department has conducted investigations to determine whether the respondents made home market sales at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, selling expenses, packing expenses and interest expenses.

2. Value-Based vs. Quantity-Based Allocation

For purposes of our cost analysis, for each respondent, we have used the submitted cost files which were based on costs allocated by volume, measured in MBF (''thousand board feet''), and not the alternative costs files based on various value allocation methods submitted by four of the six respondents.

We find the reliance on the volume-based method reasonable because 1) it is the method followed in the industry and, more importantly, in the books and records of the six respondents; 2) it reasonably reflects the actual cost incurred to produce each individual product; and 3) it is consistent with the Department's practice, which was upheld in *IPSCO Inc., v. United States,* 965 F. 2d, 1056, 1059–1060 (Fed. Cir. 1992). (*IPSCO*).

We issued the antidumping duty questionnaire in this case on May 25, 2001. In the questionnaire, we directed the respondents to report their per-unit costs based on their normal books and records. Section 773(f)(1)(A) states that, (i)n general—costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise.'' In their filings to the Department, the respondents reported either that they do not have a cost accounting system, and that they calculate one average cost within a given saw mill, or they calculate costs by process, using an average cost per MBF. Abitibi reported that it ''uses an average cost system that assigns the same cost to every item processed.'' *See* Abitibi's section D questionnaire response, page D–22 (July 23, 2001). In addition, Abitibi noted ''We record the cost of all products on an average foot board measure basis * * * all products are assigned the same average cost based on the nominal dimensions of the finished product.'' *See* Abitibi's section D questionnaire response, page D–23 (July 23, 2001). Canfor stated that, ''like other lumber producers, Canfor in the normal course of business uses an average cost system that assigns the identical cost to each item processed at a cost center.'' *See* Canfor's submission requesting limited reporting requirements (June 8, 2001). Likewise, West Fraser reported that it ''does not value production costs differently for cost accounting and financial accounting purposes. In its monthly financial reports, West Fraser averages the costs reported in its financial accounts over the production of each of its mills. The result is an average cost per mfbm.'' *See* West Fraser's section D questionnaire response, page D–22 (July 23, 2001). Weyerhaeuser reported that (i)n the ordinary course of business, Weyerhaeuser mills do not maintain production or financial data that would permit a reliable allocation of processing costs to specific products.'' *See* Weyerhaeuser's submission requesting limited reporting requirements (June 8, 2001). However, we note that Weyerhaeuser further explained that (t)he mills can distinguish between certain operations (*e.g.,* kiln-dried or green, planed or not planed), but for the most part, mills merely track total sawmill costs and quantities of wood products (throughput) in MBF.'' *See* Weyerhaeuser's submission requesting limited reporting requirements (June 8, 2001). Tembec reported that it ''does not calculate product specific costs in its normal books and records, nor does it track all of the physical characteristics identified by the Department.'' *See* Tembec's submission requesting limited reporting requirements (June 8, 2001). Slocan stated that ''a process costing system is employed at each division, under which product costs are obtained by accumulating costs by process cost center and then determining an average cost per unit of production (for lumber, the average cost per mfbm, thousand board measure of lumber).'' *See* Slocan's section D questionnaire response, page D–30 (July 23, 2001). Based on the representations of each of the six respondents, none uses a value-based cost allocation method in its normal books and records. Instead, the industry practice appears to be to calculate costs based on broad simple average cost per MBF for all products or a more detailed process specific cost per MBF. As such, the per MBF cost files are consistent with the records of the exporters or producers of the merchandise.

As to the reasonableness of a volume based allocation, while different sawmills may specialize in specific products, within a sawmill we find that there are virtually no differences in cost per MBF due to grade, length, width, and thickness of lumber produced from a given species. As noted above, the same material inputs, processing and overhead costs are incurred. Lumber products of different sizes are typically cut from the same log, at times literally from opposite sides of the same saw blade. Nothing in the production process imparts the characteristic of grade, *e.g.,* grain, color, or markings in the wood. As the same processes, material inputs, labor and overhead are used by the respondents in producing the various grades and dimensions of lumber produced within a given species, and as the lumber of differing grades and dimensions are in composition substantially the same product, it is reasonable to assign the same cost per MBF for each grade and dimension.[12]

In analyzing the respondents' value-based methodologies, we reviewed the lumber production process described by each respondent and considered the appropriate allocation factors for the various input costs. In short, the lumber production process is as follows: (1) A stand of trees is cut and sorted by species; (2) logs are moved to a sawmill and debarked; (3) logs are input into the sawmill, where lumber of differing grades and dimensions are cut from the same log; (4) rough cut lumber is either sold directly or sold after specific further processing operations (*e.g.,* lumber can be planed or dried or both); and (5) lumber is graded at the end of the production process. All processing costs can be directly identified with the end products. For example, the cost of planing operations can reasonably be identified and allocated to planed products based on the volume of planed lumber produced. Therefore, it would not be appropriate to allocate these processing costs by value. The only cost that could arguably be allocated by value is the material cost, in this case, the log costs.[13] However, for the reasons

[12] We note that most of the respondents do track, and have broken out costs for species, moisture content (*i.e.,* dried or non-dried), surface finishing (*i.e.,* planed or non-planed), precision end-trimming, and further processing (*i.e.,* drilled, notched, etc.). Similarly, in *Atlantic Salmon,* the Department determined that there were no cost differences between grades of salmon or between weight bands. The Department stated that ''Our examination of the voluminous record evidence concerning this issue, including verification findings, confirms that the costs as reported reasonably reflect the actual costs of producing each matching group (*i.e.,* each combination of form, grade, and weight band), and that the costs of certain of these matching groups are the same.''

[13] We note that some respondents inappropriately allocated all of their costs, including sawmill, planing and drying costs, based on the relative

Continued

described above, we conclude that even the cost of the log is more appropriately allocated on a volume basis.

Lastly, we note that allocating the same cost per MBF for each grade and dimension of lumber produced is consistent with past Court decisions and Department practice. For example, in *IPSCO,* the Federal Circuit Court overturned the CIT's decision where the CIT instructed Commerce not to allocate costs equally between prime and limited service pipe, but instead to allocate costs based on the relative sales values of the merchandise. The Federal Circuit Court agreed with the Department's position that since the respondent expended the same materials, capital, labor, and overhead for both grades of pipe, both should be assigned the same cost. Specifically, the Federal Circuit Court stated that, ''(i)n light of the language of (the Statute), ITA's original methodology for calculating constructed value was a consistent and reasonable interpretation of section (773(c) of the Act)''.

3. Individual Company Adjustments

We relied on the COP data submitted by each respondent in its cost questionnaire response, except in specific instances where the submitted costs were not appropriately quantified or valued, or otherwise required adjustment, as discussed below:

(A) Abitibi

1. We adjusted Abitibi's reported G&A expenses to include the total amount of goodwill amortized by Abitibi in fiscal year 2000.

2. We adjusted Abitibi's reported G&A to include the redemption of stock options, which the Department considers to be a form of employee compensation.

3. We revised Abitibi's net financial expenses to reflect company-wide net financial expenses rather than the net financial expenses of the lumber division that were reported.

See Memorandum from Lavonne Jackson to Neal Halper for Abitibi's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

(B) Canfor

1. We adjusted Canfor and Lakeland's byproduct revenue offset to reflect a market price for transactions with affiliates.

2. We revised Canfor's G&A expenses based on the unconsolidated financial statements for the year ended December 29, 2000, including an amount for administrative services performed on the company's behalf by its parent company. Canfor's reported G&A expenses were based on the consolidated financial statements of the parent company.

3. We revised Lakeland's G&A expense rate calculation by using the G&A expenses presented in the October 31, 2000 audited financial statements. The reported G&A expense rate was calculated based on Lakeland's internal financial statements and not on its audited financial statements. We also disallowed the interest income and other income used as an offset to the total G&A expenses.

4. We revised The Pas' G&A expense rate calculation by using the G&A expenses presented in the October 31, 2000 audited financial statements. The reported G&A expense rate was calculated based on The Pas' internal financial statements and not on its audited financial statements. We included amortization expenses in the calculation. Additionally, we disallowed the interest income and the share of earnings of a partly owned company used as an offset to the total G&A expenses.

5. We revised The Pas' net financial expense calculation by using the net financial expense presented in the October 31, 2000 audited financial statements. The reported net financial expense rate was calculated based on The Pas' internal financial statements and not on its audited financial statements. We included exchange losses on debt in the financial expenses.

6. We calculated a weighted-average byproduct revenue adjustment and the revised G&A and financial expense rates based on the production volumes of Canfor, Lakeland and The Pas since we consider the three companies combined to be one cost respondent.

See Memorandum from Taija Slaughter to Neal Halper for Canfor's, Lakeland's and The Pas' Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination (October 30, 2001).

(C) Slocan

We did not include Slocan's proposed startup period adjustment for improvements to the Mackenzie planer mill. Section 773(f)(1)(C)(ii) of the Act states that the Department will make an adjustment for startup costs where: (1) A producer is using a new facility or producing a new product that requires substantial additional investment, and (2) production levels are limited by technical factors associated with the initial phase of commercial production. Based on the information submitted, it does not appear that Slocan's Mackenzie mill qualifies as a new facility, nor does the lumber produced at the Mackenzie mill qualify as a new product under the definitions listed in the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1 (1994) (SAA) at 836. The Mackenzie mill has not ''undergone a substantially complete retooling of an existing plant'' which requires the replacement of nearly all production machinery or the equivalent rebuilding of existing machinery. *See* SAA at 836. Furthermore, the SAA at 836 states: ''Mere improvements to existing products or ongoing improvements to existing facilities will not qualify for a start-up adjustment.''

See Memorandum from Michael Harrison to Neal Halper for Slocan's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

(D) Tembec

1. We adjusted Tembec's byproduct revenue offset to reflect a market price for transactions with affiliates. In addition, we have adjusted the BC byproduct revenue offset for the apparent computational error.

2. We also adjusted the reported amounts for movement expenses for certain sales categorized as ''delivered to customer,'' certain sales made through U.S. reload centers and certain sales without a reported amount for freight to the reload center, where applicable.

See Memorandum from Peter Scholl to Neal Halper for Tembec's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001). *See also*, Calculation Memorandum from Christopher Riker to the File for Tembec's Preliminary Determination in the Antidumping Duty Investigation (October 30, 2001).

(E) West Fraser

1. We adjusted West Fraser's byproduct revenue offset to reflect a market price for transactions with affiliates.

values of all end products produced, even though such costs should be allocated only to products that underwent such processing and in a manner which accurately reflects the costs of those operations. Likewise, some respondents inappropriately allocated all log costs, without regard to species, based on the relative values of end products, even though the species-specific wood costs could be separately identified.

2. We recalculated West Fraser's G&A expense rate to be based on the company-wide figures instead of the reported divisional figures. We also included the write-down of capital assets and excluded indirect selling expenses.

See Memorandum from Gina Lee to Neal Halper for West Fraser's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

(F) Weyerhaeuser

1. For B.C. Coastal Group, we have revised the wood, rough-cut lumber and byproduct revenue cost database fields to reflect a thousand board feet-based allocation of costs.

2. We adjusted Weyerhaeuser's byproduct revenue offset to reflect a market price for transactions with affiliates.

3. We recalculated Weyerhaeuser's G&A expense rate to be based on the company-wide figures instead of the reported divisional figures.

See Memorandum from Michael Martin to Neal Halper for Weyerhaeuser's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination, (October 30, 2001).

4. Test of Home Market Sales Prices

We compared the adjusted weighted-average COP for each respondent to its home market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time *(i.e.,* a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the revised COP to the home market prices, less any applicable movement charges, export taxes, discounts and rebates.

5. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. Because we compared prices to the POI average COP, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

For all respondents, we found that more than 20 percent of the home market sales of certain softwood lumber products within an extended period of time were made at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining sales as the basis for determining normal value, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of softwood lumber for which there were no useable home market sales in the ordinary course of trade, we compared EPs or CEPs to the constructed value in accordance with section 773(a)(4) of the Act. *See Calculation of Normal Value Based on Constructed Value* section, below.

C. Calculation of Normal Value Based on Home Market Prices

The respondents reported home market sales data for purposes of the calculation of NV. We determined price-based NVs for responding companies as follows. For all the respondents, we made adjustments for any differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act.

(1) Abitibi

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for foreign inland freight, warehousing expenses, insurance, discounts, rebates, and billing adjustments. For comparisons made to EP sales, we made circumstance-of-sale (COS) adjustments by deducting direct selling expenses incurred for home market sales (credit and advertising expenses) and adding U.S. direct selling expenses (*e.g.,* credit and advertising expenses). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(2) Canfor

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price by the amount of billing adjustments, early payment discounts, and rebates, and movement expenses including inland freight, warehousing, and miscellaneous movement charges. We offset the amount of freight expenses by the amount of reported rebates from the freight carriers. For comparisons made to EP sales, we made COS adjustments for direct expenses and revenues, including credit expenses and interest revenue and warranty expenses. For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(3) Slocan

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, rebates, inland freight to warehouse, inland freight to customer, and freight rebates.

For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home market sales and adding U.S. direct selling expenses (*e.g.,* credit). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(4) Tembec

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, rebates, foreign inland freight, warehousing expenses and shipping costs. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses and revenues for home market sales (credit and interest revenue) and adding U.S. direct selling expenses (*e.g.,* credit expenses). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were performed.

(5) West Fraser

During the period of investigation, West Fraser sold the foreign like product to an affiliated chain of retail home improvement centers in Canada. These sales, which constituted a significant portion of West Fraser's home market sales, failed the

Department's arm's length test.[14] Although West Fraser has recently provided information concerning downstream sales by the affiliate, we have been unable to analyze this information for this preliminary determination. The issue facing the Department for the preliminary determination is whether adverse facts available should be applied with respect to these sales. For the reasons detailed below, we have preliminarily determined that adverse facts available is *not* warranted. We will, however, re-evaluate this decision in our final determination.

In the questionnaire issued to West Fraser on May 25, 2001, we requested that it report home market downstream sales if such sales were made by an affiliated reseller. *See* question 11 on page G–6 of the Department's antidumping questionnaire. In response, West Fraser asked that it be excused from reporting the downstream sales as it no longer owned the home improvement chain and no longer had access to the necessary sales records. Further, as late as August 16, 2001, West Fraser continued to assert that the reporting of the downstream sales was unnecessary as its sales to the affiliated customer would pass the arm's length test. Based on these representations, the Department allowed West Fraser not to report the downstream sales.

On October 2, 2001, the petitioners, claiming that their analysis showed that West Fraser's sales to the affiliate failed the arm's length test, argued that the Department should assign adverse facts available to those transactions. They claimed that the Department had requested the downstream sales on several occasions and that West Fraser had provided materially inaccurate information.

In response, West Fraser reiterated its earlier arguments regarding the sales. West Fraser also asserted that because the affiliated customer sold lumber produced by a number of Canadian mills, and because the members of the chain had numerous and often incompatible computer systems, it would be virtually impossible to report all the information requested for the downstream sales. Further, it argued that because the downstream sales were at the retail level, it was unlikely that they would be considered as normal value because of differences in level of trade with the U.S. sales. (These points were subsequently expressed in an October 23, 2001, letter from the Government of Canada to Under Secretary for International Trade Grant Aldonas and in ex parte meetings with DAS Bernard Carreau and Assistant Secretary for Import Administration Faryar Shirzad.)

Nevertheless, because our analysis indicated that the West Fraser affiliated sales had indeed failed the arm's length test, on October 12, 2001, we wrote West Fraser requiring that it report, by October 26, 2001, all the downstream sales. If it were unable to do so, we asked that it suggest an alternative methodology to calculate normal value for the sales in question. A timely response to our October 12 letter was received. Given that we were unable to analyze this submission prior to this preliminary determination, and based on the representations made by West Fraser with respect to the likelihood that these sales would not be included in our analysis, we have preliminarily decided to not assign adverse facts available to these sales.[15] We will examine this issue thoroughly at verification and if we conclude that West Fraser failed to act to the best of its ability in responding to our questionnaire, we will reconsider the adverse facts available decision.

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for billing adjustments, early payment discounts, inland freight to the warehouse, warehousing expenses, special handling charges, inland freight to customers, freight rebates, tarping expenses and fuel surcharges.

For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home market sales and adding U.S. direct selling expenses (*e.g.,* credit). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

(6) Weyerhaeuser

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted the starting price for freight to the warehouse/reload center, warehousing expenses, freight to the final customer, remanufacturing done at the warehouse, discounts, rebates, and billing adjustments. For comparisons made to EP sales, we made COS adjustments by deducting direct selling expenses incurred for home market sales (credit and warranty/quality claims expenses) and adding U.S. direct selling expenses (*e.g.,* credit and warranty/quality claims expenses). For comparisons made to CEP sales, we deducted home market direct selling expenses but did not add U.S. direct selling expenses. No other adjustments to NV were claimed or allowed.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those models of softwood lumber products for which we could not determine the NV based on comparison-market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e)(1) of the Act provides that the constructed value shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative expenses, profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the *Calculation of COP* section, above. We based SG&A and profit for each respondent on the actual amounts incurred and realized by the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act. We used U.S. packing costs as described in the *Export Price section,* above.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, constructed value. For comparisons to CEP, we made COS adjustments by deducting from CV direct selling expenses incurred on home market sales.

Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent

[14] To test whether sales are made at arm's length, we compare the prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. Where prices to the affiliated parties are on average 99.5 percent or more of the price to the unaffiliated party, we determine that those sales made to the related party are at arm's length and review these sales in our determination of normal value. Otherwise, the sales to the affiliated party are excluded from the calculation of normal value.

[15] In order to use adverse facts available, the Department must make a finding, supported by substantial evidence, that the ''interested party...failed to cooperate by not acting to the best of its ability to comply with a request for information.'' See section 777(b) of the Act.

practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP or CEP transaction. The NV level of trade is that of the starting-price sale in the comparison market or, when normal value is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. level of trade is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV is at a different level of trade than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability with U.S. sales, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731(November 19, 1997).

In implementing these principles in this investigation, we obtained information from each respondent about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each of their channels of distribution. In identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit pursuant to section 772(d) of the Act. Generally, if the reported levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party reports levels of trade that are different for different categories of sales, the functions and activities may be dissimilar.

In this investigation, we found that the respondents, with the exception of Weyerhaeuser, perform minimal selling functions in the United States and home markets. With respect to the other respondents' EP sales, we found a single level of trade in the United States and a single, identical, level of trade in the home market. Accordingly, it was unnecessary to make any level-of-trade adjustment for comparison of EP and home market prices. All six respondents also made CEP sales. For each of these respondents, except Weyerhaeuser, we found that the adjusted CEP level of trade was essentially the same as that of the single home market level of trade, such that no level-of-trade adjustment or CEP offset was necessary.

(A) Abitibi

Abitibi reported three channels of distribution in the home market. The first channel of distribution (channel 1) included direct sales from Canadian mills or reload centers to customers. The second channel of distribution (channel 3) consisted of sales made to large retailers, distributors, building materials manufacturers and other large lumber producers and are a form of VMI. The third channel of distribution (channel 4) consisted of e-commerce sales. We compared selling functions in each of these three channels of distribution and found that the sales process, freight services and inventory maintenance activities were similar. Accordingly, we preliminarily determine that home market sales in these three channels of distribution constitute a single level of trade.

In the U.S. market, Abitibi had both EP and CEP sales. Abitibi reported EP sales to end-users and distributors through three channels of distribution. These three EP channels of distribution do not differ from the three channels of distribution in the home market. Because the sales process, freight services and inventory maintenance were similar, we preliminarily determine that EP sales in these three channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, Abitibi reported these sales through two channels of distribution. The first (channel 2) included direct sales from U.S. reload centers to customers. The second (channel 3) consisted of sales made to large retailers, distributors, building materials manufacturers and other large lumber producers and are a form of VMI. The selling functions related to freight arrangements and inventory maintenance for these two channels of distribution were not significantly different and, therefore, we determined there is only one CEP level of trade.

In determining whether separate levels of trade exist between U.S. CEP sales and home market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. In our analysis of levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Abitibi's sales to end-users and distributors in the home market and in the U.S. market do not involve significantly different selling functions. Abitibi's Canadian-based services for CEP sales were similar to the single home market level of trade with respect to sales process and warehouse/inventory maintenance. Abitibi did not report indirect selling expenses other than imputed inventory carrying costs in the U.S. for any of its sales channels. Because we found the level of trade for CEP sales to be similar to the home market level of trade, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(B) Canfor

Canfor reported four channels of distribution in the home market, with six customer categories. The first channel of distribution (channel 1) included sales where merchandise was shipped directly from one of Canfor's sawmills to a Canadian customer. The second channel of distribution (channel 2) consists of sales made through remanufacturing operations, where merchandise was shipped from the primary mill through one or more secondary manufacturing facilities before delivery to the end customer. The third channel of distribution (channel 3) consisted of sales made through reloads, where merchandise is shipped from the primary mill though one or more lumber-handling and inventory yards before delivery to the final customer. The fourth channel of distribution (channel 4) consisted of sales made pursuant to VMI programs.

We compared the selling functions in these four channels of distribution and found that they differed only slightly in that certain services were provided for VMI programs that were not provided to other channels including: product brochures, inventory management, education on environmental issues, and in-store training. Also, office wholesalers (wholesalers that do not hold inventory), one of Canfor's customer categories, only purchased through channel 1 and home centers requested custom packing, wrapping, and bar coding. With respect to the sales process, freight and delivery services,

warranty services, custom-packing services, providing technical information, inspecting quality claims, and participating in trade shows, the sales to all customer categories in all channels were similar in all respects. Accordingly, we preliminarily determine that home market sales in these four channels of distribution constitute a single level of trade.

In the U.S. market, Canfor had both EP and CEP sales. Canfor reported EP sales to end-users and distributors through all four channels of distribution, including mill direct sales (channel 1), sales made from remanufacturing facilities (channel 2), sales made from Canadian reload facilities (channel 3), and sales made through VMI programs (channel 4). These four EP channels of distribution do not significantly differ from the channels of distribution in the home market. Accordingly, we preliminarily determine that EP sales in these four channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, Canfor reported these sales through channel 3, sales made from U.S. reload facilities. In addition, the Department has determined that Canfor's VMI sales are properly classified as CEP sales. The selling functions performed for these two channels of distribution were not significantly different in terms of freight arrangements, inventory management and warranty services, and therefore we determined there is only one CEP level of trade.

In determining whether separate levels of trade exist between U.S. CEP sales and home market sales, we examine selling functions, distribution chains, and customer categories. In our analysis of level of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Canfor's sales to end-users and distributors in the home market and in the U.S. market do not involve significantly different selling functions. Canfor's Canadian-based services for its CEP sales were similar to the single home market level of trade with respect to sales process and inventory management. Canfor reported minimal indirect selling expenses in the U.S. Because we found the level of trade for CEP sales to be similar to the home market level of trade, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(C) Slocan

Slocan reported three channels of distribution in the home market: (1) Direct sales to customers; (2) local sales made directly from mills; and (3) sales through reload operations. The first channel, coded in its submissions as channel 1, is comprised of direct sales and shipments to customers, and are the large majority of sales. The second, coded as channel 2, consist of ''local'' sales from mills to local customers, who received their merchandise at the mills. The third, coded as channel 3, consisted of sales through reload centers. We compared the selling functions in the three channels of distribution and found that Slocan's sales process was identical across all of them. In addition, freight services and inventory maintenance activities were similar. Although channel 3 sales involve reload centers not owned by Slocan, the company maintained control of the merchandise until it is sold to the customer in all three channels. Accordingly, we preliminarily determine that home market sales in these three channels of distribution constitute a single level of trade.

In the U.S. market, Slocan had both EP and CEP sales. Slocan reported EP sales through two channels of distribution: (1) Direct sales to customers; and (2) settlements of futures contracts. The first, coded channel 1, covered direct sales and shipments to customers. All other EP sales were ex-pit settlements of SPF lumber futures positions on the Chicago Mercantile Exchange (CME), *i.e.,* sales settled outside the pit of the CME. Slocan treats the CME like a customer. These sales, coded as channel 4, effectively use the same channel of distribution as channel 1 once the sale is arranged. Although the sales process for channel 4 differs somewhat from that of other EP sales and home market sales, the selling functions and channels of distribution for both channel 1 and channel 4 are similar with respect to delivery and freight services. Therefore, we preliminarily determine that EP sales in the U.S. market constitute a single level of trade.

On this basis, it appears that the level of trade of Slocan's home market sales do not involve significantly different selling functions than the level of trade of the company's EP sales, and that the distinctions do not constitute a difference in level of trade between the two markets.

Slocan's CEP sales were reported in two channels of distribution: (1) Sales through reload operations; and (2) sales through VMI programs. The first, coded as channel 2, consist of sales shipped from reload centers, operated by unaffiliated parties. Unlike home market and EP sales, the shipment instruction would go to the reload center rather than the mill. All channel 2 sales were reported as CEP sales. Slocan also reported some VMI sales, coded as channel 3, in which inventory was stored by the customer, although Slocan held title to the merchandise until it was sold. Slocan's Canada-based services for its CEP sales include order taking, issuing invoices to purchasers, and shipment instructions and inventory management for channel 2 sales. With respect to channel 3 sales, Slocan's involvement included the collection of weekly invoices of withdrawals from inventory and keeping track of inventory levels. Slocan did not report any indirect selling expenses other than imputed inventory carrying costs in the United States for either of these channels. Given the similarity of selling functions between these two channels of distribution, we concluded, preliminarily, that they constituted a single level of trade.

In determining whether separate levels of trade existed between U.S. CEP sales and home market sales, we examined the selling functions for the chains of distribution and customer categories reported in the home market and the United States. In determining levels of trade for CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

This CEP level of trade was also similar to the single home market level of trade with respect to sales process and warehouse/inventory maintenance. We found this CEP level of trade to be similar to home market level of trade. Therefore, where possible, we matched CEP sales to normal value based on home market sales and made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(D) Tembec

Tembec reported two channels of distribution in the home market. The first channel of distribution (channel 1) included sales made to wholesalers who take title to—but not physical possession of—the lumber and resell it to end-users. The second channel of distribution (channel 2) consisted of sales made to the same customers but these shipments go through a reload center en route to the customer. We compared the selling functions in these two channels of distribution and found that, while they differed slightly with respect to the subject merchandise being

shipped to an origin reload center (a reload center located close to the sawmill), they were similar with respect to both the sales process and freight services. Accordingly, we preliminarily determine that home market sales in these two channels of distribution constitute a single level of trade.

In the U.S. market, Tembec had both EP and CEP sales. Tembec reported EP sales to end-users and distributors through the same two channels of distribution reported for home market sales. These two EP channels of distribution do not differ from the two channels of distribution in the home market. Because the sales process, freight services and inventory maintenance were similar, we preliminarily determine that EP sales in these two channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, the Department has determined that Tembec made these sales through one channel of distribution, which consisted of U.S. sales that travel through a U.S. reload center en route to the customer, as well as VMI sales. Because Tembec made CEP sales through one channel of distribution, we have determined there is only one CEP level of trade.

In determining whether separate levels of trade exist between U.S. CEP sales and home market sales, we examined the selling functions reported for different distribution chains and customer categories in the home market and the United States. In determining levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

Tembec's sales to end-users and distributors in the home market and in the U.S. market do not involve significantly different selling functions. Tembec's Canadian-based services for CEP sales were similar to the single home market level of trade with respect to sales process and freight arrangements. Tembec normally provides transportation to the customer. For VMI sales, Tembec provides the same services, but invoices the customer based on the customer's need to maintain inventory levels. Because we found the level of trade for CEP sales to be similar to the home market level of trade, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(E) West Fraser

West Fraser reported three channels of distribution in the home market, with nine customer categories. The first channel of distribution (channel 1) included sales made directly to end-users and distributors. The second channel of distribution (channel 2) consisted of sales made to end-users and distributors through unaffiliated origin reload centers. The third channel of distribution (channel 3) consisted of sales made to end-users and distributors through VMI programs. We compared these three channels of distribution and found that, while selling functions differed slightly with respect to the merchandise shipped to an origin reload center and inventory maintenance service for VMI customers, they were similar with respect to sales process, freight services, inventory services and warranty services. Accordingly, we preliminarily determine that home market sales in these three channels of distribution constitute a single level of trade.

In the U.S. market, West Fraser had both EP and CEP sales. West Fraser reported EP sales to end-users and distributors through four channels of distribution and nine customer categories. The first three EP channels of distribution differed from the three channels of distribution within the home market only with respect to paper processing services in connection with West Fraser's export quota under the SLA. The fourth EP channel of distribution (channel 4) consisted of sales made to end-users and distributors through Canadian customers with quota transfer. This fourth EP channel is similar to channel 1. Inasmuch as these different channels were similar with respect to sales process, freight services and warranty service, we preliminarily determine that EP sales in these four channels of distribution constitute a single level of trade which is identical to the home market level of trade.

With respect to CEP sales, West Fraser's channel of distribution (channel 5) included sales to end-users and distributors through West Fraser's subsidiary, WFFP. The company WFFP is a Canadian entity created to act as the importer of record and hold title to lumber sold in the United States. These sales were made via unaffiliated destination reload centers in the United States. In determining whether separate levels of trade actually existed between CEP sales and home market sales, we examined the selling functions in the different distribution chains and customer categories reported in the home market and the United States. In determining levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. West Fraser's Canadian-based services for its CEP sales include order-taking, invoicing and inventory management. West Fraser's Canadian sales agents occasionally arrange for reload center excess storage and freight from U.S. destination reload centers to unaffiliated end users.

West Fraser did not report any indirect selling expenses in the United States except imputed inventory carrying costs. Any services occurring in the United States are provided by the unaffiliated reload centers, which are paid a fee by West Fraser. These expenses have been deducted from the CEP starting price as movement expenses.

West Fraser's sales to end-users and distributors in the home market and the importers in the U.S. market do not involve significantly different selling functions. The CEP level of trade was similar to the single home market level of trade with respect to sales process, and inventory maintenance. We found the level of trade for CEP sales similar to the home market level of trade. Therefore, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act.

(F) Weyerhaeuser

Weyerhaeuser reported four channels of distribution in the home market, with seven customer categories. The channels of distribution are (1) mill-direct sales; (2) VMI sales; (3) Mill-direct sales made through Weyerhaeuser Building Materials (WBM); and (4) sales made out of inventory by WBM. To determine whether separate levels of trade exist in the home market, we examined the selling functions, the chain of distribution, and the customer categories reported in the home market.

For each of its channels of distribution, Weyerhaeuser's selling functions included invoicing, freight arrangement, warranty/quality claims, marketing and promotional activities, technical service, sales and product training, market information, advanced shipping notices, online order status information, and toll-free customer service lines. For each channel, except WBM sales from inventory, Weyerhaeuser offered certification of adherence to sustainable forestry initiatives. Weyerhaeuser's sales made out of inventory by WBM appear to involve substantially more selling functions, and to be made at a different point in the chain of distribution than mill-direct sales. WBM functions as a distributor for the B.C. Coastal Group (BCC) and Canadian Lumber Business (CLB) and, although not a separate legal

entity, operated as a reseller. WBM operates a number of customer service centers (CSC) throughout Canada where it provides local sales offices and just-in-time inventory locations for customers. All sales made through WBM must be ''sold'' internally to WBM by BCC or CLB, and then sold to the final customer by WBM's local sales force. Freight must be arranged to the WBM inventory location and then to the final customer. CSCs will also engage in minor further manufacturing to fill a customer order, if the desired product is not in inventory. WBM also sells from inventory through its trading group (TG). The TG maintains some sales offices of its own, and also has sales personnel at some CSCs. The TG maintains its inventory at public reloads.

WBM also sells on a mill-direct basis. Although double-invoicing (*i.e.,* mill invoices WBM, which invoices the final customer) is involved, there is no need to maintain local just-in-time inventory or arrange freight twice. Therefore, we do not consider mill-direct sales made through WBM to be at a separate level of trade from mill-direct sales made by CLB and BCC.

Sales made through VMI arrangements also appear to involve significantly more selling activities than mill-direct sales. CLB has a designated sales team responsible for VMI sales which works with the customers to develop a sales volume plan, manages the flow of products and replenishing process, and aligns the sales volume plan with Weyerhaeuser's production plans. It also offers extra services such as bar coding, cut-in-two, half packing and precision end trimming. BCC's VMI sales are partially managed by WBM, which assists in determining the timing of shipments. BCC invoices WBM when the merchandise is shipped to the VMI warehouse and WBM invoices the customer as the product is shipped from the VMI warehouse.

Of the seven customer categories, industrial users, retail dealers and home improvement warehouses (HIW) made purchases through all four channels of distribution. Wholesalers and buying groups made purchases through all channels except VMI. Manufactured-home builders made all purchases through WBM, either directly from the mill or from inventory.

We find there are no significant differences in customer categories among the various channels of distribution. However, because both VMI and WBM inventory sales involve significantly more selling functions than the mill-direct sales, we consider them at a more advanced level of trade for purposes of this preliminary determination. While the selling activities for VMI and WBM inventory sales are not identical, the principal selling activity for both is just-in-time inventory maintenance. Thus, we consider them to be at the same level of trade. Accordingly, we find that there are two levels of trade in the home market, mill-direct (HM1) and VMI and WBM sales out of inventory (HM2).

Weyerhaeuser reported seven channels of distribution in the U.S. market, with seven customer categories. The channels of distribution are (1) mill-direct sales; (2) VMI sales; (3) CLB sales through U.S. reloads; (4) TG quota sales (5) CLB/WBM–CA transfer sales; (6) WBM–U.S. direct sales and (7) WBM–U.S. inventory sales. The EP channels are mill-direct sales, TG quota sales and WBM-CA transfer sales. The other channels are CEP channels. In determining whether separate levels of trade existed between U.S. and home market sales, we examined the selling functions, the chain of distribution, and customer categories reported in the U.S. market.

With regard to the mill-direct sales, Weyerhaeuser has the same selling activities as it does for mill-direct sales in Canada. With regard to TG quota sales, until October 2000, the TG maintained border reloads where it engaged in resorting and grading and minor further manufacturing such as end-cutting. It is unclear from Weyerhaeuser's response if any of these services were performed for lumber sold through the TG in the Canadian market. All other selling activities engaged in by the TG were the same in the U.S. and Canadian markets.

The WBM–CA transfer sales are made through one CSC and appear to have the same selling functions as other Canadian CSCs. Therefore, where possible, we matched the U.S. mill-direct sales (U.S.1) to the Canadian mill-direct sales (HM1) and the U.S. TG and WBM–CA transfer sales (U.S.2) to Canadian TG sales and CSC sales (HM2).

In examining levels of trade for CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. Weyerhaeuser's Canadian selling functions for VMI sales to the United States include the same selling functions performed for home market VMI sales, as described above. Although the VMI warehouses are located in the United States, most, if not all, of the associated selling functions appear to be performed in Canada. Therefore, even after the deduction of U.S. expenses and profit we find that the U.S. VMI sales (U.S.2) are made at the same level of trade as home market VMI sales (HM2).

CLB sales through U.S. reloads also appear to have most of their selling functions occurring in Canada. While Weyerhaeuser states that it maintains just-in-time inventory for its U.S. customers at these reloads, it does not maintain local sales offices, and the sales do not involve a reseller. Therefore, these sales do not appear to be at a different point in the chain of distribution than mill-direct sales in Canada. In addition, CLB does not appear to offer the same services from its U.S. reloads that it offers its VMI customers. Therefore, for purposes of this preliminary determination, we are considering CLB's sales through U.S. reloads to be at the same level of trade as its mill-direct sales (U.S.1 and HM1).

With regard to WBM's U.S. sales made through CSCs, significant selling activities occur in the United States, such as maintaining local sales offices and just-in-time inventory, and arranging freight to the final customer. The selling functions occurring in Canada are the same selling functions performed for mill-direct sales. Therefore, after the deduction of U.S. expenses and profit, we find that WBM's U.S. sales made through CSCs are at the same level of trade as mill-direct sales (U.S.1 and HM1).

Of the seven customer categories, wholesalers, HIWs, and retail dealers all buy through all channels of distribution. The remaining categories, industrial users, truss manufacturers, buying groups, and manufactured-home builders, all buy through multiple channels of distribution. Therefore, we do not find customer category to be a useful indicator of level of trade for these customer types.

Because we found a pattern of consistent price differences between levels of trade, where we matched across levels of trade, we made a level of trade adjustment under section 773(a)(7)(A) of the Act.

Currency Conversions

We made currency conversions in accordance with section 773A of the Act based on daily exchange rates as certified by the Federal Reserve Bank.

Critical Circumstances

In their April 2, 2001, petition, the petitioners requested that the Department monitor import data of the subject merchandise to determine whether imports have been massive since the expiration of the SLA. In the April 30, 2001, notice of initiation, the Department agreed to monitor these

imports and stated that if the relevant criteria are established, we would issue a critical circumstances finding at the earliest possible date. Throughout the course of this investigation, the petitioners have submitted additional comments concerning this issue and recommended that the Department make an affirmative determination of critical circumstances.

Inasmuch as the petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, section 351.206(c)(2)(i) of the Department's regulations provides that we must issue our preliminary critical circumstances determinations not later than the date of the preliminary determination.

If critical circumstances are alleged, section 733(e)(1) of the Act directs the Department to examine whether there is a reasonable basis to believe or suspect that: (A)(i) (t)here is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine (i) the volume and value of the imports, (ii) seasonal trends, and (iii) the share of domestic consumption accounted for by the imports. Section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent or more during a ''relatively short period'' may be considered ''massive.'' In addition, section 351.206(i) of the Department's regulations defines ''relatively short period'' as generally the period beginning on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later. As a consequence, the Department compares import levels during at least the three-months period immediately after initiation with at least the three-month period immediately preceding initiation to determine whether there has been at least a 15-percent increase in imports of subject merchandise. Where information is available for longer periods, the Department will compare such data. *See, e.g., Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696, 70697 (November 27, 2000).

In this case, because data were available for additional months, the Department compared import and shipment data during the five-month period immediately after initiation with the five-month period immediately preceding initiation to determine whether there has been at least a 15-percent increase in imports of subject merchandise. Based on this comparison, the Department preliminarily found that there were no massive imports with respect to the mandatory respondents and the companies in the ''all others'' category. For further details, *see* the Department's *Preliminary Determination of Critical Circumstances* memorandum from Bernard T. Carreau to Faryar Shirzad, (October 30, 2001). As discussed in the above-referenced memorandum, the Department's finding that massive imports did not exist for these companies is based on seasonal adjustments of the relevant shipment and import data. Because the second prong of the statute regarding critical circumstances has not been met for afore-mentioned companies, the Department preliminarily determined that critical circumstances do not exist for these companies.

Verification

In accordance with section 782(i) of the Act, we intend to verify information to be used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of certain softwood lumber products from Canada, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the EP or CEP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margin are as follows:

Exporter/producer	Weighted-average margin percentage
Abitibi (and its affiliates Produits Forestiers Petit Paris Inc., Produits Forestiers La Tuque Inc., Scieries Saguenay Ltee., Societe En Commandite Scierie Opticwan)	13.64
Canfor (and its affiliates Lakeland Mills Ltd., The Pas Lumber Company Ltd., Howe Sound Pulp and Paper Limited Partnership)	12.98
Slocan	19.24
Tembec (and its affiliates Marks Lumber Ltd., Excel Forest Products)	10.76
West Fraser (and its affiliates West Fraser Forest Products Inc., Seehta Forest Products Ltd.)	5.94
Weyerhaeuser (and its affiliates Monterra Lumber Mills Ltd., Weyerhaeuser Saskatchewan Ltd.)	11.93
All Others	12.58

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

All parties will be notified of the specific schedule for submission of case and rebuttal briefs. In general, case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will issue our final determination no later than 135 days after the date of publication of this notice in the **Federal Register**.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 30, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–27854 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–869, A–428–831, A–475–831, A–423–810, A–821–814, A–791–811, A–469–811, A–583–838]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We are postponing the preliminary determinations in the antidumping duty investigations of structural steel beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan.

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: David Goldberger (Luxembourg) at (202) 482–4136; Katherine Johnson (Taiwan) at (202) 482–4929; Lyn Johnson (People's Republic of China) at (202) 482–5287; Thomas Schauer (Germany) at (202) 482–0410; Alysia Wilson (Italy) at (202) 482–0108; Hermes Pinilla (Russia) at (202) 482–3477; David Dirstine (South Africa) at (202) 482–4033; and Jennifer Gehr (Spain) at (202) 482–1779; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Postponement of Preliminary Determinations

On June 12, 2001, the Department published the initiation of the antidumping duty investigations of imports of structural steel beams from People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan. The notice of initiation stated that we would make our preliminary determinations for these antidumping duty investigations no later than 140 days after the date of issuance of the initiation (*i.e.*, October 30, 2001). *See Notice of Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 12, 2001).

On September 25, 2001, the petitioners [1] made a timely request pursuant to 19 CFR 351.205(e) for a 31-day postponement of the preliminary determinations. On October 2, 2001, we postponed the preliminary determinations under section 733(c)(1) of the Act until November 30, 2001.

On October 30, 2001, the petitioners made a timely request pursuant to 19 CFR 351.205(e) for an additional 19-day postponement of the preliminary determinations, or until December 19, 2001. The petitioners requested this extension in order to allow the Department sufficient time to gather information necessary for its preliminary determinations.

For the reasons identified by the petitioners, and because there are no compelling reasons to deny the request, we are postponing the preliminary determinations under section 733(c)(1) of the Act. We will make our preliminary determinations no later than December 19, 2001.

[1] The petitioners are Committee for Fair Beam Imports (''CFBI'') and its individual members, Northwestern Steel and Wire Company, Nucor Corporation, Nucor-Yamato Steel Company, and TXI-Chaparral Steel Company.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: October 31, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–27855 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Missions: 2002 Trade Missions; Services Matchmaker Trade Delegation (Mexico, Chile and Venezuela et al.)

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the below listed overseas trade missions. For a more complete description of each trade mission, obtain a copy of the mission statement from the Project Officer indicated for each mission below. Recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions dated March 3, 1997.

Services Matchmaker Trade Delegation
Mexico City, Mexico; Santiago, Chile; Caracas, Venezuela
April 8–16, 2002
Recruitment closes on March 1, 2002.

For further information contact: Ms. Yvonne Jackson, U.S. Department of Commerce. Telephone 202–482–2675; or e-Mail: Yvonne.Jackson@mail.doc.gov

Medical Devices Trade Mission to Central Europe
Budapest, Hungary; Prague, Czech Republic; Warsaw, Poland
May 12–21, 2002
Recruitment closes on March 29, 2002.

For further information contact: Ms. Valerie Barth, U.S. Department of Commerce. Telephone 202–482–3360; or e-Mail: Valerie_Barth@ita.doc.gov

ACE-Infrastructure Matchmaker Trade Delegation
Madrid, Spain; Casablanca and Tangiers, Morocco
June 3–7, 2002
Recruitment closes on April 12, 2002.

For further information contact: Mr. Sam Dhir, U.S. Department of Commerce. Telephone 202–482–4756; or e-Mail: Sam.Dhir@mail.doc.gov

Electric Power Mission to Vietnam and Thailand
Hanoi and Ho Chi Minh City, Vietnam; Bangkok, Thailand
September 30–October 4, 2002
Recruitment closes on June 30, 2002.

For further information contact: Ms. Rachel Halpern, U.S. Department of Commerce. Telephone 202–482–4423; or e-Mail: Rache_Halpern@ita.doc.gov

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Nisbet, U.S. Department of Commerce. Telephone 202–482–5657, or e-Mail Tom_Nisbet@ita.doc.gov.

Dated: October 26, 2001.

Thomas H. Nisbet,

Director, Promotion Planning and Support Division, Office of Export Promotion Coordination.

[FR Doc. 01–27846 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102901D]

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Ecosystems Planning Committee will hold a public meeting.

DATES: The meeting will be held on Tuesday, November 20, 2001, from 10 a.m. until 5 p.m.

ADDRESSES: This meeting will be held at the Renaissance Philadelphia Hotel Airport, 500 Stevens Drive, Philadelphia, PA 19113; telephone: 610–521–5900.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: This will be the first meeting of the Ecosystems Planning Committee (formerly three committees: the Ecosystems Management Committee, the Comprehensive Management Committee, and the Habitat Committee). The purpose of this meeting is to review the committee's work plan for the coming year and initiate discussions on 2003 priorities for the Council's Quota Set-aside Program.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 31, 2001.

Richard W. Surdi,

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

[FR Doc. 01–27847 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102901C]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Whiting Oversight and Advisory Panel for November, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Tuesday, November 27, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Oversight Committee and Advisory Panel will discuss the 2001 Small Mesh Multispecies Stock Assessment and Fishery Evaluation (SAFE) Report. They will also discuss Whiting Monitoring Committee Recommendations. They will identify issues and develop a scoping document for Amendment 14 (whiting) to the Multispecies Fishery Management Plan (FMP). The agenda will also include discussion of a timeline, a schedule for scoping and future Committee meetings, as well as a timeline for the development of Amendment.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 31, 2001.

Richard W. Surdi,

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

[FR Doc. 01–27848 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Romania

October 31, 2001.

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

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

EFFECTIVE DATE: November 6, 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 this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

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

The current limit for Category 444 is being increased for carryforward.

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 31, 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 November 6, 2001, you are directed to increase the current limit for Category 444 to 15,637 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

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.01–27844 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DR–S

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

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Arab Emirates

October 31, 2001.

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

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

EFFECTIVE DATE: November 6, 2001.

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

SUPPLEMENTARY INFORMATION:

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

The current limit for Categories 351/651 is being increased for carryforward.

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 66974, published on November 8, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 31, 2001.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man–made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on November 6, 2001, you are directed to increase the current limit for Categories 351/651 to 272,606 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls 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. 01–27845 Filed 11–5–01; 8:45 am]

BILLING CODE 3510–DR–S

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

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Gary J. Martinaitis, Division of Economic Analysis, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5209; FAX: (202) 418–5527; email: *gmartinaitis@cftc.gov* and refer to OMB Control No. 3038–0012.

SUPPLEMENTARY INFORMATION:

Title: Futures Volume, Open Interest, Price, Deliveries and Exchange of Futures for Physicals (OMB Control No. 3038–0012). This is a request for extension of a currently approved information collection.

Abstract: Commission Regulation 16.01 requires the U.S. futures exchanges to publish daily information on the items listed in the title of the collection. The information required by this rule is in the public interest and is necessary for market surveillance. This rule is promulgated pursuant to the

Commission's rulemaking authority contained in sections 5 and 5a of the Commodity Exchange Act, 7 USC 7 and 7a(2000).

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 the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on September 27, 2001 (66 FR 49355).

Burden statement: The respondent burden for this collection is estimated to average .5 hours per response. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 12.

Estimated number of responses: 2,640.

Estimated total annual burden on respondents: 1,320 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0012 in any correspondence.

Gary J. Martinaitis, Division of Economic Analysis, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: October 31, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–27774 Filed 11–5–01; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before December 6, 2001.

FOR FURTHER INFORMATION OR A COPY CONTACT: Lawrence B. Patent, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5439; FAX: (202) 418–5528; email: *lpatent@cftc.gov* and refer to OMB Control No. 3038–0026.

SUPPLEMENTARY INFORMATION:

Title: Gross Margining of Omnibus Accounts (OMB Control No. 3038–0026). This is a request for extension of a currently approved information collection.

Abstract: Commission Regulation 1.58 requires futures commission merchants to carry omnibus accounts on a gross, rather than a net, basis. This rule is promulgated pursuant to the Commission's rulemaking authority contained in Sections 5 and 5a of the Commodity Exchange Act, 7 U.S.C. 7 and 7a (2000).

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 the CFTC's regulations were published on December 30, 1981, See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 5, 2001 (66 FR 51025).

Burden statement: The respondent burden for this collection is estimated to average .08 hours per response. These estimates include the time needed to review instructions; develop, acquire install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 225.

Estimated number of responses: 3,900.

Estimated total annual burden on respondents: 300 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0026 in any correspondence.

Lawrence B. Patent, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: October 31, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–27775 Filed 11–5–01; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Request of the Coffee, Sugar & Cocoa Exchange (CSCE) for Approval of its Commercial Markets Index Futures and Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of commodity futures and option contracts.

SUMMARY: The Coffee, Sugar & Cocoa Exchange (CSCE or Exchange) has requested that the Commission approve its commercial markets index futures and options contract, pursuant to the provisions of section 5c(c)(2)(A) of the Commodity Exchange Act as amended. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by the Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before November 21, 2001.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov.* Reference should be made to the CSCE commercial markets index futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Fred Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC (202) 418–5273. Facsimile number (202) 418–5527. Electronic mail: *flinse@cftc.gov.*

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the CSCE in support of the request for approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 2000)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CSCE should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 115 21st Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC on October 29, 2001.

Richard A. Shilts,

Acting Director.

[FR Doc. 01–27773 Filed 11–5–01; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 02–2]

Daisy Manufacturing Co; Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a complaint under the Federal Hazardous Substances Act and the Consumer Product Safety Act.

SUMMARY: Under provisions of its Rules of Practice for Adjudicative Proceeding (16 CFR part 1025), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues. Published below is a Complaint in the matter of Daisy Manufacturing Company.

SUPPLEMENTARY INFORMATION: The text of the Complaint appears below.

Dated: October 31, 2001.

Todd A. Stevenson,

Acting Secretary.

In the matter of; Daisy Manufacturing Company, Inc., doing business as Daisy Outdoor Products CPSC Docket No.: 02–2; 400 West Stribling Drive, Rogers, Arkansas 72756, Respondent.

Complaint

Nature of Proceedings

1. This is an administrative proceeding pursuant to section 15 of the Federal Hazardous Substances Act (''FHSA''), 15 U.S.C. 1274, and section 15 of the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2064, for public notification and remedial action to protect the public from substantial risks of injury and substantial product hazards created by Respondent Daisy Manufacturing Company, Inc.'s Powerline Airguns.

2. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission, 16 CFR part 1025.

Jurisdiction

3. This proceeding is instituted pursuant to the authority contained in sections 15(c), (d) and (f) of the CPSA, 15 U.S.C. 2064(c), (d) and (f), and sections 15(c)(1), (2) and (e) of the FHSA, 15 U.S.C. 1274(c)(1), (2) and (e).

Parties

4. Complaint Counsel is the staff of the Legal Division of the Office of Compliance (hereinafter referred to as ''Complaint Counsel'') of the United States Consumer Product Safety Commission (hereinafter referred to as ''The Commission''), an independent regulatory commission established by section 4 of the CPSA. 15 U.S.C. 2053.

5. Respondent Daisy Manufacturing Company, Inc. (hereinafter referred to as ''Daisy'') is a Delaware Corporation, with its principal place of business located at 400 West Stribling Drive, Rogers, Arkansas.

6. Daisy ''manufactures'' Powerline Airguns and is, therefore, a ''manufacturer'' of consumer products as that term is defined in the CPSA, 15 U.S.C. 2052(a)(4).

The Consumer Product

7. The Daisy Powerline Airgun is a pneumatic powered or carbon dioxide (''CO_2'') charged gun designed to shoot BBs or pellets at a rate over 350 feet per second (fps). From September, 1972 to January, 2001, Daisy manufactured approximately 4,925,353 model 880 Powerline Airguns including the following models and product numbers: 880, 881, 882, 1880, 1881, 9072, 9082, 9083, 9093, 9393, 9382, 3305, 3480, 3933, 1455, and 5150. Daisy continues to manufacture the model 880 Powerline Airgun.

8. From 1984 through January, 2001, Daisy manufactured approximately 2,353,798 model 856 Powerline Airguns including the following models and product numbers: 860, 856, 2856, 7856 and 990. Daisy continues to manufacture the model 856 Powerline Airgun. (All models recited in paragraphs 7 and 8 above are hereinafter referred to as ''Daisy Powerline Airguns.'')

9. The retail cost of the Daisy Powerline Airgun currently being sold varies from approximately $39.95 to $67.95.

10. Daisy has and continues to produce and distribute the Powerline Airguns in United States commerce for sale to a consumer for use in or around a permanent or temporary household or residence, in recreation or otherwise or for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, in recreation or otherwise. These airguns are, therefore, ''consumer products'' that are ''distributed in commerce.'' 15 U.S.C. 2052(a)(1) and (11).

Count 1

The Daisy Powerline Airguns Contain Defects Which Creates a Substantial Product Hazard Defect

11. Paragraphs 1 through 10 are hereby realleged, and incorporated by reference as though fully set forth herein.

12. A user can load 50 to 100 BBs through a loading door on the Daisy

Powerline Airguns, and into the magazine reservoir. The consumer may then pull a bolt handle toward the rear to cock the gun, and close a pump valve. When the muzzle is raised, at least 45° above the horizon, and the gun is not titled towards either side, BBs move from the magazine, via gravity, onto a feed ramp, and to a loading port. This allows a magnetic bolt tip to pick up a BB from the feed ramp. The user can then close the bolt by pushing the handle forward, and chamber the BB into the rifle.

On the pneumatic versions of these airguns, the user provides power to the Daisy Powerline Airguns by pumping the forearm lever on the gun. This pumping process builds air pressure and determines the speed and power with which the projectile is ultimately expelled from the airgun. On the CO_2 cartridge versions of the gun, the consumer can insert a replaceable CO_2 cartridge which provides all the power needed to expel the projectile.

13. The Daisy Powerline Airguns have a rifle barrel, which is concentrically supported and surrounded by an outer barrel casing. These airguns have a ''virtual magazine'', whose borders consist of the receiver halves, a casing surrounding the cylindrical pump that holds the projectile propellant, the outer barrel casing, and the inner rifle barrel's forward support tab. The Daisy design permits BBs to move freely around the inside of the magazine area.

14. During normal use of the Daisy Powerline Airguns, BBs may become lodged within the ''virtual magazine'' of the gun. A consumer using the gun may fire the gun repeatedly or shake the gun and receive no visual or audible indication that the airgun is still loaded.

15. Although Daisy made some changes to the Powerline Airguns to try to lessen the likelihood that BBs will lodge in the gun, BBs can still lodge inside of them. The Daisy Powerline Airguns design, and manufacturing variances, prevent BBs from loading into the firing chamber and lead consumers to believe the airgun is empty, are, therefore, defective within the meaning of section 15 of the CPSA, 15 U.S.C. 2064, and section 15 of FHSA, 15 U.S.C. 1274.

16. Because these Daisy airguns can lodge BBs or fail to feed BBs into the firing chamber under normal conditions of use, consumers may be unaware when a BB loads unless they look into the loading port. Daisy made design decisions that impair the ability of the user to ascertain whether a BB is loaded. Daisy manufactures BBs that are silver in color. The Powerline Airgun's feed ramp is made of a zinc material. Due to the color similarity, a user operating the airgun rapidly may not be able to discern the presence of a BB even if he is looking directly into the loading port. Further, Daisy designed the airgun so a user can install an optional riflescope on top of the receiver halves and over the loading port. The placement of the riflescope can obscure the user's ability to see a BB in the loading port.

17. Daisy's design relies unduly on consumers to see a BB in the loading port and then interferes with that ability in reasonably foreseeable circumstances. This design constitutes a defect under section 15 of the CPSA, 15 U.S.C. 2064, and section 15 of the FHSA, 15 U.S.C. 1274.

18. Daisy's Powerline Airguns use a safety mechanism that does not automatically engage when the airgun is loaded and ready to fire. An automatic safety design would prevent against accidental discharge.

19. The failure to incorporate an automatic safety into the Daisy Powerline Airgun constitutes a design defect under section 15 of the CPSA, 15 U.S.C. 2064, and section 15 of the FHSA, 15 U.S.C. 1274.

Substantial Risk of Injury

20. All of the approximately 7,279,151 Daisy Powerline Airguns, and the Powerline Airguns currently being sold, contain the defects alleged in paragraphs 11 through 19 above.

21. Most of the consumers using these airguns will be children or young adults. It is likely that these consumers will operate the gun rapidly and not continue to check the loading port to determine whether any BBs are feeding into the chamber when they believe the airgun is no longer loaded. It is also reasonably foreseeable consumers, during use, will be less careful with a gun they believe is not loaded. A BB that had previously been lodged and misfed can then be loaded, and fired from the airgun. Under these circumstances, BBs are likely to be fired at and strike the consumer or another person in the vicinity.

22. It is likely consumers will carry and handle the Daisy Powerline Airguns when they are cocked and loaded. Since these airguns do not have an automatic safety, it is likely the gun will be discharged during handling in the direction of the user or anther person in the vicinity.

23. At close range, BBs fired from these airguns can penetrate tissue and bone, damaging internal organs, such as the brain, heart, liver, spleen, stomach, bowel and colon. The Commission has learned of at least 15 death and 171 serious injuries, including brain damage and permanent paralysis, caused by the defects in the Daisy Powerline Airguns. Most of these injuries were to children under the age of 18.

24. The defects in the Daisy Powerline Airgun create a substantial risk of injury, and the airguns create a substantial product hazard within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

Counts

The Daisy Powerline Airguns Create a Substantial Risk of Injury to Children

25. Paragraphs 1 through 24 are hereby realleged, and incorporated by reference as though fully set forth herein.

26. The Daisy Powerline Airguns were marketed for, and intended for the use of, children. Although Daisy marketed the airguns initially with no age recommendation, it later labeled them for users 14 and older and eventually 16 and older. A substantial number of the airguns are intended for use by children.

27. Given the pattern of the defects alleged above, the number of Powerline Airguns distributed in commerce, and the likelihood of further serious injury and death, especially to children, these airguns present a substantial risk of injury to children. Sections 15(c)(1) and (c)(2) of the FHSA, 15 U.S.C. 1274(c)(1) and (c)(2).

Relief Sought

Wherefore, in the public interest, Complaint counsel requests that the Commission:

A. Determine that Respondent Daisy's Powerline Airgun presents a ''substantial product hazard'' within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2).

B. Determine that Respondent Daisy's Powerline Airgun presents a ''substantial risk of injury to children'' within the meaning of sections 15(c)(1) and (c)((2) of the FHSA, 15 U.S.C. 1274(c)(1) and (c)(2).

C. Determine that public notification under section 15(c) of the CPSA, 15 U.S.C. 2064(c), and section 15(c)(1) is required to protect the public adequately from the substantial product hazard and substantial risk of injury to children presented by the Powerline Airgun. We also want to prevent future distribution and order that the Respondents:

(1) Give prompt public notice that the Daisy Powerline Airgun presents a serious injury and death hazard to consumers and of the remedies available to remove the risk of injury and death;

(2) Mail such notice to each person who is or has been a distributor or retailer of the Daisy Powerline Airgun;

(3) Mail such notice to every person to whom Respondents know the Daisy Powerline Airgun were delivered or sold; and

(4) Include in the notice required by (1), (2) and (3) above a complete description of the hazard presented, a warning to stop using the Daisy Powerline Airgun immediately; and clear instructions to inform consumers how to avail themselves of any remedy ordered by the Commission.

D. Determine that action under section 15(d) of the CPSA, 15 U.S.C. 2064(d), and section 15(c)(2) of the FHSA, 15 U.S.C. 1274(c)(2) is in the public interest and order Respondents:

(1) To cease distribution of all Daisy Powerline Airguns until such time as all defects in the airguns are eliminated and the risk of injury reduced in a manner satisfactory to the Commission.

(2) With respect to Daisy Powerline Airguns already manufactured and distributed in commerce, Daisy must

(a) Elect to repair all the Powerline Airguns so they will not create a serious injury and death hazard; replace all the Powerline Airguns with a like or equivalent product which will not create a serious injury or death hazard; or refund to consumers the purchase price of the Powerline Airgun;

(3) Make no charge to consumers and reimburse them for any foreseeable expenses incurred in availing themselves of any remedy provided under any order issued in this matter;

(4) Reimburse distributors and dealers for expenses in connection with carrying out any Commission Order issued in this matter;

(5) Submit a plan satisfactory to the Commission, within ten calendar (10) days of service of the final Order, directing that actions specified in paragraphs D(2) through D(4) above be taken in a timely manner;

(6) Submit monthly reports documenting progress of the corrective action program;

(7) For a period of five (5) years after entry of a Final Order in this matter, keep records of its actions taken to comply with paragraphs D(2) through D(4) above, and supply these records upon request to the Commission for the purpose of monitoring compliance with the Final Order.

e. Daisy shall notify the Commission at least 60 days prior to any change in their business (such as incorporation, dissolution, assignment, sale or petition for bankruptcy) that results in, or is intended to result in, the emergence of successor ownership, the creation or dissolution of subsidiaries, going out of business, or any other change that might affect compliance obligations under a Final Order issued by the Commission.

F. Daisy shall take such other and further actions as the Commission deems necessary to protect the public health and safety and to comply with the CPSA and FHSA.

Issued by order of the Commission.

Dated this 30th day of October 2001.

Alan H. Schoem,

Assistant Executive Director, Office of Compliance, U.S. Consumer Product Safety Commission (301) 504–0621.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

Jimmie L. Williams, Jr.,

Complaint Counsel, Office of Compliance, 4330 East West Highway, Bethesda, Maryland 20814–4408, (301) 504–0626, ext. 1376.

[FR Doc. 01–27872 Filed 11–05–01; 8:45 am]

BILLING CODE 6350–01–M

DEPARTMENT OF DEFENSE

Department of the Army

MTMC Pam 55–4 ''How to do Business in the DOD Personal Property Program''. Defense Transportation Regulation Part IV, DOD Personal Property Program; Tender of Service

AGENCY: Military Traffic Management Command (MTMC), DoD.

ACTION: Notice; Moratorium.

SUMMARY: Moratorium on accepting application in the DOD Personal Property Program. MTMC, as Program Manager of the Department of Defense (DOD) Personal Property Shipment and Storage Program (the Program), proposes to streamline and strengthen the carrier qualification process. Due to the administrative workload to requalify current DOD participants we must impose a moratorium. See item in this **Federal Register** from MTMC, notice on new procedures, MTMC Pam 55–4 ''How to do Business in the DOD Personal Property Program''; Defense Transportation Regulation Part IV; Tender of Service (request for comments), which addresses the streamlining and strengthening of carrier qualification procedures. A moratorium has been established on accepting new applications in the Department of Defense (DOD) Personal Property Program for a period of time to allow smooth transition to the new electronic carrier qualification process. This period of time will not exceed one year and will end when all participants are re-qualified.

DATES: The moratorium will be effective November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sylvia Walker, Headquarters, Military Traffic Management Command, Attn: MTPP–HQ, Room 10N67–51, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332–5000; Telephone (703) 428–2982; Telfax (703) 428–3388/3389.

SUPPLEMENTARY INFORMATION:

I. Moratorium

Current: MTMC has no moratorium.

Proposed: MTMC will impose a temporary moratorium on accepting new applications for qualification beginning 10 days from the date of publication of this notice in the **Federal Register**. MTMC may reduce the moratorium to a lesser period based on the time it takes to complete transition from the manual to the electronic applicaiton process. Once the moratorium is lifted future applicants must qualify under the new qualification procedures.

II. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, does not apply because no information requirements or records keeping responsibilities are imposed on offerors, contractors, or members of the public.

III. Regulatory Flexibility Act

This change is related to public contracts and is designed to streamline and strengthen the DOD personal property carrier qualification program. This change is not considered rule making within the meaning of the Regulatory Flexibility Act, 5, U.S.C. 601–612.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–27862 Filed 11–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

MTMC Pam 55–4 ''How to do Business in the DOD Personal Property Program''. Defense Transportation Regulation Part IV; Tender of Service

AGENCY: Military Traffic Management Command (MTMC), DoD.

ACTION: Notice; Request for comments

SUMMARY: New Procedures to participate in the Department of Defense Personal Property Program. MTMC, as Program Manager of the Department of Defense (DOD) Personal Property Shipment and Storage Program (the Program), proposes to streamline and strengthen the carrier

qualification process. The proposal requires all present and future participants (commercial carriers) in the Domestic and International Personal Property Programs to use our streamlined qualification process via the web, email, fax, and met more stringent financial requirements. These changes in procedures will:

a. Simplify and streamline the carriers qualification process by reducing paperwork and expediting approval processing time.

b. Meet MTMC's legal obligation to only do business with responsible commercial carriers.

c. Improve Program performance and quality assurance.

d. Incorporate suggestions made by our industry partners.

For streamlining MTMC is proposing the following procedures.

a. Present participants will be required to re-quality using the new procedures.

b. Future applicants will be required to use the new procedures.

c. Reducing from 13 previously required manual forms to 4 electronic forms.

These 4 forms include the electronic submission of the Tender of Service Signature Sheet, the list of countries and codes of service form, the performance bond (electronic or fax), and the certificate of cargo liability (electronic or fax).

For strengthening MTMC is proposing the following changes.

a. Current participants must comply with the new re-qualification procedures/standards.

b. Financial requirements will be increased.

c. Carriers must provide, upon request, financial statements, audit report or review memorandum, and income tax returns.

d. Cargo liability insurance minimums will be increased.

e. Performance bonds will be required in both the international and domestic programs.

f. Five years government and/or commercial experience will be required, using the date on the operating authority or if the state is deregulated, the articles of incorporation date.

g. MTMC will use carriers's safety rating obtained from SAFER system, Department of Transportation (DOT) for verification of authority and any reported safety infractions, which may be used in Carrier Review Boards.

h. Change in company ownership applications will go through a novation process.

DATES: Comments on these proposed procedural changes and standards must be submitted to the address given below on or before January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Sylvia Walker Headquarters, Military Traffic Management Command, ATTN: MTPP–HQ, Room 10N67–51, Hoffman Building II, 200 Stovall Street, Alexandria, Virginia 22332–5000; Telephone (703) 428–2982; Telefax (703) 428–3388/3389.

SUPPLEMENTARY INFORMATION:

MTMC's proposal to incorporate common commercial business practices and take advantage of efficiencies gained from the use of technology will streamline and strengthen the carrier qualification process for the first time in 10 years. Once changes have been adopted, the new requirements will supersede the current *How To Do Business Book.* The updated ''book'' will be available for your use on the internet on the MTMC home page at *www.mtmc.army.mil.*

Streamlining Initiatives

1. Qualification procedures.

Current: Manual and time consuming submission of documentation to MTMC.

Proposed: All current Program participants and those who have applied for qualification prior to the publication of this notice in the **Federal Register** must apply or re-apply for qualification approval (also known as re-qualification) under the new streamlined requirements and submit their application electronically for two forms and electronic/fax for two specific forms.

2. New procedures for future applicants.

Current: Utilizes ''How to do Business Book''

Proposed: Once published, carriers must comply with the new procedures in the revised ''How to do Business Book''.

3. Submission of Forms.

Current: Submission of a qualification package is a manual process with a minimum of 13 forms.

Proposed: MTMC will require only 2 electronic forms and 2 forms that either contain electronic signatures or are faxed facsimile signatures. All forms will be available on the MTMC web site. These forms include the Electronic Tender of Service Signature Sheet, the List of Countries and Codes of Service form, performance bond, and certificate of cargo liability insurance as part of the approval process. The performance bond and certificate of cargo liability require signatures and must be sent electronically or faxed.

Note: Requirements for accessing the Personal Property Qualification website are: Carrier must have access to the Internet via a Web Browser, Microsoft Internet Explorer version 5.5 or greater, or Netscape version 4.75 or greater. The minimum Personal Computer requirements recommended: Intel Pentium processor (or other IBM compatible), 400 MHz or greater speed, at least 128 MB of RAM and Windows 98/Windows NT 4.0/ windows 2000.

Strengthening Initiative

1. Application for re-qualification.

Current: Manual applications are reviewed on a first come first served basis.

Proposed: Required electronic re-qualification applications must be submitted during the period 1 Feb.–1 Mar. 02. The submission date is determined by the electronic date on the electronic tender of service signature sheet received in MTMC's database. After completing the electronic tender of service signature sheet and the List of countries and codes of service the computer will send back a response that we have received the documentation. It will be the carrier's responsibility to ensure any faxed documentation has been submitted to MTMC by the required deadline. Late submissions will not be accepted. Electronic applications will be reviewed on a first come first served basis. During the transition period while applications for re-qualification are being processed, previously approved carrier applicants may continue to do business with DOD pending completion of the re-qualification process. Before filing rates for the IS02/DS02 cycles, carriers should review the final Federal Register notice in Jan 02 to make sure they meet the new qualification requirements. Upon MTMC's review of applicant's submission, if carriers do not meet the qualification requirements, their rates will be administratively removed from the system. Carriers failing to successfully complete the required re-qualification process during the submission period will be allowed to continue to participate in the current winter cycle but will be ineligible for traffic in succeeding cycles. Future applicants must qualify under the new qualification procedures.

2. Financial Ratios.

Current: Carriers must certify financial statements meets a 1:1 quick ratio or better.

Proposed: All participants must meet and maintain a 1:1 Quick ratio or better, a 1:1 Current ratio or better, and a 2:1 Debt to Equity ratio or less. The following definitions are provided for clarification purposes only. If there are further questions, carriers should consult with their own accountants for

clarification and how to best present financial data.

The quick ratio measures the ability of a business to meet their current bills. Quick ratio is cash plus receivable/current liabilities. This is similar to current ratio with the exception that inventory and prepaids are subtracted from the total current assets prior to making the computation. These items are deleted prior to computing the ratio because inventory and prepaids are not easily converted to cash to pay debts. Future if a company needs to liquidate inventory or prepaids to pay bills, they are in liquidation process and not really a going concern.

Current ratio is company's current assets/current liabilities. Current assets are defined as cash, receivables, inventories, and prepaid items (insurance, deposits, etc). Current liabilities are what you owe within the coming 12 month period. Included as current liabilities are normal accounts payable and next 12 months of payments on company loans/note payable.

Debt to equity is total liabilities divided by company's equity. Another way of stating this is that equity is the company's worth and debt to equity measures debt to worth. For example if your car costs $15,000 but your loan is $10,000 your equity in the car is $5,000 and your debt to equity ratio is 2 to 1. Thus for every dollar of equity you owe two dollars. (2 × 5,000 equals your debt of $10,000).

3. Financial documentation.

Current: Submit hard copy of financial statements at time of application.

Proposed: Upon request, carriers will provide MTMC financial statements accompanied by either an audit report or review memorandum prepared by their auditors. Financial statements must be prepared according to generally accepted accounting principles using the accrual basis, including balance sheets and profit/loss statements. Financial statements must include all documents referenced in any footnotes or in any audit or review memorandums. No pro forma statements will be accepted in lieu of actual financial statements. We may also elect to request copies of your company income tax returns for the past three years. MTMC reserves the right to obtain services from an independent third party source to conduct financial risk analysis of carrier's financials. This analysis will compare the company analyzed with appropriate industry norms. This information may be used in a carrier review board action to assist in the determination of financial risk to the government. The financial statements must document the business operations of the single business entity or organization that seeks to qualify to do business with the DOD. Combined or consolidated statements that include the finances of other companies will not be accepted. Letters of guarantee from a parent company will not be accepted.

4. Cargo Liability Insurance Minimum.

Current: Minimums are $10,800 per shipment and $150,000 amount per aggregate at any one place and time (per incident).

Proposed: Cargo liability insurance will be equal to $22,500 per shipment and $315,000 per incident. Carriers must have their insurance company provide directly to MTMC current cargo liability insurance certificates by electronic means or fax. These levels must be maintained throughout DOD approval.

5. Performance Bond.

Current: International carriers must provide a performance bond in the face amount of either $100,000 or 2.5% of their DOD international revenue for the previous year, whichever, is greater. There is no current bond requirement in the Domestic program.

Proposed: Carriers must have their surety company provide a signed copy of their performance bond directly to MTMC electronically or by fax. A performance bond will be required in both the international and domestic program. However, there are differences in the requirements. The value of each cycle's International Program continuous performance bond must be equal to $100,000 or 2.5% percent of the projected international revenue based on previous year cycle data, whichever is greater. The International bond requirement will change from an annual submission to a semi-annual submission, upon request from MTMC. Note: For the purpose of re-qualification, all current International participants will be notified individually, if an increase in their performance bond is required.

The value of the continuous Domestic bond will be equal to $50,000 or 2.5% percent of the value of revenue received from DOD personal property domestic traffic in the previous complete calendar year, whichever is greater.

Note: Because no bond was previously required for the purpose of re-qualification, all domestic carriers must submit a performance bond in the minimum amount of $50,000. MTMC will then contact each individual Domestic carrier at a later time to request an increased bond (if applicable).

The purpose of this performance bond requirement is to ensure that the DOD is compensated for reprocurement costs caused by the carrier's failure to perform agreed services.

6. Carrier experience requirement.

Current: There is no minimum.

Proposed: Both International and Domestic carriers must have a minimum of 5 years commercial and/or government experience to be considered for DOD approval, using the date on your operating authority, or if deregulated the date on your Articles of Incorporation.

7. Safety Rating.

Current: Carrier's Safety Rating is not reviewed.

Proposed: MTMC will reserve the right to obtain and use a carrier's Department of Transportation Safety Rating for verification of authority and any reported safety infractions, which may be used in Carrier Review Boards.

8. Change of Ownership.

Current: Carrier submits new qualification package.

Proposed: MTMC approval of changes in ownership of previously approved carriers is required. MTMC approval will be based on a review of the sales agreement and other items similar to that set out in the Federal Acquisition Regulation subpart 42.12. The new asset owner (transferee) must assume ALL obligations under the agreement as if they were the original party. The transferor guarantees performance by the transferee. All three parties (Government, transferor, and transferee) will sign a novation agreement.

Additional Information

1. For all Domestic Program applicants and participants, MTMC proposes to continue to require all affiliates of other Domestic and International Program applicants and participants to declare (common financial and/or administrative control) their affiliations. Affiliates means associated business concerns or individuals if directly or indirectly, (a) either one controls or can control the other or (b) a third party controls or can control both. For all International Program applicants and participants, MTMC proposes to continue to require all affiliates of the other Domestic and International Program applicants and participants to both declare their affiliations to MTMC, and to refrain from competing in the same personal property code of service/channel (code/channel) combinations served by any of their affiliates. If MTMC adjusts the codes of service and/or channels at any time in the future, this rule will continue for the new or altered codes and/or channels without further notice, and Program participants will be

required to adjust their service and update their documentation with MTMC.

2. MTMC intends to enforce these enhanced qualification requirements by reviewing information about commercial participant performance and finances obtained from a variety of sources including information provided directly to MTMC, public databases, and commercial sources. The latter may include commercial performance databases, members of the personal property industry, and members of the general public. If a Program participant violates Program requirements, it will be administratively placed in a nonuse status pending resolution of the violation using the procedures contained in MTMC Regulations 15–1. When carrier declarations do not appear to be consistent with known factors or circumstances, they will be identified for further investigation and possible referral to the U.S. Justice Department for action.

3. MTMC proposes to require that all Program applicants and participants accept the cost of complying with these more stringent requirements as part of their cost of doing business. We further anticipate that adoption of the new qualification procedures and standards will result in many offsetting tangible and intangible benefits to military service members and their families, the personal property industry, to DOD, the military services, U.S. Transportation Command, and MTMC as organizations. Military service members will benefit from having their personal property moved in an efficient manner by carriers that possess the necessary means of doing business and that do not go out of business and/or hold shipments hostage. Personal property agents will benefit from knowing that a DOD approved carrier is financially stable and has the means to pay its bills in a timely manner. DOD organizations will benefit from dealing with healthy carriers that do not suffer catastrophic business failures that require extensive and expensive transportation reprocurement efforts.

MTMC envisions the adoption of more stringent qualification requirements as part of a continuing process in which MTMC moves from price-based procurement of transportation services to a best value, or quality plus price, approach.

The revised qualification process, procedures, regulations and *How To Do Business Book* will be superseded by the new streamlined requirements. MTMC will publish all Program requirements in its Website ''How to Do Business with the DOD'', and the **Federal Register** as appropriate.

MTMC has previously received many informal comments, primarily from commercial personal property transportation providers supporting the idea of eliminating financially and operationally risky carriers from the Program. We agree in general terms with these comments for both legal and operational reasons. We now propose to change carrier qualification requirement in the DOD Personal Property Program to implement this military/industry consensus.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* does not apply because no information requirements or records keeping responsibilities are imposed on offerors, contractors, or members of the public.

Regulatory Flexibility Act

This change is related to public contracts and is designed to streamline and strengthen the DOD personal property carrier qualification program. This change is not considered rule making within the meaning of the Regulatory Flexibility Act, 5, U.S.C. 601–612.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–27863 Filed 11–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Antileishmanial Composition for Topical Application

AGENCY: Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. 6,284,739 entitled ''Antileishmanial Composition for Topical Application'' issued Sept. 4, 2001. Foreign rights are also available (PCT/US98/08979). The United States Government as represented by the Secretary of the Army has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For issuing issues, Dr. Paul Mele, Office of Research & Technology Assessment (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The instant invention provides compositions containing as active agents paromomycin in combination with gentamicin. When given in combination, the compositions appear much more effective than when given alone. Furthermore, the compositions of the invention were found to be effective against several species of Leishmania that were not effectively inhibited by the prior art compositions.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–27867 Filed 11–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Method and Compositions for Treating and Preventing Retinal Damage

AGENCY: Army Medical Research and Material Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S Patent Application No. 09/590,174 entitled ''Method and Compositions for Treating and Preventing Retinal Damage'' filed June 9, 2000. Foreign rights are also available (PCT/USOO/15812). This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: This invention relates to the use of dihydrolipoic acid and alpha-lipoic acid to treat and prevent retinal damage

arising from physical forces such as laser beams and to compositions containing phenyl nitrones and dihydrolipoic acids or alpha-lipoic acid as neuroprotective agents. The protective effect is believed to be due to the metabolites ability to protect neurons by a direct antioxidant effect, recycling of antioxidant vitamins E and C by redox, enhancement of glutathione, creation of at least 8 species of free radicals, and enhancement of intracellular ATP. Such may be useful in glaucoma, temporal arteritis, macular degeneration, diabetic retinopathy, proliferative retinopathy, retinitis pigmentosa, and as an adjunctive prophylactic therapy prior to or following cataract surgery.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–27865 Filed 11–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Pharmaceutical Composition Containing pGLU–GLU–PRO–NH2 and Method for Treating Diseases and Injuries to the Brain, Spinal Cord and Retina Using Same

AGENCY: Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application No. 09/692,938 entitled ''Pharmaceutical Composition Containing pGLU–GLU–PRO–NH2 and Method for Treating Diseases and Injuries to the Brain, Spinal Cord and Retina Using Same'' and filed October 20, 2000. Foreign rights are also available (PCT/US00/29278). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: A neuroprotectant composition wherein the active ingredient is pGLU–GLU–PRO–NH2 or a combination of pGLU_GLU–PRO–NH2 (EEP) and N-tert-Butyl-α-(2sulfophenyl)nitrone (SPBN) or other nitrone. A method of treating and preventing diseases and injuries of the brain, spinal cord and retina is also presented by administering the endogenous tripeptide EEP to a subject as a neuroprotectant or by administering EEP in combination with SPBN or other nitrone.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–27864 Filed 11–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Treatment of and/or Prophylaxis Against Brain and Spinal Cord Injury

AGENCY: Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application No. 09/556,954 entitled ''Treatment of and/or Prophylaxis Against Brain and Spinal Cord Injury'' and filed April 21, 2000. The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The administration of α-lipoic acid (α-LA) and dihydrolipoic acid (DHL) both as a preventive measure before exposure to conditions which may cause damage, such as rapid changes in atmospheric pressure, and as a means of preventing or ameliorating damage arising from such injury provides benefits not currently available. The active agents may be administered systematically or to the injured tissue. For example, when there is spinal cord injury, the active agents may be administered intrathecally.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–27866 Filed 11–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is give of the names of members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATE: December 11, 2001.

FOR FURTHER INFORMATION CONTACT: David Stokes, U.S. Army Senior Executive Service Office, Assistant Secretary of the Army, Manpower & Reserve Affairs, 111 Army, Washington, DC 20310–0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. MG Hans Van Winkle (chair).
2. Dr. Lewis Link (alternative chair).
3. BG Carl Strock.
4. BG Peter Madsen.
5. Mr. Fred Caver.
6. Ms. Linda Garvin.
7. Mr. Joe Tyler.
8. Mr. Rob Vining.
9. Mr. Steve Browning.
10. Mr. Louis Carr.

Luz D. Ortiz,

Army Federal Register, Liaison Officer.

[FR Doc. 01–27868 Filed 11–5–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10 (a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend. Individuals who will need accommodations for a disability in order to attend the meeting (i.e. interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202–357–6938 or at *Munira.Mwalimu@ed.gov* no later than November 9, 2001. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: November 16–17, 2001.

Time: November 16—Full Board 8:30 a.m.–10:00 a.m.; Assessment Development Committee 10:00 a.m.–12:15 p.m.; Committee on Standards, Design and Methodology, 10:00 a.m.–12:15 p.m.; Reporting and Dissemination Committee, 10:00 a.m.–12:15p.m.; Full Board, 12:30 p.m.–5:00 p.m.; November 17—Full Board 8:30 a.m.–12:00 p.m.

Location: The Westin Fairfax, 2100 Massachusetts Avenue NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Operations Officer, National Assessment Governing Board, 800 North Capitol Street, NW., Suite 825, Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress (NAEP). The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On November 16, 2001 the full Board will convene in open session from 8:30 a.m.–10:00 a.m. The Board will approve the agenda; hear a report from the Executive Director of the National Assessment Governing Board; receive updates on the NAEP Program and on reauthorization; and on the ''No Child Left Behind'' initiative. From 10:00 a.m. to 12:15 p.m., the Board's standing committees will meet in open session.

The Assessment Development Committee (ADC) will meet in open session on Friday, November 16, 2001 from 10:00 a.m.–12:15 p.m. The Committee will review final recommendations on the Mathematics Framework and Specifications for the 2004 NAEP Math Assessment; review the draft NAEP Reading Framework; and receive a briefing on the Economics Framework and Specifications project for the NAEP 2005 Economics Assessment.

The Committee on Standards, Design, and Methodology will meet on Friday, November 16, 2001 from 10 a.m.–12:15 p.m. to discuss technical issues in potential changes to Long Term Trend Assessments; receive a summary analyses of combined state and national NAEP data; discuss proposed statistical standards for inference and comparisons; receive a summary analyses of the grade 12 score decline in NAEP; and receive a status report on the 2001 geography achievement level anchoring study.

The Reporting and Dissemination Committee will meet on Friday, November 16, 2001 from 10 a.m.–12:15 p.m. to discuss the NAEP 2000 Science Release; the schedule for release of future NAEP reports; and annual reporting of reading and mathematics.

The Committee will receive an update on racial/ethnic categories in NAEP data collection and reporting, and discuss the Board's role in the review of background questions and criteria for review. The Committee will review background questions for the NAEP 2002 reading and writing assessments; the NAEP 2002 field test; and the long term trend assessments.

The full Board will reconvene on November 16, 2001 from 12:30 p.m.–5 p.m. to discuss measuring achievement gaps, to receive an update and discuss the NAEP 2002 Reading Revisit; hear a status report from the Ad Hoc Committee on Confirming State Results; hear recommendations and discuss the NAEP 2004 Mathematics Framework; and receive ethics training upon which the November 16, 2001 session of the Board meeting will adjourn.

On November 17, 2001, the Board will meet from 8:30 a.m. to 9:30 a.m. to receive a demonstration of the Interactive NAEP Data Tool. The Board will then hear and take action on Committee reports from 9:30 a.m. to 12 p.m., whereupon the meeting will adjourn.

Summaries of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m. Eastern Standard Time.

Dated: November 1, 2001.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 01–27786 Filed 11–5–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Coal Council

AGENCY: Department of Energy.

ACTION: Notice of Charter Renewal.

SUMMARY: Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. No. 92–463) and in accordance with title 41 of the Code of Federal Regulations, section 102–3.65, and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the National Coal Council has been renewed for a two-year period ending November 1, 2003. The Council will continue to provide advice, information, and recommendations to the Secretary of Energy on a continuing basis, regarding general policy matters relating to coal issues.

SUPPLEMENTARY INFORMATION:

Council members are chosen to assure a well-balanced representation from all sections of the country, all segments of the coal industry, including large and small companies, and commercial and residential consumers. The Council also has diverse members who represent interests outside the coal industry, including environmental interests, labor, research, and academia. Membership and representation of all interests will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act, and implementing regulations.

The renewal of the Council has been determined essential to the conduct of the Department's business and in the

public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Council will continue to operate in accordance with the provisions of the Federal Advisory Committee Act and implementing regulations.

FOR FURTHER INFORMATION CONTACT: Rachel M. Samuel at 202/586–3279.

Issued at Washington, DC on November 1, 2001.

James N. Solit,

Advisory Committee, Management Officer.

[FR Doc. 01–27843 Filed 11–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Petroleum Council

AGENCY: Department of Energy.

ACTION: Notice of Charter Renewal.

SUMMARY: Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. No. 92–463) and in accordance with title 41 of the Code of Federal Regulations, section 102–3.65, and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the National Petroleum Council has been renewed for a two-year period ending November 1, 2003. The Council will continue to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

SUPPLEMENTARY INFORMATION: Council members are chosen to assure a well-balanced representation from all sections of the country, all segments of the petroleum industry, and from large and small companies. The Council also has diverse members who represent interest outside the petroleum industry, including representatives from environmental, labor, research, academia, and State utility regulatory commissions. Membership and representation of all interests will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act, and implementing regulations.

The renewal of the Council has been determined essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Council will operate in accordance with the Federal Advisory Act and implementing regulations.

FOR FURTHER INFORMATION CONTACT: Rachel M. Samuel at (202) 586–3279.

Issued at Washington, DC on November 1, 2001.

James N. Solit,

Advisory Committee, Management Officer.

[FR Doc. 01–27842 Filed 11–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Advance Notice of Intent to Prepare an Environmental Impact Statement To Evaluate Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center

AGENCY: Department of Energy.

ACTION: Advance notice of intent.

SUMMARY: The U.S. Department of Energy (DOE) is announcing in advance its intent to prepare an Environmental Impact Statement (EIS) for Decommissioning and/or Long-Term Stewardship at the West Valley Demonstration Project (WVDP) and Western New York Nuclear Service Center (the Center). DOE has prepared this advance notice in accordance with the Department's regulations for implementing the National Environmental Policy Act (NEPA) [10 CFR 1021.311(b)], which state that DOE may publish an Advance Notice of Intent to provide an early opportunity to inform interested parties of a pending EIS or to solicit early public comments. DOE anticipates that the New York State Energy Research and Development Authority (NYSERDA) will participate in the preparation of the Decommissioning and/or Long-Term Stewardship EIS as a joint lead agency, that the U.S. Nuclear Regulatory Commission (NRC) will participate as a cooperating agency, and that the New York State Department of Environmental Conservation (NYSDEC) will participate as an involved agency under the New York State Environmental Quality Review Act (SEQRA).

DOE and NYSERDA plan to evaluate the range of reasonable alternatives in this EIS to address their respective responsibilities at the Center, including those under the West Valley Demonstration Project Act (Public Law 96–368) and other applicable requirements, including decommissioning criteria that may be prescribed by NRC in accordance with the Act.

DOE invites early public comment on the range of environmental issues and alternatives to be analyzed. DOE and NYSERDA will consider the comments received and other relevant information in developing a preliminary scope of the EIS for publication in a subsequent Notice of Intent, which would initiate a public scoping process in accordance with DOE's NEPA implementing regulations and those of SEQRA.

This Advance Notice of Intent is consistent with DOE's March 26, 2001, Notice of Intent (66 FR 16447) to revise the strategy for completing the *Draft Environmental Impact Statement for Completion of the West Valley Demonstration Project and Closure or Long-Term Management of Facilities at the Western New York Nuclear Service Center* (DOE/EIS–0226-D, March 1996, also referred to as the 1996 Cleanup and Closure Draft EIS), which was issued jointly by DOE and NYSERDA. The March 2001 Notice of Intent announced that DOE intends to prepare a separate EIS on its decontamination of WVDP facilities and related waste management activities.

ADDRESSES: Address early comments on the preliminary scope of the Decommissioning and/or Long-Term Stewardship EIS to the DOE Document Manager: Mr. Daniel W. Sullivan, West Valley Demonstration Project, U.S. Department of Energy, 10282 Rock Springs Road, West Valley, New York 14171, Telephone: (716) 942–4016, facsimile: (716) 942–4703, e-mail: *daniel.w.sullivan@wv.doe.gov.*

The ''Public Reading Rooms'' section under **SUPPLEMENTARY INFORMATION** lists the addresses of the reading rooms where documents referenced herein are available.

FOR FURTHER INFORMATION, CONTACT: For information regarding the WVDP or the EIS, contact Mr. Daniel Sullivan as described above. Those seeking general information on DOE's NEPA process should contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 586–4600, Facsimile: (202) 586–7031, or leave a message at 1–800–472–2756, toll-free.

Questions for NYSERDA should be directed to: Mr. Paul J. Bembia, New York State Energy Research and Development Authority, 10282 Rock Springs Road, West Valley, New York 14171, Telephone: (716) 942–4900, Facsimile: (716) 942–2148, email: *pjb@nyserda.org.*

Those seeking general information on the SEQRA process should contact: Mr. Hal Brodie, Deputy Counsel, New York State Energy Research and Development Authority, Corporate Plaza West, 286 Washington Avenue Extension, Albany,

New York 12203–6399, Telephone: (518) 862–1090, ext. 3280, Facsimile: (518) 862–1091, email: *hb1@nyserda.org.*

This Advance Notice of Intent will be available on the internet at *http://tis.eh.doe.gov/nepa,* under ''NEPA Announcements''. Additional information about the WVDP is also available on the internet at *http://www.wv.doe.gov/LinkingPages/insidewestvalley.htm.*

SUPPLEMENTARY INFORMATION: DOE announces its Advance Notice of Intent to prepare an EIS for Decommissioning and/or Long-Term Stewardship at the WVDP and the Center. DOE has prepared this Advance Notice of Intent in accordance with the Department's regulations for implementing NEPA [10 CFR 1021.311(b)], which state that DOE may publish an Advance Notice of Intent to provide an early opportunity to inform interested parties of a pending EIS or to solicit early public comments.

DOE intends to prepare this EIS jointly with NYSERDA, although either agency may, at any point, determine the need to proceed independently in support of their independent missions. In preparing this Advance Notice of Intent, DOE anticipates that the Department would be the lead Federal agency for purposes of compliance with NEPA, while NYSERDA would be the lead State agency for purposes of compliance with SEQRA. DOE also anticipates that NRC would participate as a cooperating agency under NEPA and that NYSDEC would be an involved agency under SEQRA.

Invitation to Comment

DOE invites the public to provide early assistance in identifying significant environmental issues and alternatives to be analyzed in the forthcoming Decommissioning and/or Long-Term Stewardship EIS. DOE and NYSERDA will consider public comments and other relevant information as the agencies jointly develop a Notice of Intent for publication in the **Federal Register** and a notice for publication in the New York State *Environmental Notice Bulletin.* DOE and NYSERDA expect the Notice of Intent to contain a preliminary range of reasonable alternatives proposed for analysis as agreed to by DOE and NYSERDA. Further, DOE and NYSERDA expect to publish the Notice of Intent within approximately a year of publishing this advance notice. Although a public scoping meeting will not be held until the public scoping process required by NEPA has been initiated, DOE and NYSERDA would give equal weight to written comments submitted in response to this Advance Notice of Intent and comments received during the public scoping process.

Background

The Center consists of a 3,345-acre reservation in rural western New York that is the location of the only NRC-licensed commercial spent nuclear fuel reprocessing facilities to have ever operated in the United States. NYSERDA holds title to the Center on behalf of the people of the State of New York. Pursuant to the WVDP Act, DOE and NYSERDA entered into a Cooperative Agreement effective October 1, 1980, that specifies the responsibilities and conditions agreed upon by each for the purpose of carrying out the WVDP. Under the agreement, NYSERDA has made available to DOE, without transfer of title, an approximately 200-acre portion of the Center, known as the ''Project Premises,'' which includes a formerly operated spent nuclear fuel reprocessing plant, spent nuclear fuel receiving and storage area, liquid high-level waste (HLW) storage tanks, a liquid low-level waste treatment facility with associated lagoons, and a radioactive waste disposal area licensed by the NRC. Adjacent to and in the vicinity of the Project Premises is an area referred to as the State Licensed Disposal Area, for which NYSERDA has responsibility.

The WVDP Act authorizes NRC to prescribe decommissioning criteria for the WVDP. At this time, DOE anticipates that the NRC would resume regulatory oversight of the Center, with the exception of the State Licensed Disposal Area, following DOE's completion of the WVDP.

Section 2(a)(1–5) of the WVDP Act articulates the five actions required of DOE. Actions 1 and 2 address HLW solidification and development of appropriate containers for the solidified wastes. Action 3 requires DOE to transport the solidified HLW to a Federal geologic repository for permanent disposal. Action 4 requires DOE to dispose of low-level and transuranic wastes generated by HLW solidification and in connection with the WVDP. Action 5 requires DOE to decontaminate and decommission the tanks, facilities, material, and hardware used in the solidification of HLW and in connection with the WVDP.

Actions 1 and 2 were the focus of a 1982 Final EIS (DOE/EIS–0081) and Record of Decision (47 FR 40705, September 15, 1982) on HLW solidification. The 1996 Cleanup and Closure Draft EIS examined the remaining actions, 3, 4, and 5. Considering the comments received on the 1996 Cleanup and Closure Draft EIS, ongoing discussions between the joint lead agencies (DOE and NYSERDA), and discussions with NRC, DOE now intends to conduct the NEPA process for actions 3, 4, and 5 in two separate EISs. Accordingly, DOE announced its intent to prepare a Decontamination and Waste Management EIS on March 26, 2001 (66 FR 16447), which will only address DOE's decision-making with respect to managing Project wastes and decontaminating Project facilities as stipulated in actions 3 and 4 and decontamination activities for Project facilities stipulated in action 5. DOE will need to conduct these activities regardless of future decommissioning and/or long-term stewardship decisions.

DOE expects the Decommissioning and/or Long-Term Stewardship EIS announced herein to address DOE's remaining activities under the WVDP Act as stipulated in action 5, any waste management activities under action 4 that could arise as a result of decommissioning activities, and NYSERDA's activities relative to decommissioning or long-term stewardship of land and facilities under its purview. DOE believes that the activities identified for the Decontamination and Waste Management EIS and for the Decommissioning and/or Long-Term Stewardship EIS are separate and distinct and are thus appropriate for analysis in two EISs, consistent with NEPA and its implementing regulations.

Purpose and Need for Action

DOE needs to determine the manner that facilities for which the Department is responsible under the WVDP Act are decommissioned, in accordance with the criteria yet to be prescribed by the NRC. NYSERDA needs to develop a strategy for decommissioning or long-term stewardship for land and facilities under its purview. To this end, DOE and NYSERDA would determine what, if any, material or structures would remain on the site and what, if any, institutional controls would be required, in accordance with their respective agency responsibilities.

Potential Range of Alternatives

DOE anticipates, at this time, that its alternatives to be proposed for analysis in the Decommissioning and/or Long-Term Stewardship EIS would range from complete removal of Project waste and facilities to in-place closure of Project facilities, including a No Action Alternative as required by NEPA, and that NYSERDA would propose a similar range of decommissioning and/or long-

term stewardship alternatives to those proposed by DOE, for the facilities and areas for which NYSERDA is responsible. Additional alternatives may also be presented after consultation with NRC, NYSERDA and the public. However, DOE and NYSERDA expect the potential alternatives to be sufficiently consistent in concept with those identified in the1996 Draft Cleanup and Closure EIS to allow the use of technical information presented therein, supplemented as needed.

New Information To Be Evaluated

NRC has indicated that it intends to publish a draft policy statement on prescribing decommissioning criteria for the WVDP for public comment and subsequently issue a final statement that would include its response to comments. Based upon ongoing discussions with the Commission, DOE and NYSERDA intend at this time to apply the NRC's License Termination Rule (10 CFR 20.1401 *et seq.*) as draft decommissioning criteria in assessing the health and environmental impacts of decommissioning the WVDP facilities, pending NRC issuance of its final Policy Statement on decommissioning criteria for the WVDP. If the final decommissioning criteria are issued before completion of the EIS, the results in the EIS will reflect any changes in criteria.

In 1997, the NRC published the *Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities* (NUREG–1496) to support its decision-making on establishing explicit radiological criteria for decommissioning various types of facilities, including nuclear power plants, non-power reactors, fuel fabrication plants, uranium hexaflouride production plants, and independent spent fuel storage installations. This EIS analyzed courses of action that NRC would take in establishing radiological criteria for decommissioning and the cost and environmental impacts associated with those alternatives. Based on this analysis, the NRC promulgated its Final License Termination Rule (62 FR 39086, July 21, 1997). Although this EIS did not evaluate a reference spent fuel reprocessing facility, DOE and NYSERDA intend to use those aspects of NRC's EIS that may have specific relevance to the West Valley site.

Further, DOE and NYSERDA also intend to evaluate other available NRC NEPA documents to identify elements that would be applicable to decommissioning activities at the WVDP and the Center. NRC issued the *Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities* (NUREG–0586) in 1988 to assist it in reevaluating its regulatory requirements for decommissioning of nuclear facilities. In this EIS, the NRC evaluated the areas of decommissioning alternatives, financial assurance, planning, and residual radioactivity levels. This EIS was prepared to support the *General Requirements for Decommissioning of Nuclear Facilities,* Final Rule (53 FR 24018, June 27, 1988) and analyzed a number of reference licensed facilities, including the Barnwell spent fuel reprocessing design, which was never demonstrated. The Barnwell facility, unlike the West Valley reprocessing facility, was designed for short-term liquid HLW storage and subsequent near-term HLW vitrification. The NRC is currently supplementing this EIS (65 FR 25395, May 1, 2000) to evaluate certain decommissioning alternatives for power reactor facilities in more detail.

For the 1996 Draft WVDP Cleanup and Closure EIS, DOE developed or modified a variety of analytical tools specifically for that document. DOE has continued to refine many of these analytical tools as a result of public comments received on the 1996 Draft Cleanup and Closure EIS and ongoing interactions with stakeholders and regulatory agencies such as the NRC. DOE intends to apply these improved analytical tools to the preparation of the Decommissioning and/or Long-Term Stewardship EIS. To address significant issues such as erosion, for example, DOE has continued to develop a site-specific erosion model, with ongoing advice from NRC, and integrated that model into a revised performance assessment methodology, incorporating the use of sensitivity and uncertainty analyses.

There are also some additional areas where new information will be obtained specifically for the Decommissioning and/or Long-Term Stewardship EIS. This work includes updated site characterization and census data and the performance of a seismic reflection survey in the vicinity of the WVDP. This seismic reflection survey, to be performed in consultation with academic, government, and industry participants, will contribute to knowledge about the regional structural geology as it may relate to the WVDP and the Center.

Additional information that has become available since publication of the 1996 Draft Cleanup and Closure EIS includes DOE's *Waste Management Programmatic Environmental Impact Statement* (WM PEIS, DOE/EIS–0200–F) and its associated Records of Decision. The WM PEIS analyzed on a national scale the centralization, regionalization, or decentralization of managing HLW, transuranic waste, low-level radioactive waste, mixed radioactive low-level waste (containing hazardous constituents), and non-wastewater hazardous waste. The Decommissioning and/or Long-Term EIS will incorporate, as appropriate, analyses from the WM PEIS so as to analyze site-specific activities necessary to implement the pertinent parts of the Records of Decision that apply to West Valley. The Decommissioning and/or Long-Term Stewardship EIS will also incorporate, as needed, information made available as a result of the Decontamination and Waste Management EIS.

Potential Environmental Issues for Analysis

DOE has tentatively identified the following issues for analysis in the Decommissioning and/or Long-Term Stewardship EIS. The list is presented to facilitate early comment on the scope of the EIS. It is not intended to be all-inclusive nor to predetermine the alternatives to be analyzed or their potential impacts.

- Potential impacts to the general population and on-site workers from radiological and non-radiological releases from decommissioning and/or long-term stewardship activities.
- Potential environmental impacts, including air and water quality impacts, caused by decommissioning and/or long-term stewardship activities.
- Potential transportation impacts from shipments of radioactive, hazardous, or mixed waste generated during decommissioning activities.
- Potential impacts from postulated accidents.
- Potential disproportionately high and adverse effects on low-income and minority populations (environmental justice).
- Potential Native American concerns.
- Irretrievable and irreversible commitment of resources.
- Short-term and long-term land use impacts.
- Decommissioning criteria for the WVDP.
- Compliance with Federal, State, and local requirements.
- The influence of, and potential interactions of, any wastes remaining at the Center after decommissioning.
- Unavoidable adverse impacts.
- Issues associated with decommissioning and long-term site

stewardship, including regulatory and engineering considerations.

• Long-term site stability, including erosion and seismicity.

Other Agency Involvement

NYSDEC and the U.S. Environmental Protection Agency entered into an Administrative Order on Consent with DOE and NYSERDA in March 1992, pursuant to section 3008(h) of the Hazardous and Solid Waste Amendments of 1984 under the Resource Conservation and Recovery Act. The purpose of the Order is to protect human health and the environment from releases of hazardous waste and/or hazardous constituents. DOE and NYSERDA expect to continue ongoing work with NYSDEC and the U.S. Environmental Protection Agency to integrate the requirements of the Order with the EIS process. DOE anticipates that NYSDEC therefore would participate in the Decommissioning and/or Long-Term Stewardship EIS to the extent required to address its regulatory responsibilities for the WVDP and the Center, including the State Licensed Disposal Area, as an involved agency under SEQRA.

Future Public Involvement

This Advance Notice of Intent does not serve as a substitute for the Notice of Intent that would initiate the public scoping process for the Decommissioning and/or Long-Term Stewardship EIS. After that Notice of Intent is published, DOE and NYSERDA expect to conduct the public scoping process in accordance with NEPA, the Council on Environmental Quality NEPA implementing regulations (40 CFR 1500—1508), the DOE's implementing regulations (10 CFR part 1021), and with New York's SEQRA and its implementing regulations (6 NYCRR 617). The scoping process will include a public meeting and a public comment period on the scope of the EIS.

Public Reading Rooms

Documents referenced in this Advance Notice of Intent and related information are available at the following locations.

Central Buffalo Public Library Science and Technology Department, Lafayette Square, Buffalo, New York 14203, (716) 858–7098

The Olean Public Library, 134 North 2nd Street, Olean, New York 14760, (716) 372–0200

The Hulbert Library of the Town of Concord, 18 Chapel Street, Springville, New York 14141, (716) 592–7742

West Valley Central School Library, 5359 School Street, West Valley, New York 14141, (716) 942–3261

Ashford Office Complex, 9030 Route 219, West Valley, New York 14171, (716) 942–4555

Issued in Washington, DC, on October 31, 2001.

Steven V. Cary,

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

[FR Doc. 01–27841 Filed 11–5–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1047–001, ER01–1074–001, ER01–1090–001, ER01–1144–001, and EL02–11–000]

Central Maine Power Company; Notice of Initiation of Proceeding and Refund Effective Date

October 31, 2001.

Take notice that on October 26, 2001, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL02–11–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL02–11–000 will be 60 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Secretary.

[FR Doc. 01–27770 Filed 11–5–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–391–001]

Clear Creek Storage Company, L.L.C.; Notice of Amendment

October 31, 2001.

Take notice that on October 26, 2001, Clear Creek Storage Company, L.L.C. (Clear Creek), 180 East 100 South, Salt Lake City, Utah 84111, filed an amendment to its pending application filed on June 22, 2001, in Docket No. CP01–391–000, pursuant to section 7(c) of the Natural Gas Act (NGA), to reflect that it no longer requests authorization to (1) Construct 1,000 feet of 4-inch diameter, buried pipeline to connect observation Well No. 22–9B to the existing injection/withdrawal lateral extending from the authorized injection/withdrawal Well No. 44–4B to the central processing facilities; (2) convert Well No. 22–9B from an observation well to a withdrawal well and utilize this well for withdrawal of natural gas from the storage reservoir; and, (3) operate the proposed facilities and Well No. 22–9B to meet storage service commitments to customers, all as more fully set forth in the amendment which is on file with the Commission and open to 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).

Clear Creek states that recent storage reservoir analyses of the past year's performance indicate that withdrawals from the reservoir necessary to meet authorized storage service commitments to customers can be accomplished by the use of the existing Well No. 44–4B and the proposed withdrawal Well No. 35–4B.

Clear Creek, by this amendment, reiterates its original request that the Commission issue a certificate of public convenience and necessity authorizing Clear Creek to (1) Construct 336 feet of 4-inch diameter, buried pipeline to connect observation Well No. 35–4B to the existing injection/withdrawal lateral extending from the authorized injection/withdrawal Well No. 44–4B to the central processing facilities; (2) convert Well No. 35–4B from an observation well to a withdrawal well and utilize this well for withdrawal of natural gas from the storage reservoir; and, (3) operate the above pipeline facilities and withdrawal well to meet authorized storage service commitments to customers. Clear Creek states that the revised cost of the proposed project is estimated to be $52,700.

Any questions regarding the amendment should be directed to Michael B. McGinley, Vice President, Clear Creek Storage Company, L.L.C., 180 East 100 South, P.O. Box 45601, Salt Lake City, Utah 84111, at (804) 324–2527.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November 12, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be

placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

If the Commission decides to set the amendment for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

All persons who have heretofore filed need not file again.

David P. Boergers,

Secretary.

[FR Doc. 01–27765 Filed 11–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3112–002]

New York Independent System Operator, Inc.; Notice of Filing

October 31, 2001.

Take notice that on October 26, 2001, the New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission) a correction to revisions to its Open-Access Transmission Tariff (OATT) to make permanent two temporary market rules pertaining to External Transactions that were initially implemented as ''Extraordinary Corrective Actions,'' and to introduce several new enhancements to its external transaction scheduling processes. The NYISO has requested a waiver of the usual sixty day notice period so that this filing can become effective on October 30, 2001.

The NYISO has served a copy of the filing on all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, to the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 7, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–27767 Filed 11–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–24–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 31, 2001.

Take notice that on October 25, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective December 1, 2001:

Third Revised Volume No. 1
Fourteenth Revised Sheet No. 14
Original Volume No. 2
Thirty-First Revised Sheet No. 2.1

Northwest states that the purpose of this filing is to propose an increase from 1.49% to 1.74% in the fuel reimbursement factor (Factor) applicable to Northwest's transportation rate schedules. This Factor allows Northwest to be reimbursed in-kind for the fuel used during the transmission of gas and for the volumes of gas lost and unaccounted-for that occur as a normal part of operating its transmission system.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory 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. 01–27769 Filed 11–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–11–000, CP02–12–000 and CP02–13–000]

Western Frontier Pipeline Company, L.L.C.; Notice of Application

October 31, 2001.

On October 24, 2001, Western Frontier Pipeline Company, L.L.C. (Western Frontier), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Dockets No. CP02–11–000, CP02–12–000, and CP02–13–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's Rules and Regulations for a certificate of public convenience and necessity authorizing Western Frontier to construct and operate a new interstate natural gas pipeline having a capacity of 540,000 Dth/d per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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).

Specifically, Western Frontier proposes to construct:

(a) Approximately 398.45 miles of new 30-inch diameter pipeline beginning at the existing Cheyenne Hub in Weld County, Colorado and traversing eastern Colorado and western Kansas before terminating in Beaver County, Oklahoma;

(b) Approximately 9.67 miles of 16-inch diameter lateral pipeline extending west from the proposed 30-inch mainline in Adams County, Colorado;

(c) A 10,000 horsepower compressor station at the northern terminus of the 30-inch mainline in Weld County, Colorado;

(d) A 20,000 horsepower compressor station in Adams County, Colorado;

(e) Nine measurement facilities with interconnecting pipeline; and

(f) Auxiliary support facilities such as block valves and pig traps.

Western Frontier also requests that the Commission (1) approve Western Frontier's proposed recourse rates for transportation service, and approve its Pro Forma Tariff, including the authority to enter into negotiated rate agreements; (2) issue Western Frontier a blanket certificate of public convenience and necessity pursuant to part 284, Subpart G, of the Commission's regulations, authorizing it to provide open access transportation service to others; and (3) issue Western Frontier a blanket certificate of public convenience and necessity pursuant to part 157, Subpart F, of the commission's regulations, authorizing certain construction, operation, and abandonment activities.

Western Frontier states that it has thus far signed transportation precedent agreements with Marathon Oil Company (Marathon), Williams Energy Marketing and Trading and Trading Company (WEM&T), Utilicorp United, Inc. (Utilicorp), and Entergy Power Generation Corporation (Entergy) for a total of 365,000 Dth/d (approximately 67.6%) of the 540,000 Dth/d design capacity of the project. The initial term for all these agreements is ten years, except for Marathon, who has committed to a five-year term with an option to extend an additional two years. Western Frontier states that active negotiations are underway with additional shippers for use of the remaining capacity.

Western Frontier states that the purpose of the proposed project is to connect the mid-continent interstate pipeline grid and associated markets to prolific supply basins in the cental Rockies. Their intention is to provide the region with a reliable and competitive alternative gas supply that could support both existing and future energy demands.

Western Frontier states that the estimated cost of the proposed facilities is approximately $365,700,000. Western Frontier requests a preliminary determination on the non-environmental aspects of the project by March 6, 2002, and a final certificate order no later than December 11, 2002, so that the project can be completed by the proposed in-service date of November 1, 2003.

Any questions regarding this application should be directed to David N. Roberts, Manager, Certificates & Tariffs, Western Frontier Pipeline Company, L.L.C., P.O. Box 20008, Owensboro, Kentucky 42304 (Phone No. 270–688–6712).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November November 21, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–27766 Filed 11–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4421–002, *et al.*]

Consumers Energy Company, *et al.*; Electric Rate and Corporate Regulation Filings

October 31, 2001.

Take notice that the following filings have been made with the Commission:

1. Consumers Energy Company

[Docket No. ER98–4421–002]

Take notice that on October 26, 2001, Consumers Energy Company (Consumers) submitted to the Federal Energy Regulatory Commission (Commission) its triennial market analysis and status update as required in connection with the market-based sales authority granted to it in ''Consumers'' 85 FERC 61,121 (1998). A copy of the filing was served upon the Michigan Public Service Commission and those on the official service list in that proceeding, Docket No. ER98–4221–000.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Energy Atlantic, LLC

[Docket No. ER98–4381–006]

Take notice that on September 24, 2001, Energy Atlantic, LLC (Energy Atlantic) submitted an updated market analysis to the Federal Energy Regulatory Commission (Commission) in support of its market-based rate authority. Energy Atlantic reports that there are no changes in its status since Energy Atlantic obtained its market-based rate authority.

Comment date: November 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Central Maine Power Company

[Docket No. ER01–2493–001]

Take notice that on October 23, 2001, Central Maine Power Company tendered for filing with the Federal Energy Regulatory Commission (Commission) a settlement package, which includes Uncontested Settlement Agreement, Supplemental Informational Filing, Explanatory Statement In Support of Uncontested Settlement Agreement, Draft Order and a Certificate of Service.

Comment date: November 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Company; Connecticut—Long Island Cable

[Docket No. ER01–2584–001]

Take notice that on October 26, 2001, Northeast Utilities Service Company (NUSCO) submitted a compliance filing to the Federal Energy Regulatory Commission (Commission) in response to the October 11, 2001 order of the Federal Energy Regulatory Commission, Northeast Utilities Service Co., 97 FERC 61,026 (2001). NUSCO states that its compliance filing informs the Commission about the status of the proposed Connecticut—Long Island Cable (the CLIC) and submits the information requested by the Commission.

A copy of this filing was served upon all persons on the official service list in the captioned proceeding.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Energy Retail Trading and Marketing, Inc.

[Docket No. ER02–1–001]

Take notice that on October 26, 2001, Southern Energy Retail Trading and Marketing, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to its October 1, 2001 Notice of Cancellation in the captioned docket, containing a revised tariff sheet.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Gilroy Energy Center, LLC; King City Energy Center, LLC

[Docket No. ER02–156–000 and ER02–169–000]

Take notice that on October 23, 2001, Gilroy Energy Center, LLC (Gilroy) and King City Energy Center, LLC (King City) filed with the Federal Energy Regulatory Commission (Commission) umbrella service agreements with Calpine Energy Services, L.P. for short-term transactions at market-based rates under Gilroy's and King City's respective rate schedules.

King City requests a waiver of the Commission's 60-day prior notice requirement to accept its attached umbrella service agreement with an effective date of December 13, 2001 to coincide with the commencement of service from King City to CES.

Comment date: November 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Power Investments, Inc.

[Docket No. EG02–13–000]

Take notice that on October 29, 2001, Cinergy Power Investments, Inc., 139 East Fourth Street Cincinnati, Ohio 45202, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended. The applicant will be engaged directly or indirectly and exclusively in the business of owning and/or operating generating plants megawatt and selling electric energy at wholesale.

Comment date: November 21, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

8. Golden Spread Electric Cooperative, Inc.

[Docket No. ES02–5–000]

Take notice that on October 23, 2001, Golden Spread Electric Cooperative submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term and intermediate term debt in amounts such that the aggregate principal amount does not exceed $160 million at any one time.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–27771 Filed 11–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meeting and Soliciting Scoping Comments for an Applicant Prepared Environmental Assessment Using the Alternative Licensing Process

October 31, 2001.

a. *Type of Application:* Alternative Licensing Process.

b. *Project No.:* P–2586–023.

c. *Applicant:* Alabama Electric Cooperative, Inc.

d. *Name of Project:* Conecuh River Hydroelectric Project.

e. *Location:* On the Conecuh River near the towns of Gantt and River Falls, in Covington County, Alabama.

f. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)—825(r).

g. *Applicant Contact:* Mike Noel, Environmental Engineer, Alabama Electric Cooperative, Inc., Post Office Box 550, Andalusia, AL 36420, (334) 427–3248.

h. *FERC Contact:* Ron McKitrick at (770) 452–3378 or *ronald.mckitrick@ferc.fed.us.*

j. *Deadline for filing scoping comments:* January 10, 2002.

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 may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. *The Conecuh River Project consists of two developments:* The existing Point ''A'' development consists of a 2,800-foot-long earthen dam, 700-acre reservoir, three generating units with an installed capacity of 5,200kW, and a 0.39-mile-long transmission line. The existing Gantt development consists of a 1,562-foot-long earthen dam, a 2,767-acre reservoir, and two generating units with an installed capacity of 3,050 kW.

l. Scoping Process

Alabama Electric Cooperative, Inc., (AEC) intends to utilize the Federal Energy Regulatory Commission's (Commission) alternative licensing process (ALP). Under the ALP, AEC will prepare an Applicant Prepared Environmental Assessment (APEA) and license application for the Conecuh River Hydroelectric Project.

AEC expects to file with the Commission, the APEA and the license application for the Conecuh Hydroelectric Project by April 2003.

The purpose of this notice is to inform you of the opportunity to participate in the upcoming scoping meetings identified below, and to solicit your scoping comments.

Scoping Meetings

AEC and the Commission staff will hold two scoping meetings, one in the daytime and one in the evening, to help us identify the scope of issues to be addressed in the APEA.

The daytime scoping meeting will focus on resource agency concerns, while the evening 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 environmental issues that should be analyzed in the APEA. The times and locations of these meetings are as follows:

Daytime Meeting

Monday, December 10, 2001, 1:30 pm to 3:00 pm

Alabama Electric Cooperative, Inc., Headquarter's Board Room, 2027 East Three Notch Street, P.O. Box 550, Andalusia, AL 36420–0550

Site Visit

Monday, December 10, 2001 from 3:30 pm to 5:00 pm, depart from and returning to AEC Headquarters Building

Evening Meeting

Monday, December 10, 2001, 7 pm to 9:00 pm

Alabama Electric Cooperative, Inc., Headquarter's Board Room, 2027 East Three Notch Street, P.O. Box 550, Andalusia, AL 36420–0550

To help focus discussions, Scoping Document 1 was mailed in November 2001, outlining the subject areas to be addressed in the APEA to the parties on the mailing list. Copies of the SD1 also will be available at the scoping meetings. SD1 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).

Based on all written comments received, a Scoping Document 2 (SD2) may be issued. SD2 will include a revised list of issues, based on the scoping sessions.

Objectives.

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the APEA; (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 APEA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the APEA; 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 will be recorded by a stenographer and will 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 the meetings and to assist AEC in defining and clarifying the issues to be addressed in the APEA.

David P. Boergers,

Secretary.

[FR Doc. 01–27768 Filed 11–5–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

October 31, 2001.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: November 7, 2001, 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda

*NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION SECRETARY: David P. Boergers, Telephone (202) 208–0400, for a recording listing items stricken from or added to the meeting, Call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items of the agenda; however, all public documents may be examined in the reference and information center.

778th—Meeting November 7, 2001; Regular Meeting 10 a.m.

Administrative Agenda

A–1.
DOCKET# AD02–1, 000, Agency Administrative Matters

A–2.
DOCKET# AD02–4, 000, Reliability, Security and Market Operations

Miscellaneous Agenda

M–1.
RESERVED

Markets, Tariffs and Rates—Electric

E–1.
DOCKET# EX02–6, 000, FERC/State Partnerships

E–2.
DOCKET# RM01–12, 000, Electricity Market Design and Structure

E–3.
OMITTED

E–4.
OMITTED

E–5.
OMITTED

E–6.
DOCKET# ER01–2702, 000, Michigan Electric Transmission Company

E–7.
DOCKET# ER01–3047, 000, California Independent System Operator Corporation

E–8.
DOCKET# ER01–3053, 000, Midwest Independent Transmission System Operator, Inc.

E–9.
DOCKET# ER01–3084, 000, Nine Mile Point Nuclear Station, LLC
OTHER#S ER01–3083, 000, Niagara Mohawk Power Corporation

E–10.
OMITTED

E–11.
DOCKET# ER01–2609, 000, Southern California Edison Company

E–12.
DOCKET# ER00–1520, 003, CP&L Holdings, Inc.
OTHER#S ER01–2966, 000, Progress Energy, Inc.
ER01–2966, 001, Progress Energy, Inc.

E–13.
DOCKET# ER01–677, 000, American Transmission Company LLC
OTHER#S ER01–677, 001, American Transmission Company LLC
ER01–1577, 000, American Transmission Company LLC
ER01–1577, 001, American Transmission Company LLC
ER01–1577, 002, American Transmission Company LLC

E–14.
DOCKET# ER01–1616, 000, Duke Energy Corporation
OTHER#S ER01–1616, 001, Duke Energy Corporation
ER01–1616, 002, Duke Energy Corporation

E–15.
OMITTED

E–16.
DOCKET# ER01–3075, 000, Michigan Electric Transmission Company

E–17.
DOCKET# ER01–463, 005, Arizona Public Service Company

E–18.
OMITTED

E–19.
DOCKET# ER00–3668, 002, Commonwealth Edison Company

E–20.
DOCKET# EL00–73, 001, Mansfield Municipal Electric Department and North Attleborough Electric Department v. New England Power Company

E–21.
DOCKET# SC97–4, 001, City of Alma, Michigan

E–22.
DOCKET# ER01–2390, 002, Huntington Beach Development, L.L.C.

E–23.
DOCKET# ER01–2126, 002, Michigan Electric Transmission Company
OTHER#S ER01–2375, 001, Michigan Electric Transmission Company

E–24.
DOCKET# ER01–2435, 001, American Transmission Company LLC

E–25.
DOCKET# TX96–2, 001, City of College Station, Texas

E–26.
DOCKET# ER98–1438, 004, Midwest Independent Transmission System Operator, Inc.
OTHER#S EC98–24, 003, The Cincinnati Gas & Electric Company, Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Illinois Power Company, PSI Energy, Inc., Wisconsin Electric Power Company, Union Electric Company, Central Illinois Public Service Company, Louisville Gas & Electric Company and Kentucky Utilities Company

E–27.
DOCKET# ER99–4392, 001, Southwest Power Pool, Inc.

E–28.
DOCKET# ER00–1969, 002, New York Independent System Operator, Inc.
OTHER#S EL00–57, 001, Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.

EL00–57, 002, Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
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E–35.
OMITTED

E–36.
OMITTED

E–37.
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OTHER#S EC01–155, 000, MEP Pleasant Hill, LLC, MEP Pleasant Hill Operating, LLC and CPN Pleasant Hill Operating, LLC

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E–48.
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ER98–4609, 002, Central Power and Light Company, West Texas Utilities Company, Southwestern Electric Power Company and Public Service Company of Oklahoma
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David P. Boergers,

Secretary.

[FR Doc. 01–27890 Filed 11–1–01; 4:45 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7099–4]

Agency Information Collection Request Activities: Proposed Collection and Comment Request for the Outer Continental Shelf Air Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Outer Continental Shelf Air Regulations, ICR number 1601.04, and OMB Control Number 2060.0250, expiration date: March 31, 2001. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before January 7, 2002.

ADDRESSES: A copy of the supporting statement may be obtained from the Ozone Policy and Strategies Group, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards, MD–15, Research Triangle Park NC 27711 or is available electronically at *http://www.epa.gov/ttn/oarpg* under ''Search OAR P&G,'' type in Outer Continental Shelf Air Regulations.

Comments must be mailed to David Sanders, Ozone Policy and Strategies Group, Air Quality Strategies and Standards Division, C539–02, Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: David Sanders, telephone: (919) 541–3356, Facsimile: (919) 541–0824; E-Mail: *sanders.dave@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are all outer continental shelf sources except those located in the Gulf of Mexico west of 87.5 degrees longitude (near the border of Florida and Alabama). For sources located within 25 miles of States' seaward boundaries, the requirements are the same as those that would be applicable if the source were located in the corresponding onshore area (COA). In States affected by this rule, State boundaries extend three miles from the coastline, except off the coast of the Florida Panhandle, where that State's boundary extends three leagues (about nine miles) from the coastline.

Title: Outer Continental Shelf Air Regulations, EPA ICR Number 1601.04 and OMB Control Number 2060.0250, expiration date: September 30, 2001.

Abstract: Sources located beyond 25 miles of States' boundaries are subject to Federal requirements (implemented and enforced solely by EPA) for Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants Standards (NESHAPS), the Federal operating permit program, and the enhanced compliance and monitoring regulations. Before any agency, department, or instrumentality of the Federal government engages in, supports in any way, provides financial assistance for, licenses, permits, approves any activity, that agency has the affirmative responsibility to ensure that such action conforms to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). 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. Section 176(c) of the Clean Air Act (42 U.S.C. 7401 *et seq.*) requires that all Federal actions conform with the SIPs to attain and maintain the NAAQS. Depending on the type of action, the Federal entities either collect the information themselves, hire consultants to collect the information or require applicants/sponsors of the Federal action to provide the information.

The type and quantity of information required will depend on the circumstances surrounding the action. First, the entity must make an applicability determination. If the source is located within 25 miles of the States' seaward boundaries as established in the regulations, the requirements are the same as those that would be applicable if the source were located in the COA. State and local air pollution control agencies are usually requested to provide information concerning regulation of offshore sources and are provided opportunities to comment on the proposed determinations. The public is also provided an opportunity to comment on the proposed determinations.

The EPA would like to solicit 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

Total Industry Respondent Burden and Costs

The estimated industry respondent burden for total labor hours and costs associated with one-time/periodic activities are estimated to be 50,227 hours and $2,344,786, respectively. Total labor hours and costs associated with annual activities are estimated to be 48,924 hours and $2,256,547, respectively. Total industry respondent costs annualized over the 3-year time period are estimated to be $1,864,428 per year.

Total State and Local Agency Burden and Costs

The estimated State and local agency burden for total labor hours and costs associated with one-time/periodic activities are estimated to be 1,868 hours and $66,704, respectively. Total labor hours and costs associated with annual activities for that time period are estimated to be 10,458 hours and $373,376, respectively. Total costs annualized over the 3-year time period are estimated to be $166,400 per year.

Total EPA Burden and Costs

The estimated EPA burden for total labor hours and costs associated with one-time-only activities are estimated to be 9,038 hours and $322,657, respectively. Total labor hours and costs associated with annual activities are estimated to be 3,304 hours and $117,953, respectively. Total costs annualized over the 3-year time period are estimated to be $185,954 per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: October 25, 2001.

Lydia Wegman,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 01–27819 Filed 11–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7098–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; General Conformity of Federal Actions to State Implementation Plans

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: General Conformity of Federal Actions to State Implementation Plans, ICR number 1637.05, and OMB Control Number 2060–0279, expiration date December 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 6, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1637.05 and OMB Control No. 2060–0279, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *auby.susan@epamail.epa.gov* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1637.05. For technical questions about the ICR contact: Annie Nikbakht, Ozone Policy and Strategies Group, Air Quality Strategies and Standards Division, MD–15, Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5246.

SUPPLEMENTARY INFORMATION:

Title: General Conformity of Federal Actions to State Implementation Plans, OMB Control Number 2060–0279, EPA ICR Number 1637.05, expiration date December 31, 2001. This is a request for extension of a currently approved collection.

Abstract

Before any agency, department, or instrumentality of the Federal government engages in, supports in any way, provides financial assistance for, licenses, permits, approves any activity, that agency has the affirmative responsibility to ensure that such action conforms to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). The EPA's implementing regulations require Federal entities to make a conformity determination for all actions which impact areas designated as nonattainment or maintenance for the NAAQS and which will result in total direct and indirect emissions in excess of de minimis levels. The Federal entities must collect information on the SIP requirements and the pollution sources to make the conformity determination. Depending on the type of action, the Federal entities either collect the information themselves, hire consultants to collect the information or require applicants/sponsors of the Federal action to provide the information.

The type and quantity of information required will depend on the circumstances surrounding the action. First, the entity must make an applicability determination. If the net total direct and indirect emissions do not exceed de minimis levels established in the regulations or if the action meets certain criteria for an exemption, a conformity determination is not required. Actions requiring conformity determinations vary from straightforward, requiring minimal information, to complex, requiring significant amounts of information. The Federal entity must determine the type and quantity of information on a case-by-case basis. State and local air pollution control agencies are usually requested to provide information to the Federal entities making a conformity determination and are provided opportunities to comment on the proposed determinations. The public is also provided an opportunity to comment on the proposed determinations.

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. Section 176(c) of the Clean Air Act (42 U.S.C. 7401 *et seq.*) requires that all Federal actions conform with the SIPs to attain and maintain the NAAQS. The

Federal Register document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 27, 2001 (66 FR 21136); Two comment letters were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 15–20 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Non-Federal-(Private Industry, State and Local Government).

Estimated Number of Respondents: Estimate 733 Total Actions/ Determinations.

Frequency of Response: Estimate Non-Federal perform approximately 733 straightforward & complex determinations per year (**Note:** only number of annual hours were given in comment letter, number and type of determinations not indicated; therefore, this number is subject to change if other detailed information becomes available).

Estimated Total Annual Hour Burden: 10,246.

Estimated Total Annualized Capital, O&M Cost Burden: None.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1637.05 and OMB Control No. 2060–0279 in any correspondence.

Dated: October 29, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–27838 Filed 11–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7098–4]

Request for Applications for Essential Use Exemptions to the Production and Import Phaseout of Ozone Depleting Substances under the Montreal Protocol for the years 2003 and 2004

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Through this notice, the Environmental Protection Agency (EPA) is requesting applications for essential use allowances for calendar years 2003 and 2004. Essential-use allowances provide exemptions to the production and import phaseout of ozone-depleting substances and must be authorized by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol). The U.S. government will use the applications received in response to this notice as the basis for its nomination of essential use allowances at the Fourteenth Meeting of the Parties to the Protocol to be held in 2002.

DATES: Applications for essential use exemptions must be submitted to EPA no later than December 6, 2001 in order for the United States (U.S.) government to complete its review and to submit nominations to the United Nations Environment Programme (UNEP) and the Protocol Parties in a timely manner.

ADDRESSES: Send two copies of application materials to: Erin Birgfeld, Global Programs Division (6205J), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. For applications sent via courier service, use the direct mailing address at 501 3rd Street, NW., Washington, DC 20001. Send one copy of the non-confidential application materials to: Air Docket A–93–39, 401 M Street, SW. (6102), Room M1500, Washington, DC 20460.

Confidentiality: Applications that are sent to the Air Docket should not contain confidential or proprietary information. Such confidential information should be submitted under separate cover and be clearly identified as ''trade secret,'' ''proprietary,'' or ''company confidential.'' Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth at 40 CFR part 2, subpart B (41 FR 36902). If no claim of confidentiality accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the company (40 CFR 2.203).

FOR FURTHER INFORMATION CONTACT: Erin Birgfeld at the above address or at (202) 564–9079 telephone, (202) 565–2095 fax, or *birgfeld.erin@epa.gov*. General information may be obtained from the stratospheric protection website at *www.epa.gov/ozone*.

SUPPLEMENTARY INFORMATION:

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I. Background—The Essential Use Nomination Process
II. Information Required for Essential Use Applications for Production or Importation of Class I Substances in 2003 and 2004

I. Background—The Essential Use Nomination Process

As described in previous **Federal Register** (FR) notices,[1] the Parties to the Protocol agreed during the Fourth Meeting in Copenhagen in 1992 on the criteria to be used for allowing ''essential use'' exemptions from the phaseout of production and importation of controlled substances. Decision IV/25 of the Fourth Meeting of the Parties details the specific criteria and review process for granting essential use exemptions.

Paragraph 1(a) of Decision IV/25 states that '' * * * a use of a controlled substance should qualify as ''essential'' only if: (i) it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health''. In addition, the Parties agreed ''that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: (i) all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and (ii) the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances * * *'' Decision XII/2 taken at the twelfth meeting of the Parties states that any CFC MDI product approved after December 31, 2000 is non-essential unless the product meets the criteria in Decision IV/25 paragraph 1(a).

The first step in obtaining essential use allowances is for the user to

[1] 58 *FR* 29410, May 20, 1993; 59 *FR* 52544, October 18, 1994; 60 *FR* 54349, October 23, 1995; 61 *FR* 51110, 0 30, 1996, 62 *FR* 51655, October 2, 1997; 63 *FR* 42629, August 10, 1998; 64 *FR* 50083, September 15, 1999; and 65 *FR* 65377, November 1, 2000.

consider whether the use of the controlled substance meets the criteria of Decisions IV/25 and XII/2. The user should then notify EPA of the candidate use and provide information for U.S. government agencies and the Protocol Parties to evaluate that use according to the criteria under the Protocol. Upon receipt of the essential use exemption application, EPA reviews the information provided and works with other interested Federal agencies to determine whether it meets the essential use criteria and warrants being nominated by the United States for an exemption. In the case of multiple exemption requests for a single use such as for MDIs, EPA aggregates exemption requests received from individual entities into a single U.S. request. An important part of the EPA review of requests for CFCs for MDIs is to determine that the aggregate request for a particular future year adequately reflects the total market need for CFC MDIs and expected availability of CFC substitutes by that point in time. If the sum of individual requests does not account for such factors, the U.S. government may adjust the aggregate request to better reflect true market needs.

Nominations submitted to the Ozone Secretariat by the U.S. and other Parties are forwarded to the UNEP Technical and Economic Assessment Panel (TEAP) and its Technical Options Committees (TOCs), which review the submissions and make recommendations to the Parties for essential use exemptions. Those recommendations are then considered by the Parties at their annual meeting for final decision. If the Parties declare a specified use of a controlled substance as essential, and issue the necessary exemption from the production and consumption phaseout, EPA may propose regulatory changes to reflect the decisions by the Parties, but only to the extent such action is consistent with the Clean Air Act (CAA or Act). Applicants should be aware that essential use exemptions granted to the U.S. for the year 2002 under the Protocol were limited to chlorofluorocarbons (CFCs) for metered dose inhalers (MDIs) to treat asthma and chronic obstructive pulmonary disease, and methyl chloroform for use in manufacturing solid rocket motors.

The timing of this process is such that in any given year the Parties review nominations for essential use exemptions from the production and consumption phaseout intended for the following year and subsequent years. This means that, if nominated, applications submitted in response to today's notice for an exemption in 2003 and 2004 will be considered by the Parties in 2002 for final action.

The quantities of controlled ODSs that are requested in response to this notice, if approved by the Parties to the Montreal Protocol in 2002, will then be allocated as essential-use allowances (EUAs) to the specific U.S. companies through notice and comment rulemaking. EUAs for the year 2003 will be allocated to U.S. companies at the end of 2002, and EUAs for the year 2004 will be allocated at the end of 2003.

With Decision X/19 the Parties approved an unlimited, global essential use exemption for the production and consumption of high purity class I ODSs for essential laboratory and analytical uses through the year 2005. More recently, with Decision XI/15, the Parties eliminated three laboratory methods from the global exemption by declaring them to be non-essential beginning January 1, 2002. These methods are: testing of oil and grease and total petroleum hydrocarbons in water, testing of road-paving materials, and forensic finger printing. EPA will be proposing a regulation to implement Decision XI/15 in the near future.

II. Information Required for Essential Use Applications for Production or Importation of Class I Substances in 2003 and 2004

Through this notice, EPA requests applications for essential use exemptions for all class I substances, except methyl bromide, for calendar years 2003 and 2004. This is the last opportunity to submit new or revised applications for 2003. Companies will have an opportunity to submit supplemental or amended applications for 2004 next year. All requests for exemptions submitted to EPA must present information as prescribed in the updated version of the TEAP ''Handbook on Essential Use Nominations'' (Handbook) published in June 2001. The handbook is available electronically on the web at *www.teap.org,* or at *www.epa.gov/ozone.*

In brief, the TEAP Handbook states that applicants must present information on:

- role of use in society;
- alternatives to use;
- steps to minimize use;
- steps to minimize emissions;
- recycling and stockpiling;
- quantity of controlled substances requested; and
- approval date and indications (for MDIs)

In submitting request for EUAs, EPA requires that applicants requesting EUAs for multiple pharmaceutical companies (e.g., International Pharmaceutical Aerosol Consortium), make clear the amount of CFCs requested for each member company. Also, all essential use applications for CFCs must provide a breakdown of the quantity of CFCs necessary for each MDI product to be produced. This detailed information will allow EPA and FDA to make informed decisions on the amount of CFC to be nominated by the U.S. government for the years 2003 and 2004.

There are some companies that hold New Drug Applications for CFC MDIs but whose MDI products are manufactured by another company (the contract filler). Beginning with this application cycle, all NDA holders for CFC MDI products produced in the U.S. must submit a complete application for essential use allowances either on their own or in conjunction with their contract filler. In the case where a contract filler produces a portion of an NDA holder's CFC MDIs, the contract filler and the NDA holder must determine the total amount of CFCs necessary to produce the NDA holder's entire product line of CFC MDIs. The NDA holder should provide an estimate of how the CFCs would be split between the contract filler and the NDA holder in the allocation year. This estimate will be used only as a basis for determining the nomination amount, and may be adjusted prior to allocation of EUAs. Since the U.S. government cannot forward incomplete or inadequate nominations to the Ozone Secretariat, it is important for applicants to provide all information requested in the Handbook, including the information specified in the supplemental research and development form (page 45).

The accounting framework matrix in the Handbook titled ''Table IV: Reporting Accounting Framework for Essential Uses Other Than Laboratory and Analytical'' requests data for the year 2001 on the amount of ODS exempted for an essential use, the amount acquired by production, the amount acquired by import, the amount on hand at the start of the year, the amount available for use in 2001, the amount used for the essential use, the quantity contained in exported products, the amount destroyed, and the amount on hand at the end of 2001. Because the data necessary to complete Table IV will not be available until after January 1, 2002, companies should not include this chart with their EUA applications in response to this notice. EPA plans to send letters to each essential use applicant requesting the information in Table IV in the first 2 weeks of January 2002. Companies will have only fourteen days in which to respond since EPA must compile

companies' responses to complete the U.S. CFC Accounting Framework for submission to the Parties to the Montreal Protocol by the end of January.

EPA anticipates that the 2002 review by the Parties of MDI essential use requests will focus extensively on research efforts underway to develop alternatives to CFC MDIs, on education programs to inform patients and health care providers of the CFC phaseout and the transition to alternatives, and on steps taken to minimize CFC use and emissions including efforts to recapture or reprocess the controlled substance. Accordingly, applicants are strongly advised to present detailed information on these points, including the scope and cost of such efforts and the medical and patient organizations involved in the work.

Applicants should submit their exemption requests to EPA as noted in the Addresses section at the beginning of today's notice.

Dated: October 29, 2001.

Robert D. Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 01–27839 Filed 11–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7099–6]

Request for Nominations of Members and Consultants, and Notice of Establishment; EPA National Advisory Committee for Environmental Policy and Technology (NACEPT) Superfund Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency announces the establishment of the Superfund Subcommittee to be formed under the auspices of the EPA National Advisory Committee for Environmental Policy and Technology (NACEPT). EPA invites nominations for qualified candidates to be considered for appointment to the Subcommittee that will engage the public in an open dialogue about the future direction of the Superfund program. A critical aspect of the dialogue will be consideration of Superfund's relationship to other federal and state waste programs with an eye toward finding ways for all waste programs to work together in a more unified fashion.

DATES: EPA expects to make appointments by the end of the calendar year and will accept nomination submissions until close of business on December 6, 2001.

ADDRESSES: Nominations must be submitted in writing by mail, electronically or in person, and must include a resume describing the professional, educational and/or experiential qualifications of the nominee. Nominations should also include the nominee's current business or residential address, daytime telephone number, fax, and E-mail address. Send nominations to: Lois Gartner, Designated Federal Officer, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency (5103), 1200 Pennsylvania Avenue NW., Washington, DC 20460, fax 202–260–8929, E-mail *gartner.lois@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Lois Gartner, Designated Federal Officer, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency (5103), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone 202–260–0714, E-mail *gartner.lois@epa.gov.*

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Pub. L. 92463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues.

Under the NACEPT framework, EPA is undertaking an examination of fundamental issues related to the future of the Superfund program. These issues cover a broad spectrum of topics important to Superfund including, but not limited to: the role and scope of the National Priorities List (NPL); how to address contaminated sediment, mining, and other ''mega'' sites; the role of states in Superfund; non-NPL cleanups; and measuring program progress. An important piece of the Subcommittee's dialogue will entail looking at Superfund in the context of other federal and state waste programs. This component of the group's deliberations will focus on how the Nation's waste programs can work together in a more effective and unified fashion, so that citizens can be assured that federal, state, and local governments are working cooperatively to make sites safe for their intended uses. The Superfund Subcommittee will deliberate on these and other Superfund-related issues and make policy recommendations to the EPA Administrator and other EPA officials.

EPA is soliciting qualified candidates who want to be considered for appointment to the Superfund Subcommittee. Any interested person or organization may nominate qualified persons for membership to the Subcommittee. Nominees should be qualified by education, training, or experience to participate in and contribute to a dialogue about the future direction of the Superfund program.

To ensure the Subcommittee represents a full spectrum of stakeholder views regarding Superfund policies, EPA seeks representation of the following groups: public policy analysts, academia, community groups, environmental justice groups, environmental and public interest organizations, state government, local government, tribal governments, industry, and scientists/engineers (e.g., toxicologists, ecologists, risk assessors, etc.). The EPA Administrator determines the Subcommittee's composition. Members will serve approximately an eighteen-month term.

Dated: October 31, 2001.

Marianne Lamont Horinko,

Assistant Administrator for the Office of Solid Waste and Emergency Response.

[FR Doc. 01–27818 Filed 11–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7099–5]

Request for Statement of Qualifications (RFQ) and Preliminary Proposals for Training and Outreach Coordination Support to the Chesapeake Bay Program

The U.S. Environmental Protection Agency (EPA) is issuing a request for qualifications for organizations interested in assisting the Chesapeake Bay Program in its efforts to develop, coordinate and support a training and event planning component of the Chesapeake Bay Program partnership. Applicants must be a nonprofit organization, interstate agency, college or university. Note, this is a request for qualifications for the benefit of the Chesapeake Bay Program partnership and not for direct benefit to EPA. Funding will be provided to an organization under the authority of the Clean Water Act, section 117.

The RFQ is available at the following web-site: *http://www.epa.gov/r3chespk/.* You may also request a copy by calling Robert Shewack at 410–267–9856 or by E-mail at: *shewack.robert@epa.gov.* Statement of qualifications (an original

and five (5) copies) must be postmarked no later than December 7, 2001. Any late, incomplete or fax proposals will not be considered.

Diana Esher,

Acting Director, Chesapeake Bay Program Office.

[FR Doc. 01–27834 Filed 11–5–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–211046A; FRL–6808–7]

TSCA Section 21 Petition; Response to Citizen's Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On August 2, 2001, EPA received a petition under section 21 of the Toxic Substances Control Act (TSCA) from the Cystic Fibrosis Foundation. The petition requests that EPA initiate a rulemaking under TSCA section 6(a)(1)(A) to prohibit the manufacture processing, distribution in commerce, use, and improper disposal of *Burkholderia Cepacia* Complex (Bcc), a group of naturally occurring microorganisms in order to ''address the significant threat that these microorganisms pose to individuals with cystic fibrosis (CF) and other diseases that compromise the immune system.'' For the reasons set forth in this notice, EPA has denied the petition to initiate rulemaking. However, based on EPA's review of Bcc's commercial status, and in light of the seriousness of the potential hazard presented to CF patients, EPA intends to initiate a rulemaking to issue a Significant New Use Rule (SNUR) under TSCA section 5(a)(2).

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: James Alwood, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8974; e-mail address: alwood.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to manufacturers (including importers), processors, and users of products that contain living microorganisms subject to jurisdiction under TSCA, especially if that entity knows that its products contain or may contain Bcc. 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–211046A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the 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 for the Center is (202) 260–7099.

II. Background

A. What is a TSCA Section 21 Petition?

Section 21 of TSCA allows citizens to petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 5(a)(2), or 6, or an order under TSCA section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth facts which the petitioner believes establish the need for the action requested. EPA is required to grant or deny the petition within 90 days of its receipt. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. Within 60 days of denial or no action, petitioners may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking. When reviewing a petition for a new rule, as in this case, the court must provide an opportunity for de novo review of the petition. Pursuant to TSCA section 21(b)(4)(B)(ii), ''if the petitioner demonstrates to the satisfaction of the court by a preponderance of evidence that ... there is a reasonable basis to conclude that the issuance of such [TSCA section 6(a)(1)(A) rule] is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment'' the court can order EPA to initiate the requested action.

B. What Action is Requested Under this TSCA Section 21 Petition?

On August 2, 2001, EPA received a petition under TSCA section 21 from the Cystic Fibrosis Foundation. The petition requests that EPA initiate rulemaking under TSCA section 6(a)(1)(A) to prohibit the manufacture, processing, distribution in commerce, use, and improper disposal of Bcc, a group of naturally occurring microorganisms in order to ''address the significant threat that these microorganisms pose to individuals with CF and other diseases that compromise the immune system.''

III. Disposition of Petition

The petitioners submitted extensive information on the potential hazard Bcc microorganisms may present to CF patients. EPA agrees that Bcc microorganisms, when encountered in sufficient numbers through an appropriate route of exposure by a member of a sensitive population, such as a CF patient, have the potential to cause a severe infection, resulting in significantly increased rates of mortality. The petition claims that Bcc is likely used in products and services

that involve drain cleaning, bioremediation, biomonitoring of hazardous wastes, biomass conversion, production of specialty chemicals, oil recovery, wastewater treatment, bio-mining, and desulfurization of oil and coal. The petition claims to document these potential uses. However, the petition contains no evidence that Bcc is currently used in existing commercial industrial products to which a sensitive individual might be exposed.

In order to gauge the scope of commercial use of Bcc, EPA conducted a survey of over 100 firms, associations, and researchers. In sum, EPA was able to discover no evidence that Bcc is contained in a commercial product currently available for use in the United States. The only potential TSCA uses of Bcc for which information is available are field demonstration studies of Bcc in the biodegradation of chlorinated solvents in groundwater. (See Commercial Uses of *Burkholderia Cepacia* Complex, USEPA, October 2001.) Specifically, one company has injected a strain of Bcc into aquifers in New Jersey to demonstrate its ability to degrade trichloroethylene and a consulting firm carried out a pilot study in Wichita, KS, to verify the effectiveness and overall feasibility of using *Burkholderia Cepacia* $PR1_{301}$ to degrade chlorinated aliphatic hydrocarbons. However, none of these strains is currently available in an existing commercial industrial product.

No companies indicated that Bcc was currently used for the degradation of grease (typically in drain cleaners) or for turf management (typically in thatch reduction), although researchers and firms cautioned that even the companies that produce such products may be unaware of the specific presence of Bcc.

One respondent indicated that lipases harvested from Bcc are used in the production of specialty chemicals. One company's web site, lists seven lipases derived from Bcc species available for sale under their brand names. However, when this company was contacted, it indicated that it purchases the lipases from an overseas firm, and does not work with Bcc microorganisms; no more information was available.

Many respondents indicated a knowledge of Bcc and its possible applications, but very few had any knowledge that it was actually being used. Some contacts indicated that Bcc's known potential for opportunistic pathogenicity had led them to discount it for use in their products. Thus, the information available to EPA indicates that there is no current commercial use of Bcc in the United States, although demonstration studies of its effectiveness in degrading chlorinated solvents in groundwater have been reported.

At this time EPA is unable to identify any existing commercial use of products containing Bcc, other than demonstration studies. Based on this information, EPA finds that issuing a ban of Bcc under TSCA 6(a)(1)(A) is not the appropriate mechanism under TSCA to prevent an unreasonable risk of injury to health. However, based on EPA's review of Bcc's commercial status, and in light of the seriousness of the potential hazard presented to CF patients, EPA intends to initiate a rulemaking to issue a Significant New Use Rule (SNUR) under TSCA section 5(a)(2). As the only identified commercial uses of Bcc are demonstration studies, the SNUR when issued, would require manufacturers, importers, and processors of Bcc to notify EPA at least 90 days before any use of Bcc, other than such demonstration studies, occurs. The notice would provide EPA with an opportunity to evaluate the intended new use and associated activities and, if necessary, to prohibit or limit that activity before it occurs.

IV. Comments Received

EPA received no comments in response to the **Federal Register** notice published September 5, 2001 (66 FR 46459) (FRL–6800–5) announcing EPA's receipt of this TSCA section 21 petition.

List of Subjects

Environmental protection, *Burkholderia Cepacia* Complex (Bcc), Cystic fibrosis, Hazardous substances.

Dated: October 30, 2001.

Stephen L. Johnson,

Assistant Administrator, Office of Pesticides, Prevention and Toxic Substances.

[FR Doc. 01–27840 Filed 11–5–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7099–3]

Notice of Availability of National Management Measures to Protect and Restore Wetlands and Riparian Areas for the Abatement of Nonpoint Source Pollution and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comment.

SUMMARY: EPA has developed and is requesting comment on draft technical guidance for protecting and restoring wetlands and riparian areas from sources of nonpoint pollution and using vegetated treatment systems (vegetative filter strips and constructed wetlands) for controlling nonpoint source pollution. This guidance is intended to provide technical assistance to state program managers and others on the best available, economically achievable means of protecting and restoring wetlands and riparian areas from nonpoint source pollution. Additionally, this guidance provides technical assistance for state program managers on the use of vegetated treatment systems to control nonpoint source pollution. The guidance provides background information about nonpoint source pollution, including where it comes from and how it enters the Nation's waters. It also presents many examples of how to protect and restore the many functions of wetlands and riparian areas from the impacts of nonpoint source pollution. The guidance concludes with a variety of illustrations for using vegetated treatment systems to control sources of nonpoint pollution.

Reviewers should note that the draft technical guidance is entirely consistent with the Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Water (EPA 840–B–92–002), which EPA published in January 1993 under the authority of section 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA). The draft document does not supplant or replace the requirements of the 1993 document. It enhances the technical information contained in the 1993 coastal guidance to include inland as well as coastal context and to provide updated technical information based on current understanding and implementation of best management practices (BMP) controls. It does not set new or additional standards for either CZARA section 6217 or Clean Water Act section 319 programs.

EPA will consider comments on this draft guidance and will then issue final guidance.

DATES: Written comments should be addressed to the person listed directly below by February 4, 2002.

ADDRESSES: Comments should be sent to Chris Solloway, Assessment and Watershed Protection Division (4503–F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Non-US Postal Service comments should be sent to Chris Solloway, Assessment and Watershed Protection Division, U.S.

Environmental Protection Agency, Room 200, 499 S. Capitol Street, SW., Washington, DC 20003. Faxes should be sent to (202) 260–7024. Comments via E-mail may be sent to *Solloway.Chris@epa.gov*.

The complete text of the draft guidance is available on EPA's Internet site on the Nonpoint Source Control Branch's homepage at *http://www.epa.gov/owow/nps*>. Copies of the complete draft can also be obtained in electronic or hard copy format by request from Chris Solloway at the above address, by E-mail at Solloway.*Chris@epa.gov*>, or by calling (202) 260–3008.

FOR FURTHER INFORMATION: Contact Chris Solloway at (202) 260–3008.

SUPPLEMENTARY INFORMATION:

I. Background

In 1993, under the authority of section 6217(g) of the Coastal Zone Act Reauthorization Amendments, EPA issued Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters. That guidance document details management measures appropriate for the control of five categories of nonpoint sources of pollution in the coastal zone: agriculture, forestry, urban areas, marinas and recreational boating, and hydromodification. The document also includes management measures for wetlands, riparian areas, and vegetated treatment systems because they are important to the abatement of nonpoint source pollution in coastal waters. States and territories were required to adopt measures ''in conformity'' with the coastal management measures guidance for their Coastal Nonpoint Pollution Control Programs.

State, territory, and tribal water quality assessments continue to identify nonpoint source pollution as a major cause of degradation in surveyed waters nationwide. In 1987 Congress enacted section 319 of the Clean Water Act to establish a national program to control nonpoint sources of water pollution. Under section 319, States, territories, and tribes address nonpoint source pollution by assessing the nonpoint source pollution problems within the State, territory, or tribal lands; identifying the sources of pollution; and implementing management programs to control the pollution. Section 319 also authorizes EPA to award grants to States, territories, and tribes to assist them in implementing management programs that EPA has approved. Program implementation includes nonregulatory and regulatory programs, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects. In fiscal year 2001, Congress appropriated approximately $237 million for nonpoint source management program grants. EPA has awarded a total of approximately $1.3 billion to States, territories, and Indian tribes since 1990.

The 1993 management measures guidance, developed under the authority of CZARA, focused on conditions and examples of management measure implementation within the coastal zone. To date, technical guidance on the best available, economically achievable measures for controlling nonpoint sources with a national focus has not been released. The draft national management measures guidance for wetlands is intended to partially address this gap. Although the practices detailed in the 1993 coastal guidance apply generally to inland areas, EPA has recognized the utility of developing and publishing technical guidance that explicitly addresses nonpoint source pollution on a nationwide basis. Moreover, additional information and examples from research and experience to date with implementation of the management measures are available to enrich the national guidance. These changes have helped to prompt the revision and expansion of the wetlands chapter of the 1993 guidance.

II. Scope of the Draft Wetlands Guidance—Sources of Nonpoint Source Pollution Addressed

The draft technical guidance continues to focus on the protection and restoration of wetlands and riparian areas and the use of vegetated treatment systems to control nonpoint sources of pollution identified for the 1993 coastal guidance by EPA in consultation with a number of other Federal agencies and other leading national experts. Specifically, the guidance identifies management measures for the following:

i. The protection of wetlands and riparian areas.

ii. The restoration of wetlands and riparian areas.

iii. Vegetated treatment systems.

III. Approach Used To Develop Guidance

The draft national management measures guidance is based in large part on the 1993 coastal guidance. The coastal guidance was developed using a workgroup approach to draw upon technical expertise within other federal agencies as well as state water quality and coastal zone management agencies. The 1993 text has been expanded to include information on the cost and effectiveness of wetlands and riparian areas and vegetative treatment systems for removing nonpoint source pollution, descriptions of ways to protect wetlands and riparian areas, resources for planning and implementing wetlands and riparian area restoration projects, a discussion on mitigation banking, and examples of projects that used vegetated treatment systems to control nonpoint source pollution.

IV. Request for Comments

EPA is soliciting comments on the draft guidance on management measures to protect and restore wetlands and riparian area for the abatement of nonpoint source pollution and for the use of vegetated treatment systems. The Agency is soliciting additional information and supporting data on the measures specified in this guidance and on additional measures that may be as effective or more effective to protect and restore wetlands and riparian areas for the abatement of nonpoint source pollution and the use of vegetated treatment systems. EPA requests that commenters focus their comments on the technical soundness of the draft management measures guidance.

Dated: October 22, 2001.

G. Tracy Mehan, III,

Assistant Administrator for Water.

[FR Doc. 01–27837 Filed 11–5–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting, Thursday, November 8, 2001

November 1, 2001.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 8, 2001, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Wireless Telecommunications	Title: 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services (WT Docket No. 01–14). Summary: The Commission will consider a Report and Order concerning its reexamination of the need for the Commercial Mobile Radio Services spectrum aggregation limits and the cellular cross-interest rule.
2	Mass Media	Title: Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; and Definition of Radio Markets (MM Docket No. 00–244). Summary: The Commission will consider a Notice of Proposed Rule Making concerning whether to undertake a comprehensive examination of its rules and policies of local radio ownership.
3	Mass Media	Title: Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television (MM Docket No. 00–39). Summary: The Commission will consider a Memorandum Opinion and Order on Reconsideration concerning its periodic review of the progress of the conversion to digital television.
4	Common Carrier	Title: Performance Measurements and Standards for Unbundled Network Elements and Interconnection; Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance (CC Docket No. 98–56); Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147); and Petition of Association for Local Telecommunications Services for Declaratory Ruling (CC Docket Nos. 98–147, 96–98, 98–141). Summary: The Commission will consider a Notice of Proposed Rule Making concerning the establishment of national performance measurements and standards for unbundled network elements and interconnection.
5	International	Title: Review of Commission Consideration of Applications under the Cable Landing License Act (IB Docket No. 00–106). Summary: The Commission will consider a Report and Order concerning its policies, rules and requirements for Cable Landing Licenses.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International at (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at qualexint@aol.com.

This meeting can be viewed over George Mason University's Capital Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–28008 Filed 11–2–01; 2:58 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; A Closed Commission Meeting, Thursday, November 8, 2001

November 1, 2001.

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, November 8, 2001, following the Open Meeting, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	General Counsel	Title: Commission Internal Processes. Summary: The Commission will discuss possible changes to its internal processes.

This item is closed to the public because it concerns internal practices. (See 47 CFR Sec. 0.603(b)).

The following persons are expected to attend:

Commissioners and their Assistants

The Secretary

General Counsel and members of her staff

Action by the Commission November 1, 2001. Commissioners, Powell Chairman; Abernathy, Copps and Martin voting to consider these matters in Closed Session.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–28009 Filed 11–2–01; 2:58 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Performance Review Board

As required by the Civil Service Reform Act of 1978 (Pub. L. 95–454), Chairman Michael K. Powell appointed the following executives to the Performance Review Board: Renee Licht, Jane Mago, Mary Beth Richards, and David Solomon.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–27782 Filed 11–5–01; 8:45 am]

BILLING CODE 6712–01–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 30, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Tri-State Financial Services, Inc., Memphis, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Tri-State Bank of Memphis, Memphis, Tennessee.

Board of Governors of the Federal Reserve System, October 31, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–27772 Filed 11–5–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0432]

Draft Guidance for Industry on the Evaluation of the Effects of Orally Inhaled and Intranasal Corticosteroids on Growth in Children; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Evaluation of the Effects of Orally Inhaled and Intranasal Corticosteroids on Growth in Children.'' The Division of Pulmonary and Allergy Drug Products is providing guidance to industry regarding the design, conduct, and evaluation of clinical trials to evaluate the effects of orally inhaled and intranasal corticosteroids on growth in children. This action is important because of recently implemented class labeling of these products with regard to their impact on growth in children. An assessment of the available data supporting the class labeling action has led to recommendations that all drug products of this class be tested by means of a ''growth study.'' The recommendations in this document can provide adequate and well-controlled data that is consistent among drug products and can be included in product labeling.

DATES: Submit written or electronic comments on the draft guidance by February 4, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Sandy Barnes, Center for Drug Evaluation and Research (HFD–570), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1050.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Evaluation of the Effects of Orally Inhaled and Intranasal Corticosteroids on Growth in Children.'' This draft guidance has been developed by the Division of Pulmonary and Allergy Drug Products, in consultation with the Division of Metabolic and Endocrine Drug Products, to provide guidance in the design, conduct, and evaluation of clinical studies to assess the effects of orally inhaled and intranasal corticosteroids on linear growth.

On July 30 and 31, 1998, the Pulmonary and Allergy Drugs Advisory Committee and the Metabolic and Endocrine Drugs Advisory Committee were jointly convened to discuss the implications of findings in previous clinical studies that indicated that inhaled corticosteroids may, as a class of compounds, affect linear growth in pediatric patients. The joint committees agreed that data were sufficient to justify inclusion of a precautionary statement in the labeling for this class of compounds, but the data were inadequate to precisely determine the decrement in growth velocity resulting from the use of these drug products. Members of the joint committees recommended that companies filing new drug applications for all newly approved corticosteroid products conduct further studies, as post-apptoval phase 4 commitments, to assess the effects of nasally and orally inhaled corticosteroids on growth velocity in prepubertal children.

The draft guidance provides general recommendations for the design and conduct of a ''growth study.'' The Division of Pulmonary and Allergy Drug Products endorses these recommendations to encourage the collection of other evidence that will consistently and accurately describe the effects of intranasal and orally inhaled corticosteroids on growth velocity in children.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115).

The draft guidance, when finalized, will represent the agency's current thinking on evaluating the effects of orally inhaled and intranasal corticosteroids on growth in children. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet can obtain the document at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: October 26, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–27756 Filed 11–5–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Dale D. Berkley, Ph.D., J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7735 ext. 223; fax: 301/402–0220; e-mail: *berkleyd@od.nih.gov.* A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Side Exit Guiding Catheter for Percutaneous Endomyocardial Injection

Robert Lederman (NHLBI)

DHHS Reference No. E–108–01/0 filed 10 Aug 2001

The invention is a device for delivering a therapeutic or diagnostic agent to the heart using a flexible catheter having a non-concentric guide wire to facilitate percutaneous delivery of the catheter across the aortic valve into the left ventricular cavity. The catheter has a side port through which the therapeutic or diagnostic can be delivered and, in particular, by which septal ablation for the treatment of conditions such as hypertrophic cardiomyopathy can be accomplished. This catheter is able to ''turn around'' on itself to treat areas of the myocardium immediately underneath the aortic valve through which the catheter enters. The side port can be used to introduce a needle, laser or radiofrequency probe to perform an endomyocardial ablation procedure.

Methods and Devices for Isolation and Analysis of Cellular Protein Content

Lance A. Liotta, Emmanuel P. Petricoin, Nicole Simone, Michael Emmert-Buck (NCI)

U.S. Patent Application No. 60/120,288 filed February 16, 1999; PCT Application No. PCT/US00/04023 filed February 16, 2000; U.S. Patent Application No. 09/913,667 filed August 16, 2001

The invention is a comprehensive Laser Capture Microdissection (LCM) method for determining protein characteristics of a sample tissue cell to quantitatively discern and compare the protein content of healthy cells versus diseased cells. The tissue source of a tumor metastasis is available from the acquisition of this information. The focus in molecular biology is moving from genomics to proteomics, the study of variations in the protein levels of cells, caused by the state of the cell itself, whether healthy or unhealthy. The invention provides a method for using new and innovative methods for cell analysis. Previous methods, such as UV-laser ablation of unwanted tissue regions and oil well isolation of tissue cells, were complex, labor intensive, and did not utilize protein stabilizers. Direct comparisons between healthy cells and tumor cells were not made due to limitations of the methods. The new method consists of first using the new LCM method to obtain pure cell populations. Next, the sample is placed in a device so that the proteins are solubilized. Then the immunological and biochemical methods and subsequent analyses are performed. These techniques include (but are not limited to) immunoassays, 1D and 2D gel electrophoresis characterization, Western blotting, Matrix Assisted Laser Desorption Ionization/Time of Flight (MALDI/TOF) and Surface Enhanced Laser Desorption Ionization Spectroscopy (SELDI), Protein Arrays and Phosphoprotein Fingerprinting. The methods listed above allow for the direct comparison of both qualitative and quantitative tissue content of healthy and diseased cells, from the same sample. The sequential method of using LCM, protein isolation, analysis and comparison is superior to existing methods because the location of the tumor can be found simply using immunohistochemistry, and protein characteristics, such as amino acid sequence and binding ability can also be discerned. In addition, by using protein fingerprinting, the source of the tumor metastasis is found effectively. The invention has been tested extensively with the different methods listed above. This technology can be used in hospitals and research pathology labs for quantitative measure of protein characteristics of cells.

Isolation of Cellular Material Under Microscopic Visualization

Liotta et al. (NCI)

U.S. Patent 5,843,644 issued December 1, 1998; U.S. Patent 5,843,657 issued December 1, 1998; U.S. Patent 6,010,888 issued January 4, 2000; U.S. Patent 6,204,030 issued March 20, 2001; Serial No. 09/765,937 filed January 18, 2001

This Laser Capture Microdissection (LCM) invention is a method for directly extracting cellular material from a tissue sample using a laser beam to focally activate a special transfer film that bonds specifically to cells identified and targeted by microscopy within the tissue section. The transfer film with the bonded cells is then lifted off the thin tissue section, leaving all unwanted cells (which would contaminate the molecular purity of subsequent analysis) behind. The transparent transfer film is applied to the surface of the tissue section. Under the microscope, the

diagnostic pathologist or researcher views the thin tissue section through the glass slide on which it is mounted and chooses microscopic clusters of cells to study. When the cells of choice are in the center of the field of view, the operator pushes a button, which activates a near IR laser diode integral with the microscope optics. The pulsed laser beam activates a precise spot on the transfer film immediately above the cells of interest. At this precise location the film melts and fuses with the underlying cells of choice. When the film is removed, the chosen cell(s) are tightly held within the focally expanded polymer, while the rest of the tissue is left behind. This allows multiple homogeneous samples within the tissue section or cytological preparation to be targeted and pooled for extraction of molecules and analysis. This technology is available for licensing on a non-exclusive basis.

Dated: October 29, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–27750 Filed 11–5–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Recombinant Proteins of the Swine Hepatitis E Virus and Their Uses as a Vaccine and Diagnostic Reagents for Medical and Veterinary Applications

Xiang-Jin Meng, Robert H. Purcell, Suzanne U. Emerson (NIAID)

DHHS Reference No. E–304–98/0 filed May 7, 2001

Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail: *salatac@od.nih.gov*

This invention is based on the discovery of the swine hepatitis E virus (swine HEV), the first animal strain of HEV identified and characterized, and its ability to infect across species. The inventors have found that the swine HEV is widespread in the general pig population in the United States and other countries and that swine HEV can infect non-human primates. The inventors have amplified and sequenced the complete genome of swine HEV. The capsid gene (ORF2) of swine HEV has been cloned and expressed in a baculovirus expression system.

The possibility that swine HEV may infect humans raises a potential public health concern for zoonosis or xenozoonosis in the United States and perhaps other countries. Therefore, it is likely that a vaccine based on the recombinant capsid protein of swine HEV will protect humans against zoonotic, as well as other, HEV infections and pigs against infection with the swine HEV. Also, diagnostic reagents based on these recombinant proteins of swine HEV will be very useful in screening donor pigs used in xenotransplantation and in detecting swine HEV or similar virus infection in humans. The diagnostic reagents may also be useful for veterinary studies and monitoring pig herds in general.

Polymorphic Human $GABA_A$ Receptorα-6 Subunit

David Goldman, Nakao Iwata, Mark Shuckit (NIAAA)

DHHS Reference No. E–061–98/0 filed February 19, 1999 and DHHS Reference No. E–061–98/1 filed February 18, 2000

Licensing Contact: Pradeep Ghosh; 301/496–7736 ext. 211; e-mail: *ghoshp@od.nih.gov*

Gamma-aminobutyric acid (GABA) is a key inhibitory neurotransmitter in the mammalian central nervous system. Evidence indicates that GABA receptors are associated with various neuropsychiatric disorders. Currently, there are no reliable and sensitive markers on the market for the molecular diagnosis of alcoholism or anxiety disorders, although both groups of disorders are thought to involve GABA function. Alcohol modulates GABA function and shows cross-tolerance with benzodiazepines. Anxiety disorders are treated with benzodiazepines. Also, there are no molecular predictors of interindividual variation in response to the commonly used benzodiazepine drugs [such as valium) which act through $GABA_A$ receptors. The α-6 subunit of $GABA_A$ receptors is sensitive to alcohol and in a rat genetic model a genetic variant of the α-6 subunit had been directly related to sensitivity to alcohol and benzodiazepine drugs. This invention pertains to a particular polymorphism in the human α-6 subunit gene. This relatively common human sequence variant predicts sensitivity to both benzodiazepine drugs and ethanol. In children of alcoholics this substitution also correlates with susceptibility to alcoholism. Thus, this invention presents commercial opportunities both as a diagnostic screening tool in alcoholism, anxiety disorders and other neuropsychiatric diseases, and as a predictive tool for therapeutic and pathological responses to commonly administered benzodiazepine drugs.

Dated: October 29, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–27751 Filed 11–5–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Interagency Autism Coordinating Committee; Notice of Meeting

The Children's Health Act of 2000 (Pub. L. 106–310), Title I, section 104, mandated the establishment of an Interagency Autism Coordinating Committee (IACC) to coordinate autism research and other efforts within the Department of Health and Human Services (DHHS). In April 2001, Secretary Tommy Thompson delegated the authority to establish the IACC to the National Institutes of Health (NIH). The National Institute of Mental Health (NIMH) at the NIH has been designated the lead for this activity.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other

reasonable accommodations, should notify the contact person listed below in advance of the meeting.

Name of Committee: Interagency Autism Coordinating Committee.
Date: November 19, 2001.
Time: 9 a.m. to 4:30 p.m.
Agenda: Discussion of autism activities across Federal agencies.
Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10 (6th floor), Bethesda, Maryland 20892,
Contact Person: Kimberly Hoagwood, Ph.D., Associate Director for Child and Adolescent Research, National Institute of Mental Health, NIH, 6001 Executive Boulevard, Room 7167, MSC 9630, Bethesda, Maryland 20892, Email: *kh32p@nih.gov* Telephone: (301) 443–4627.

Any member of the public interested in presenting oral comments to the committee may notify the contact person listed on this notice at least 5 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Presentations may be limited to 5 minutes; both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding his/her statement to the contact person listed on this notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

Information is also available on the NIMH homepage at <*http://www.nimh/nih/gov/events/interagencyautism.cfm*>.

Dated: October 30, 2001.

Yvonne Maddox,

Acting Deputy Director, National Institutes of Health.

[FR Doc. 01–27752 Filed 11–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is herby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: November 4–5, 2001.
Time: 5 p.m. to 8 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select At University Center, 100 Lytton Avenue, Pittsburgh, PA 15213.
Contact Person: William A. Kachadorian, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: November 5–6, 2001.
Time: 7 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.
Contact Person: Ramesh Vemuri, Health Scientific Adminstrator, Office of Scientific Review, National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (301) 496–9666

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: November 27–28, 2001.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Empress Hotel, 7766 Fay Avenue, LaJolla, CA 92037.
Contact Person: James P. Harwood, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel; Reactive Oxygen Species; Stress and Damage in Old Muscle.
Date: November 28–29, 2001.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 3205 Boardwalk St., Ann Arbor, MI 48109–2007.
Contact Person: Alicja L. Markowska, Scientific Review Office, Gateway Building/Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20817.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: December 3–4, 2001.
Time: 7 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Inntowner the Best Western, 2424 University Ave., Madison, WI 53705.
Contact Person: Louise L. Hsu, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: December 3, 2001.
Time: 12:15 p.m. to 4:15 p.m.
Agenda: To review and evaluate grant applications.
Place: 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Jeffrey M. Chernak, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–27745 Filed 11–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.
Date: November 19, 2001.
Time: 11 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: 6100 Executive Blvd. 5th Floor, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Jon M. Ranhand, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 30, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–27746 Filed 11–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: November 28, 2001.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jon M. Ranhand, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS).

Dated: October 29, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–27747 Filed 11–05–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasions of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, MARC/MBRS Special Emphasis Panel.

Date: November 13, 2001.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIGMS, Office of Scientific Review, Natcher Building, Room 1AS19, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rebecca H. Johnson, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS19J, Bethesda, MD 20892, (301) 594–2771, *johnsonrh@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–27748 Filed 11–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: November 27, 2001.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., DSR Conf. Rm., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jon M. Ranhand, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistant Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 28, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–27749 Filed 11–5–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4654–N–01]

Notice of Proposed Information Evaluation Study of Rounds 6–8 of HUD's Lead Hazard Control Grant Program

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 7, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Gail N. Ward, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room P3206, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dr. Peter Ashley, (202) 755–1785 ext. 115 (this is not a toll-free number) for available documents regarding this proposal.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the pubic and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Notice also lists the following information:

Title of Proposal: Evaluation Study of Rounds 6–8 of HUD's Lead Hazard Control Grant Program.

OMB Control Number: To be assigned.

Need for the Information and Proposed Use: In order to assist in fulfilling its mission of eliminating lead-based paint hazards and other housing-related threats to children's health and safety in low-income privately-owned homes, HUD's Office of Healthy Homes and Lead Hazard Control operates a grant program for State and local governments to develop and implement cost-effective methods for the inspection and reduction of lead-based paint hazards in private owner-occupied and rental housing for low and moderate income families. In Rounds 6–8 (a ''Round'' refers to consecutively numbered annual grant awards, starting in fiscal year 1992) of this Lead Hazard Control Grant Program, HUD has awarded grants to sixty-five different States and localities. The purpose of this information collection is to study the effectiveness of the grant programs and the lead hazard control treatments conducted with these grants. To do this, HUD will study selected housing units within approximately ten grants programs that received Round 6–8 grants. Researchers will collect environmental samples and household information before and after lead hazard control treatments are applied to housing units that agree to participate in the study. The data collected during this project should provide HUD with a comprehensive assessment of whether program policies and procedures, treatment methods, and outcomes have changed, evolved, or improved significantly following the rounds 1–2 grant programs.

This information collection will involve conducting brief on-site interviews of property owners and tenants; brief interior and exterior visual inspections of housing units; collection of paint, soil, and dust-wipe samples for lead analysis; and collection of vacuum dust samples for future study on the effectiveness of lead hazard control treatments to reduce the presence of allergens and mold spores. Approximately five information collection visits will be made to participating housing units over a three to four year period. If appropriate, the results of this information collection will be used to improve existing HUD guidance for conducting safe and cost-effective lead hazard control treatments.

Agency For Numbers: None.

Members of Affected Public: Selected property owners and residents of housing units that agree to participate in the study representing approximately 10 state, county, or city level lead hazard control grant programs across the United States.

Total Burden Estimate (First Year):

Number of respondents	Average response time (hrs.)	Total hours
600	6	3600

TABLE 1.—CALCULATION OF RESPONDENT BURDEN OVER THE FULL STUDY PERIOD

Burden-causing task	Resident property owners	Non-resident property owners	Tenants
Complete informed consent form	15 minutes	15 minutes	15 minutes.
Complete pre-treatment interview	15 minutes	15 minutes	15 minutes.
Conduct risk assessment data collection	30 minutes		30 minutes.
Conduct clearance data collection	30 minutes		30 minutes.
Conduct post-clearance data collection	60 minutes x 3		60 minutes x 3.
Complete post-treatment interviews	10 minutes x 3	10 minutes x 3	10 minutes x 3.
Complete Maintenance and Turnover logs	15 minutes	30 minutes	15 minutes.
Total	5.25 hours	1.5 hours.	5.25 hours.

Average Response Time: 6 hours (assuming 50 percent owner-occupied housing units at 5.25 hrs. per unit; rental housing will require time of both owner and tenant for total of 6.75 hrs. per unit).

Total Burden for 600 units: 3,600 hours.

Status of the Proposed Information Collection: New collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 29, 2001.

David E. Jacobs,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 01–27755 Filed 11–5–01; 8:45 am]

BILLING CODE 4210–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Draft General Management Plan/Draft Environmental Impact Statement for the Little Rock Central High School National Historic Site, Arkansas

AGENCY: National Park Service.

Pursuant to section 102(2) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of the draft general management plan/draft environmental impact statement (DGMP/DEIS) for the Little Rock Central High School National Historic Site (hereafter ''the Historic Site''). This notice also announces public open houses for the purpose of receiving public comments on the DGMP/DEIS.

DATES: There will be a 60 day public review period for comments on this document. Comments on the DGMP/DEIS must be received by December 26, 2001, or 60 days after the Environmental Protection Agency publishes its notice of availability in the **Federal Register**, whichever date is later. Public open houses for information about, or to make comment on the DGMP/DEIS will be held on November 13, 2001, in Little Rock, Arkansas. Information about time and place will be available by contacting the park's visitor center at 501–374–1957.

ADDRESSES: Copies of the DCMP/DEIS are available by request by writing to Little Rock Central High School National Historic Site, 2125 Daisy L. Gatson Bates Drive, Little Rock, AR 72202, by phone 501–374–1957, or by e-mail *CHSC_Visitor_Center@nps.gov.* The document can be picked-up in person at the Historic Site's visitor center, 2125 Daisy L. Gatson Bates Drive, Little Rock, AR.

FOR FURTHER INFORMATION CONTACT: Superintendent, Little Rock Central High School National Historic Site, Federal Building, Box 3527, 700 West Capitol Ave., Little Rock, AR 72201 or at telephone number 501–324–5683.

SUPPLEMENTARY INFORMATION: As established, the Historic Site consists of lands and interests therein comprising the Central High School campus and adjacent properties in Little Rock, Arkansas. Congress established the Historic Site to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School and its role in the integration of public schools and the development of the Civil Rights movement in the United States.

The purpose of the general management plan is to set forth the basic management philosophy for the Historic Site and to provide the strategies for addressing issues and achieving identified management objectives. The DGMP/DEIS describes and analyzes the environmental impacts of a proposed action and three action alternatives for the future management direction of the Historic Site. A no action alternative is also evaluated.

Persons wishing to comment may do so by any one of several methods. They may attend the open houses noted above. They may mail comments to Superintendent, Little Rock Central High School National Historic Site, Federal Building, Box 3527, 700 West Capitol Ave., Little Rock, AR 72201. They also may comment via e-mail to *dave_forney@nps.gov* (include name and return address in the e-mail message). Finally, they may hand-deliver comments to the Little Rock Central High School National Historic Site visitor center at 2125 Daisy L. Gatson Bates Drive, Little Rock, AR 72201. The NPS' practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

The responsible official is Mr. William Schenk, Midwest Regional Director, National Park Service.

Dated: August 7, 2001.

David N. Given,

Acting Regional Director, Midwest Region.

[FR Doc. 01–27760 Filed 11–5–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability; Record of Decision, New Bedford Whaling National Historic Park

AGENCY: National Park Service, Interior.

ACTION: The National Park Service announces the availability of the Record of Decision of the final impact statement for the New Bedford Whaling National Historical Park General Management Plan.

SUMMARY: The National Park Service has prepared the Record of Decision of the Final Environmental Impact Statement for the New Bedford Whaling National Historical Park General Management Plan pursuant to the National Environmental Policy Act of 1969 and the regulations promulgated by the Council on Environmental Quality at 40 CFR 1505.2. A Record of Decision is a concise statement of the decision made, the basis for the decision, and the background of the project, including the decision making process, other alternatives considered, and public involvement. Concurrent with adopting this Record of Decision on the Final Environmental Impact Statement, New Bedford Whaling National Historical Park General Management Plan is approved.

The National Park Service began planning for the management of New Bedford Whaling National Historical Park in 1997. The National Park Service presented and evaluated three management scenarios (the Proposed Management Option and 2 Alternatives) in a Draft General Management Plan/Draft Environmental Impact Statement. The draft plan underwent sixty days of public and interagency review. After considering public and agency comment, the National Park Service produced the Final Environmental Impact Statement, which was available to the public for thirty days beginning on July 2, 2001. The National Park Service took no action for the thirty-day period of public availability, after which time the Park Service prepared the Record of Decision, selecting the Proposed Management Option as the final plan. In the selected option the National Park Service would share responsibility with its partners for protecting the park's historic resources and offering effective programming to the visiting public. The National Park Service would bring the story of New Bedford and American whaling to a national audience. Public education, interpretation, research, and technical

training aimed at generating understanding and fostering greater resource stewardship would be emphasized through National Park Service activities. Under this management option, the National Park Service's role and responsibilities would be expanded with regards to historic preservation and universal access. The Record of Decision is now approved and available to the public.

Availability: Copies of the Record of Decision are available at New Bedford Whaling National Historical Park, 33 William Street, New Bedford, Massachusetts. For further information, please contact the Superintendent, New Bedford Whaling National Historical Park, 33 William Street, New Bedford, Massachusetts 02740; voice at (508) 996–4469; fax at (508) 994–8922.

Dated: September 14, 2001.

Chrysandra Walter,

Deputy Director, Northeast Region.

[FR Doc. 01–27758 Filed 11–5–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plans, Draft Environmental Impact Statements, Sunset Crater Volcano, Walnut Canyon, and Wupatki National Monuments, Arizona

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of draft environmental impact statements and general management plans for Sunset Crater Volcano, Walnut Canyon, and Wupatki National Monuments.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of draft Environmental Impact Statements and General Management Plans (DEIS/GMP) for Sunset Crater Volcano, Walnut Canyon, and Wupatki National Monuments, Arizona.

DATES: The DEIS/GMPs will remain available for public review on or after January 7, 2002. No public meetings are scheduled at this time.

COMMENTS: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Superintendent, Flagstaff Area National Monuments, 6400 N. Hwy 89, Flagstaff, Arizona 80004. You may also comment via the Internet to *FLAG_GMPS@nps.gov.* Please submit Internet comments either as an ASCII file avoiding the use of special characters and any form of encryption, as a Microsoft Word file, or as a Word Perfect file. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling Christine Maylath at 303–969–2851. Finally, you may hand-deliver comments to Intermountain Support Office-Denver, 12795 W. Alameda Parkway, Lakewood, CO (room 20) or to the park address above. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

ADDRESSES: Copies of the DEIS/GMP are available from the Superintendent, Flagstaff Area National Monuments, 6400 N. Highway 89, Flagstaff, Arizona. Public reading copies of the DEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Flagstaff Area National Monuments, 6400 N. Hwy 89, Flagstaff, Arizona 80004, Telephone: 928–526–1157

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, 12795 W. Alameda Parkway, Lakewood, CO 80228, Telephone: (303) 969–2851

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843

SUPPLEMENTARY INFORMATION: These general management plans will guide the management of the Sunset Crater Volcano, Walnut Canyon, and Wupatki National Monuments for the next 10 to 15 years. The Sunset Crater Volcano DEIS/GMP considers four alternatives—a no-action and three action alternatives, including the NPS preferred alternative. The preferred alternative would provide increased educational opportunities and diverse experiences both within and outside of park boundaries. The park would be viewed as a destination for education and learning. Partnerships with the U.S. Forest Service, affiliated tribes, and educational institutions would provide interpretation and more consistent management of sites and features outside the park that are primary to the park's purpose. Boundaries would be adjusted for ease of management and to better protect geologic features. Most existing uses would continue. The park would remain day-use only, with 24-hour access on FR545, and visitor use would be spread throughout more resources. A new multiagency visitor center would be built near US89 to serve as the primary location to orient and serve visitors, and the existing visitor center would be adapted for use as an education center.

Three alternatives were considered in the Walnut Canyon DEIS/GMP—a no-action and two action alternatives, including the NPS preferred alternative. The preferred alternative would preserve untrailed expanses, unfragmented natural systems, and relatively pristine conditions throughout much of the park. It would protect Walnut Canyon as a critical wildlife corridor. Visitation would be managed with the goal of providing quality learning opportunities in an intimate atmosphere while maintaining the health of the canyon ecosystem. The natural soundscape and tranquil setting of the canyon would be enhanced through strategic placement of facilities. The park would remain day-use only, with recreational uses of the western end prohibited. Efforts would be made to provide a broader range of educational offerings, and a greater number of archeological sites would be available for visitation.

The Wupatki DEIS/GMP considers five alternatives—a no-action and four action alternatives, including the NPS preferred alternative. The preferred alternative would include significant resources and landscapes north of the park within park boundaries, retain existing motorized sightseeing, focus on existing major visitor use areas, provide visitor orientation at the existing visitor center and at a new contact station at the north entrance, and diversify visitor experiences via new trails, new interpretive media and activities, and guided hikes to some cultural sites.

All three environmental impact statements assess impacts to archeological resources; historic character of the built environment; long-term integrity of ethnographic resources, natural systems and processes, and geological resources; threatened, endangered, and sensitive species; visitors' ability to experience park

resources; park neighbors, local, state, and tribal land management plans and land/resource managing agencies; and operational efficiency.

FOR FURTHER INFORMATION: Contact Superintendent, Flagstaff Area National Monuments at the above address and telephone number.

Dated: August 30, 2001.

Michael Sunder,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 01–27761 Filed 11–5–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Final Environmental Impact Statement, Washita Battlefield National Historic Site, OK

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of final environmental impact statement and General Management Plan for Washita Battlefield National Historic Site.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a final Environmental Impact Statement and General Management Plan (FEIS/GMP) for Washita Battlefield National Historic Site, Oklahoma.

DATES: The FEIS/GMP was on public review from February 15, 2001 through April 20, 2001. Responses to public comment are addressed in the FEIS/GMP. A 30-day no-action period will follow the Environmental Protection Agency's Notice of Availability of the FEIS/GMP.

ADDRESSES: Copies of the FEIS/GMP are available from the Superintendent, Washita Battlefield National Historic Site, Oklahoma, 426 E. Broadway, Cheyenne, OK 73628. Public reading copies of the FEIS/GMP will be available for review at the following locations:

Office of the Superintendent, 426 E. Broadway, Cheyenne, OK 73628, Telephone: 580–497–2742

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, 12795 W. Alameda Parkway, Lakewood, CO 80228, Telephone: (303) 969–2851

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, PO Box 25287, Denver, CO 80225–0287

SUPPLEMENTARY INFORMATION: The FEIS/GMP analyzes three alternatives to manage the park and balance visitor use and resource protection. Under the preferred alternative visitors would have opportunities to participate in a variety of activities. The major action of the alternative would be to locate the visitor/administrative facility offsite at the U.S. Forest Service site. Alternative A would provide visitors with offsite learning opportunities, while preserving the reflective mood at the site. Under Alternative B visitors would be provided with onsite learning opportunities through integration of the visitor facilities with the historic scene.

The FEIS/GMP in particular evaluates the environmental consequences of the proposed action and the other alternatives on cultural resources, natural resources, visitor use, and the socioeconomic environment.

FOR FURTHER INFORMATION: Contact Superintendent, Washita Battlefield National Historic Site, at the above address and telephone number.

Dated: August 29, 2001.

Michael D. Synder,

Director, Intermountain Region, National Park Service.

[FR Doc. 01–27759 Filed 11–5–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore South Wellfleet, MA; Cape Cod National Seashore Advisory Commission Two Hundred Thirty Fifth Meeting; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, December 7, 2001.

The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. at Headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda
2. Approval of minutes of previous meeting (June 8, 2001)
3. Reports of Officers
4. Reports of Subcommittees
   Dune Shacks
   Nickerson Fellowship
5. Superintendent's Report
   Highlands Center
   Summer Shuttles
   Beach Closings
   PWC Issue
   Zoning Standards
   40th Anniversary
   USGS Water Study
   Fire Science and Prescribed Burning
   News from Washington
6. Old Business
7. New Business
8. Date and agenda for next meeting
9. Public comment and
10. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: October 10, 2001.

Maria Burks,

Superintendent.

[FR Doc. 01–27744 Filed 11–5–01; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–01–039]

Meetings; Sunshine Act

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 7, 2001 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. No. TA–201–73 (Steel)(Remedy Phase)—briefing and vote. (The

Commission is currently scheduled to transmit its recommendations to the President on December 19, 2001.)

5. Outstanding action jackets:
   (1.) Document No. EC–01–016: Approval of final report in Inv. No. 332–415 (U.S. Trade and Investment with Sub-Saharan Africa).
   (2.) Document No. GC–01–137: Concerning Inv. Nos. 731–TA–828 (Final) (Bulk Acetylsalicylic Acid (Aspirin) from China); 731–TA–851 (Final) (Synthetic Indigo from the People's Republic of China); and 731–TA–703 and 705 (Review) (Furfuryl Alcohol from China and Thailand).
   (3.) Document No. GC–01–141: Concerning Inv. No. 337–TA–431 (Certain Semiconductor Chips with Minimized Chip Package Size and Products Containing Same).
   (4.) Document No. GC–01–144: Concerning Inv. No. 337–TA–447 (Certain Aerospace Rivets and Products Containing Same).
   (5.) Document No. ID–01–034: Approval of monitoring reports in Inv. Nos. 332–350 (Monitoring of U.S. Imports of Tomatoes) and 332–351 (Monitoring of U.S. Imports of Peppers).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.
Issued: November 1, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–27784 Filed 11–2–01; 3:17 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; comment request

October 24, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, 725 17th Street, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Internal Fraud Activities.

OMB Number: 1205–0187.

Affected Public: State, Local, or Tribal Government.

Frequency: Annually.

Type of Response: Reporting.

Number of Respondents: 53.

Number of Annual Responses: 53.

Estimated Time Per Respondent: 3 hours.

Total Burden Hours: 159.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The form ETA–9000 is the data collection instrument used for identifying activities involving fraud and assessing fraud prevention effectiveness of State Employment Security Agencies (SESA). Resulting analysis is communicated to the SESA to enhance management efforts in controlling fraud.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–27807 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; Comment Request

October 30, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk Officer for OSHA, Office of Management and Budget, 725 17th Street, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Type of Review: Extension of a currently approved collection.

Title: Underground Construction Standard.

OMB Number: 1218–0067.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Type of Response: Recordkeeping and Third-party disclosure.

Number of Respondents: 323.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $117,000.

Requirement	Number of annual responses	Average response time [hours]	Estimated burden hours
Posting Warning Signs and Notices	1,132	.08	91
Certifying Inspection Records for Hoists	323	1	323
Recordkeeping for Air-Quality Tests—Big-Bore Projects			
Continuous-Monitor Records	15,000	.008	120
Simultaneous-Monitor Records	37,500	.017	638
Serial-Monitor Records	37,500	.05	1,875
Recordkeeping for Air-Quality Tests—Small- and Medium-Bore Projects, Projects with Conventionally-Bored Tunnels			
Continuous-Monitor Records	43,250	.008	346
Simultaneous-Monitor Records	108,125	.017	1,838
Serial-Monitor Records	108,125	.05	5,406
Recordkeeping for Air-Quality Tests—Small- and Medium-Bore Projects, Projects That Bore with Microtunneling Equipment			
Continuous-Monitor Records	21,750	.008	174
Simultaneous-Monitor Records	21,750	.017	369
Serial-Monitor Records	21,750	.05	1,088
Recordkeeping for Air-Quality Tests—Gassy Projects			
Continuous-Monitor Records	27,000	.008	216
Recordkeeping for Air-Quality Tests—Monitor Calibration			
Continuous-Monitor Measurements	107,000	.17	18,190
Serial- or simultaneous-Monitor Measurements	334,750	.08	26,780
Maintaining Check—In/Check-Out Procedures	323	.03	10
Total:	885,278		57,464

Description: 29 CFR 1926.800 requires underground construction employers to certify hoist inspections; post various warning signs; and keep a record of air test results to identify decreasing oxygen levels or potentially hazardous concentrations of air contaminants in order to take corrective action prior to attaining hazardous conditions.

Agency: Occupational Safety and Health Administration (OSHA).

Type of Review: Revision of a currently approved collection.

Title: Steel Erection—Subpart R, 29 CFR part 1926.750 through 1926.761.

OMB Number: 1218–0241.

Affected Public: Business or other for-profit; Federal Government; and State, Local or Tribal Government.

Frequency: On occasion.

Type of Response: Recordkeeping and Third-party disclosure.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Requirement	Number of projects	Frequency per project	Responses	Average response time [hours]	Estimated burden hours
1926.752(a)(1)	14,551	3	43,653	.083333	3,638
1926.752.(a)(2)	6,860	1	6,860	.083333	572
1926.755(b)(1)	3,534	1	3,534	3	10,602
1926.753(c)(5)	17,129	10	171,290	.083333	14,274
1926.753(e)(2)	2,061	2	4,122	.083333	343
1926.754(c)(3)	0	0	0	0	0
1926.757(a)(4)	856	1	856	.083333	71
1926.757(a)(7)	856	1	856	.083333	71
1926.757(a)(9) & 1926.758 (g)	1,713	1	1,713	0.5	857
1926.757(e)(4)(I)	343	1	343	.083333	29
1926.760(e) & (e)(1)	19,748	1	19,748	.016666	329
1926.761	0	0	0	0	0
Paragraph (c)(4)(iii) of Appendix G	0	0	0	0	0
Total:	67,651		252,975		30,786

Description: Subpart R, 29 CFR Part 1926.750 through 1926.761, requires notification to designated parties, especially steel erectors, that building materials components, steel structures and fall-protection equipments are safe for specific uses and ensure that employees exposed to fall hazards receive specific training in the recognition and control of fall hazards.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–27808 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–26–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 November 16, 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 November 16, 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.

Dated: Signed at Washington, DC this 9th day of October, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX.—PETITIONS INSTITUTED ON 10/09/2001

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,155	Burle Industries (Co.)	Lancaster, PA	09/28/2001	Specialized Electron Tubes.
40,156	Jem Sportwear (Wkrs)	San Fernando, CA	09/17/2001	Children's and Adult Apparel.
40,157	Steel (The) Company (Wkrs)	Chicago, IL	07/10/2001	Pickled Coils and Cold Roll Steel.
40,158	Temple Inland Forest (Co.)	Shippenville, PA	09/10/2001	Wood.
40,159	Mirelle Manufacturing (Co.)	Carterville, GA	09/18/2001	English Riding Apparel.
40,160	Crystal Manufacturing (UNITE)	Fall River, MA	09/17/2001	Dresses, Suits and Blouses.
40,161	JVC Digital Image Tech. (Wkrs)	Carlsbad, CA	09/18/2001	Cinema Screen Large Projections.
40,162	Coraza (Computer Cabinet) (Wkrs)	San Jose, CA	09/18/2001	NC Machines, Hardware, Welders.
40,163	Acu Crimp, Inc. (Co.)	El Paso, TX	09/21/2001	Tooling for Applicator Dies.
40,164	Rayovac Corporation (Wkrs)	Portage, WI	09/14/2001	Lithium Batteries.
40,165	Fujikura Composite (Wkrs)	Vista, CA	09/26/2001	Graphite Golf Club Shafts.
40,166	Security Chain Mfg. (Wkrs)	Clackamas, OR	09/12/2001	Cable Chain Products.
40,167	American Magnetics (Wkrs)	Cypress, CA	09/20/2001	Card Readers for Printers.
40,168	Stitches, Inc. (Co.)	El Paso, TX	09/18/2001	Industrial Clohing.
40,169	Curtain and Drapery (Wkrs)	Gastonia, NC	09/20/2001	Home Furnishings.
40,170	Amerex Mens Group (Wkrs)	New York, NY	09/08/2001	Men's Outerwear.
40,171	Herman Schwabe, Inc. (Wkrs)	W. Hazleton, PA	09/18/2001	Die Cutting Machinery.
40,172	SGL Carbon Corp (IUE)	St. Marys, PA	09/20/2001	Graphite.
40,173	Benson Corp. (Wkrs)	Weyauwega, WI	09/19/2001	Metal Juvenile Crib Springs.
40,174	Diamond Tool and Die (Co.)	Townville, PA	09/18/2001	Machine Parts and Spare Tooling.
40,175	Bethlehem Steel Corp (Co.)	Chesterton, IN	09/12/2001	Steel Plate, Hot, Cold Rolled Sheets.
40,176	OWT Industries (Wkrs)	Pickens, SC	09/20/2001	Electric Power Tools.
40,177	Autoforge, Inc. (Wkrs)	Harmonsburg, PA	09/27/2001	Forgings.
40,178	Corning Cable Systems (Wkrs)	Hickory, NC	09/20/2001	Fiber Cable.
40,179	Ruppe Hosiery, Inc. (Co.)	Kings Mountain, NC	09/17/2001	Socks.
40,180	Skinner Engine Co. (Co.)	Erie, PA	09/27/2001	Rubber Batch Mixers.
40,181	BASF Corporation (Co.)	Rensselaer, NY	09/25/2001	Dyestuffs.
40,182	Aquatech, Inc. (Co.)	Cookeville, TN	09/18/2001	Commercial Laundry.
40,183	Optical Coating (Wkrs)	Rochester, NY	09/27/2001	Coated Lenses.
40,184	Parker Hannifin Corp. (Wkrs)	Belleville, NJ	09/26/2001	Gas Valves.
40,185	Northrop Grumman (Co.)	Watertown, CT	09/26/2001	Electronic Connectors.
40,186	B.G. Sulzle, Inc. (Wkrs)	Syracuse, NY	09/26/2001	Surgical Needles.
40,187	Advanced Wood Resources (Wkrs)	Brownsville, OR	09/22/2001	Composite Sub-Flooring.
40,188	GFC Foam LLC (USWA)	West Hazleton, PA	09/28/2001	Foam.
40,189	Philadelphia Glass (Wkrs)	Philadelphia, PA	09/01/2001	Decorative Bent Glass.
40,190	EM Solutions (Wkrs)	Gretna, VA	09/24/2001	Metal Chassis Enclosures.
40,191	Speedline Technologies (Wkrs)	Comdenton, MO	08/08/2001	Soldering and Cleaning Machines.
40,192	Campolast Acurfab (Wkrs)	Chillicothe, OH	09/26/2001	Fiberglass Truck Parts.
40,193	Wilson Sporting Goods (Wkrs)	Fountain Inn, SC	09/24/2001	Tennis Balls—Tournaments.
40,194	Tyco Electronics (Wkrs)	Carlisle, PA	09/24/2001	Plating Electrical Connectors.
40,195	Warwood Tool Co. (Wkrs)	Wheeling, WV	09/26/2001	Forged Hand Tools.

APPENDIX.—PETITIONS INSTITUTED ON 10/09/2001—Continued

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,196	Motorola (Co.)	Suwanee, GA	08/13/2001	Radios.

[FR Doc. 01–27803 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,908]

Electronic Circuits and Design Co., Sebring, OH; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Electronic Circuits and Design Co., Sebring, Ohio. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38, 908; Electronic Circuits and Design Co., Sebring, OH (*October 26, 2001*)

Signed at Washington, DC this 30th day of October, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–27806 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,049]

Emerson Electric Co., Daniel Measurement and Control, Inc., Statesboro, Georgia; 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 by a company official on behalf of workers at Emerson Electric Company, Daniel Measurement and Control, Inc., Statesboro, Georgia.

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 22nd day of October, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–27797 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,814]

Hager Hinge Companies, Consumer Division, Oxford, AL; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Hager Hinge Companies, Consumer Division, Oxford, Alabama. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38,814; Hager Hinge Companies, Consumer Division, Oxford, AL (*October 26, 2001*)

Signed at Washington, DC this 30th day of October, 2001.

Edward E. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–27805 Filed 11–5–01; 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 November 16, 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 November 16, 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, D.C. this 28th day of September, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX.—PETITIONS INSTITUTED ON 09/28/2001

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,106	Haskell—Senator Int'l (Wrks)	Verona, PA	09/07/2001	Chairs.
40,107	Continental Accessories (Wrks)	Sturgis, MI	09/07/2001	Running Boards, Tool Boxes.
40,108	American and Efird, Inc. (Co.)	Mt. Holly, NC	09/11/2001	Sewing Thread.
40,109	Innovex, Inc (Wrks)	Litchfield, MN	09/11/2001	Flexible Circuits.
40,110	Delta Woodside Industries (Co.)	Fountain Inn, SC	09/14/2001	Cotton Twill Fabric.
40,111	CMS Hartzell (Wrks)	Richmond, KY	09/17/2001	Metal Stamping and Assembly.
40,112	Loparex, Inc (Co.)	West Chicago, IL	09/18/2001	Pressure Sensitive Postage Stamps.
40,113	Kings Mountain Hosiery (Co.)	Kings Mountain, NC	09/17/2001	Socks.
40,114	Phoenix Apparel Resources (Co.)	Sanford, NC	09/19/2001	Sportswear.
40,115	Sunrise Apparel, Inc. (Co.)	Concord, NC	09/19/2001	Ladies' and Men's Knit Shirts.
40,116	Metro Fabrics, Inc. (Wrks)	New York, NY	09/10/2001	Women's Wear Apparel Fabric.
40,117	Drake Extrusion (Wrks)	Spartanburg, SC	09/05/2001	Fibers—Clothes, Other Textiles.
40,118	Displaytech, Inc. (Wrks)	Longmount, CO	09/06/2001	Liquid Crystal Micro Display.
40,119	Tennford Weaving (Wrks)	Sanford, ME	09/17/2001	Woven Lables.
40,120	Guardian Life Insurance (Wrks)	New York, NY	09/17/2001	Software Development.
40,121	Connolly North America (Co.)	El Paso, TX	09/12/2001	Finished Hides.
40,122	Texfi Industries (Co.)	Haw River, NC	09/17/2001	Dyed and Finished Knit Fabric.
40,123	Crown Pacific Limited (Wrks)	Coeur d'Alene, ID	09/15/2001	Sawmill.
40,124	Krones, Inc. (Wrks)	Milwaukee, WI	09/17/2001	Labelling Machines.
40,125	Arrow/SI (Wrks)	Winsted, CT	09/13/2001	Replacement Parts—Textile Industry.
40,126	Miller Bag Co (Co.)	Freeman, SD	09/17/2001	Grass Catcher Bags.
40,127	Peak Oilfield Service Co (Co.)	Anchorage, AK	09/14/2001	Oilfield Services.
40,128	TNS Mills, Inc. (Wrks)	Eufaula, AL	09/14/2001	Ring Spun Yarn.
40,129	Partek Forest, LLC (Co)	Gladstone, MI	09/17/2001	Forestry Equipment.
40,130	Greenway Manufacturing Co (Co.)	Spartanburg, SC	09/11/2001	Girl's Slips and Sleepwear.
40,131	Levcor International (Wrks)	New York, NY	09/14/2001	Fabrics for Apparel.
40,132	Satilla Manufacturing (Wrks)	Blackshear, GA	09/14/2001	Outerwear Jackets.
40,133	Eagle Knitting Mills, Inc. (UNITE)	Shawano, WI	08/24/2001	Sportswear.
40,134	Commodore Hat Co., Inc. (Wrks)	New York, NY	09/05/2001	Designers and Sales—Hats.
40,135	GKN Aerospace North Amer. (Wrks)	Carson, CA	08/28/2001	Aerospace Equipment.
40,136	Emesson Process Management (Wrks)	McKinney, TX	09/11/2001	Regulators and Valves.
40,137	American Trouser, Inc. (Co.)	Columbus, MS	09/12/2001	Men's Dress and Casual Slacks.
40,138	Cross Creek Apparel (Co.)	Mount Airy, NC	09/13/2001	Knit Shirts.
40,139	Volvo Construction Equip (Co.)	Skyland, NC	09/13/2001	Heavy Construction Equipment.
40,140	Wormser Knitting Mills (Co.)	Charlotte, NC	09/10/2001	Children's Sleepwear.
40,141	Findlay Industries (Wrks)	Ohio City, OH	09/05/2001	Seat Covers.
40,142	Brunswick Corp—Mercury (IAMAW)	Fond du Lac, WI	09/10/2001	Outboard Engines and Parts.
40,142	Quality Apparel, Inc. (Co.)	Dillon, SC	09/10/2001	Ladies' Pants.
40,144	Pea Ridge Iron Ore Co (Wrks)	Sullivan, MO	09/14/2001	Iron Ore Fines, Pellet Feed.
40,145	West Point Stevens (Wrks)	Whitemire, SC	09/14/2001	Yarn.
40,146	Scottsboro Aluminum LLC (USWA)	Scottsboro, AL	09/11/2001	Sheet Aluminum—Welded Tube.
40,147	Guilford Mills, Inc. (Co.)	Cableskill, NY	09/21/2001	Fabric and Apparel.
40,148	PPG Industries Fiberglass (Co.)	Shelby, NC	09/04/2001	Fiberglass Fabric.
40,149	Alphabet Engineer Design (Wrks)	Cortland, OH	09/01/2001	Mechanical Components.
40,150	Tyco Electronics (Wrks)	Mt. Sidney, VA	08/27/2001	Mod-Plug Tooling.
40,151	Sara Lee Hosiery (Co.)	Yadkinville, NC	09/12/2001	Pantyhose.
40,152	Butech, Inc. (Co.)	Salem, OH	09/18/2001	Metal Cutting and Handling Equipment.
40,153	Burkart Foam, Inc. (IAMAW)	Cairo, IL	09/20/2001	Foam Products, Carpet Underlay.
40,154	E–H Baare (IAMAW)	Robinson, IL	09/09/2001	Fan Guards.

[FR Doc. 01–27802 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,498]

Ingersoll Rand Company, Mayfield, Kentucky; Notice of Negative Determination Regarding Application for Reconsideration

By application dated April 4, 2001, the International Association of Machinists and Aerospace Workers, AFL–CIO, District Lodge 154 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 23, 2001, and published in the **Federal Register** on April 5, 2001 (66 FR 18117).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Ingersoll Rand Company, Mayfield, Kentucky was denied because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The denial was based on

a layoff of workers resulting from a shift in production to a foreign location not yet occurring. Production did not decline. Minor sales declines did not contribute importantly to employment reductions at the Mayfield, Kentucky facility. Company imports from facilities abroad did not yet occur during the relevant period.

The petitioner requests reconsideration based on the information provided with their application. The information supplied depicts a shift in plant production to a foreign source and future imports of the products produced at the subject plant.

The Department of Labor was aware during the initial investigation that a shift in plant production to a foreign source was scheduled later in the year and that the shift would also lead to company imports later in the year. Since the company did not import during the relevant time period of the investigation, the ''contributed importantly'' factor was not met.

If conditions have changed since the initial investigation the workers are encouraged to reapply for eligibility under TAA.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 16th day of October 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–27793 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,624]

Johnstown America Corp. Franklin and Shell Plants Johnstown, Pennsylvania; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Johnstown America Corp., Franklin and Shell Plants, Johnstown, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–38,624; Johnstown America Corp. Franklin and Shell Plants, Johnstown, Pennsylvania (October 23, 2001)

Signed at Washington, DC, this 26th day of October 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–27791 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,045]

Longview Aluminum LLC Longview, Washington; Notice of Revised Determination on Reconsideration

By letter of July 25, 2001, the Longview Federated Aluminum Council, requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on June 25, 2001, based on the finding that imports of aluminum did not contribute importantly to worker separations at the Longview plant. The primary internal customer of the products of the subject facility turned to imported aluminum only after the closure of the subject plant. The decision further indicated that the on-going West Coast energy crisis was a factor impacting the subject plant closing. The denial notice was published in the **Federal Register** on July 11, 2001 (66 FR 36329).

To support the request for reconsideration, the Longview Federated Aluminum Council provided additional information showing the affiliation between the primary customer and the subject plant, both of which were owned by Michigan Avenue Partners.

Michigan Avenue Partners acquired the subject plant and made a decision to close the facility down. The decision created a corresponding increase in the reliance on imported aluminum by the primary affiliated customer.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Longview Aluminum LLC, Longview, Washington, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Longview Aluminum LLC, Longview, Washington, who became totally or partially separated from employment on or after March 30, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC this 17th day of October 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–27792 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,148]

PPG Industries Fiberglass Products Shelby, North Carolina; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 28, 2001 in response to a petition filed on behalf of workers at PPG Industries Fiberglass Products, Shelby, North Carolina.

The petitioner 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 22nd day of October, 2001.

Linda G. Poole,

Certifying Officer, Division Trade Adjustment Assistance.

[FR Doc. 01–27796 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,976 976A, 976B]

VF Imagewear (West), Inc. Harriman, Tennessee, et.al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a

Certification of Eligibility to Apply for Worker Adjustment Assistance on October 1, 2001, applicable to workers of VF Imagewear (West), Inc., Harriman, Tennessee. The notice will be published soon in the **Federal Register**.

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations have occurred at the Wilmington, North Carolina and Wartburg, Tennessee locations of VF Imagewear (West), Inc. These locations are engaged in the production of industrial work shirts and dress shirts.

Accordingly, the Department is amending the certification to cover the workers of VF Imagewear (West), Inc., Wilmington, North Carolina and Wartburg, Tennessee.

The intent of the Departments's certification is to include all workers of VF Imagewear (West), Inc. who were adversely affected by increased imports.

The amended notice applicable to TA–W–39,976 is hereby issued as follows:

All workers of VF Imagewear (West), Inc., Harriman, Tennessee (TA–W–39,976), Wilmington, North Carolina (TA–W–39,976A) and Wartburg, Tennessee (TA–W–39,976B) who became totally or partially separated from Employment on or after August 22, 2000, through October 1, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington DC this 22nd day of October, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–27794 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 2001 Under the Federal Unemployment Tax Act

On October 31, 2001, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.,* thereby enabling employers who make contributions to state unemployment funds to obtain certain credits against their liability for the federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Dated: November 1, 2001.

Emily Stover DeRocco,

Assistant Secretary.

Secretary of Labor

Washington

October 31, 2001.

The Honorable Paul H. O'Neill
Secretary of the Treasury, Washington, D.C. 20220

Dear Secretary O'Neill: Transmitted herewith are an original and one copy of the certifications of the states and their unemployment compensation laws for the 12-month period ending on October 31, 2001. One is required with respect to the normal federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to the additional tax credit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,

Elaine L. Chao,
Enclosures.

United States Department of Labor, Office of the Secretary, Washington, DC

Certification of States to the Secretary of the Treasury Pursuant to Section 3304(c) of the Internal Revenue Code of 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named states to the Secretary of the Treasury for the 12-month period ending on October 31, 2001, in regard to the unemployment compensation laws of those states which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Maryland
Massachusetts
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Oregon
Pennsylvania
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 2001.

Elaine L. Chao,

Secretary of Labor.

United States Department of Labor Office of the Secretary Washington, DC

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named states, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 2001:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Maryland
Massachusetts
Michigan
Minnesota
Mississippi

Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisidana
Maine
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 2001.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 01–27809 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of October, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,932; Rexam Beverage Can Co., Houston Can Plant, Houston, TX

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–38,679; Kazoo, Inc., San Antonio, TX

TA–W–39,941; Finet Technologies, Dunmore, PA

TA–W–38,884; Freightliner LLC, Portland Truck Manufacturing Plant, Portland, OR

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–40,120; Guardian Life Insurance, New York, NY

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–39,076; Republic Technologies International, Lackawanna Plant, Blasdell, NY

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–39,519 FCI USA, Inc., Electronics Div., Mount Union, PA: June 14, 2000.

TA–W–39,386; Bennett Pump Co., Spring Lake, MI: May 17, 2000.

TA–W–39,479; Spectrum Control, Inc., Fairview, PA: June 1, 2000.

TA–W–39,944; Hilton Corporate Casuals, Div. Of K–2, Inc., Thomasville, AL: August 13, 2000.

TA–W–39,259; Techneglas, Inc., Columbus, OH: April 25, 2000.

TA–W–39,259A; Techneglas, Inc., Pittston, PA: July 9, 2001.

TA–W–40,068; Damy Industries, Sewing and Catalog Departments, Athens, TN: July 19, 2000.

TA–W–39,853; Altec, Inc., Tool Room, Liberty Lake, WA: August 2, 2000.

TA–W–39,639; American Steel and Wire, Cuyahoga Heights, OH: June 27, 2000.

TA–W–40,066; Stewart Connector Systems, Insilco Technologies, Group, Glen Rock, PA: October 23, 2001.

TA–W–39,741; The Stuckey Co., Norman, OK: July 18, 2000.

TA–W–40,232; Exide Technologies, Transportation Global Business Unit, Burlington, IA: October 8, 2000.

TA–W–39,914 & A; Reed Manufacturing Co., Nettleton, MS and Tupelo, MS: August 8, 2000.

TA–W–39,973; Interroll Corp., Wilmington, NC: July 12, 2000.

TA–W–39,905; Simonds Industries, Newcomerstown, OH: July 28, 2000.

TA–W–39,797; Centennial Tool and Manufacturing, Meadville, PA: July 30, 2000.

TA–W–39,106 & A, & B; Manpower, Ottumwa, IA, The Sedona Group, Moline, IL and RIH, Des Moines, IA: April 9, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of October, 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 increased 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–05014A; Thomaston Mills, Inc., Finishing Div., Finishing Apparel Dept., Thomaston, GA

NAFTA–TAA–05268; Summit Circuits, Inc., Fort Wayne, IN

NAFTA–TAA–05062; M&S Manufacturing Co., Plant #7, Hudson, MI

NAFTA–TAA–05226; Finet Technologies, Dunmore, PA

NAFTA–TAA–05242; Rexam Beverage Can Co., Houston Can Plant, Houston, TX

NAFTA–TAA–05157; Centennial Tool and Manufacturing, Meadville, PA

NAFTA–TAA–04355; Fishman and Tobin, Inc., Cutting Dept., Medley, FL

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

NAFTA–TAA–05285; Sykes Enterprises, Irvine, CA

NAFTA–TAA–05345; Pinnacle Logistics, Inc., El Paso, TX

NAFTA–TAA–04915; Equitable Resources, div. Of Kentucky West Virginia Gas Co. LLC, Prestonburg, KY

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment.

NAFTA–TAA–05241; The Gillette Co., Oral-B Laboratories, Iowa City, IA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05216; Bard Access Systems, Div. Of C.R. Bard, Salt Lake City, UT: August 14, 2001

NAFTA–TAA–05284; Hilton Corporate Casuals, Div. Of K–2, Inc., Thomasville, AL: August 13, 2000.

NAFTA–TAA–04922; G.E. Marquette Medical Systems, d/b/a/ Corometrics, Wallingford, CT: May 15, 2000.

NAFTA–TAA–05103; PEC of America Corp., San Diego, CA: July 12, 2000.

NAFTA–TAA–05014, A,B,C, & D; Thomaston Mills, Inc., Peerless, Div., Thomaston, GA. Finishing Div., Finishing Consumer Dept., Thomaston, GA, Lakeside Div., Thomaston, GA, Corporate Office, Thomaston, GA and New York Office, New York, NY: June 16, 2000.

NAFTA–TAA–05042; Exide Technologies, Transportation Global Business Unit, Burlington, IA: June 26, 2000.

NAFTA–TAA–05078; Bourns, Inc., Sensors and Controls Div., Ogden, UT: July 16, 2000.

NAFTA–TAA–05027; Lear Corp., Romulus Plant #2, Seating Systems Div., Romulus, MI: June 28, 2000.

NAFTA–TAA–05328; Stewart Connector Systems, Insilco Technologies Group, Glen Rock, PA: September 10, 2000.

NAFTA–TAA–05142; Agrium U.S., Inc., Kennewick Fertilizer Operation, The Finley Plant, Kennewick, WA: July 16, 2000.

NAFTA–TAA–04844; Spectrum Control, Inc., Fairview, PA: April 2, 2000.

NAFTA–TAA–05003; FCI USA, Inc., Electronics Div., Mount Union, PA: June 14, 2000.

NAFTA–TAA–04836; Honeywell, Engines & Systems, Environmental Control Div., Torrance, CA: May 1, 2000.

I hereby certify that the aforementioned determinations were issued during the month of October, 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: October 29, 2001.

Edward A. Tomchick,

Director, Division of Traded Adjustment Assistance.

[FR Doc. 01–27804 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04721]

Atofina Chemicals, Inc. Including Contract Workers of Washore Mechanical and Blessing Electric Portland, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 250(A), subchapter D, Chapter 2, Title II of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance on June 20, 2001, applicable to workers of Atofina Chemicals, Inc., Portland, Oregon. The notice was published in the **Federal Register** on July 5, 2001 (66 FR 35463).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that employees of Washore Mechanical and Blessing Electric were employed by Atofina Chemicals, Inc. to repair chlorine and chlorate cells, perform pipe maintenance and installation duties and maintain and install high voltage electric systems necessary to produce chloralkali chemicals at the Portland, Oregon location of the subject firm.

Worker separations occurred at Washore Mechanical and Blessing Electric as a result of worker separations at Atofina Chemicals, Inc., Portland, Oregon.

Based on these findings, the Department is amending the certification to include workers of Washore Mechanical and Blessing Electric employed at Atofina Chemicals, Inc., Portland, Oregon.

The intent of the Department's certification is to include all workers of Atofina Chemicals, Inc., Portland, Oregon adversely affected by increased company imports from Canada and Mexico.

The amended notice applicable to NAFTA—4721 is hereby issued as follows:

All workers of Atofina Chemicals, Inc., Portland Oregon and all workers of Washore

Mechanicals and Blessing Electric, Portland, Oregon engaged in activities related to the production of chloralkali chemicals at Atofina Chemicals, Inc., Portland, Oregon, who became totally or partially separated from employment on or after April 4, 2000, through June 20, 2003, are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC this 22nd day of October, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–27795 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05314]

Emerson Electric Co. Daniel Measurement and Control, Inc. Statesboro, Georgia; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 11, 2001, in response to a petition filed by a company official on behalf of workers at Emerson Electric Company, Daniel Measurement and Control, Inc., Statesboro, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 25th day of October, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–27799 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purposes of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request if filed in writing with the Director of DTAA not later than November 16, 2001.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the director of DTAA at the address shown below not later than November 16, 2001.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 23rd October, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's Office	Petition No.	Articles produced
Joplin Mfg.—Orica USA (Co.)	Joplin, MO	09/26/2001	NAFTA–5,380	Packaged explosives products.
Juki Union Special (Co.)	Santa Fe Spring, CA	09/28/2001	NAFTA–5,381	Industrial sewing machines.
Wilson Sporting Goods (Wkrs)	Fountain Inn, SC	10/01/2001	NAFTA–5,382	Sporting goods.
Hamrick's (Co.)	St. Matthews, SC	10/01/2001	NAFTA–5,383	Ladies apparel.
Sara Lee Hosiery—Hanes Hosiery (Wkrs).	Yadkinville, NC	10/01/2001	NAFTA–5,384	Pantyhose.
Lexington Fabrics (Co.)	Geraldine, AL	09/06/2001	NAFTA–5,385	T-shirts.
GFC Foam—PMC, Inc. (USWA)	West Hazleton, PA	10/02/2001	NAFTA–5,386	Flexible polyurethane foam.
Classic Knitting Mills (Co.)	Greensboro, NC	09/21/2001	NAFTA–5,387	Fabric for golf shirts.
Mexican Industry (UAW)	Detroit, MI	10/04/2001	NAFTA–5,388	DC motors.
Stephens Pipe (Co.)	Russell Springs, KY	10/03/2001	NAFTA–5,389	Mechanical square tubing.
GE Capital/Card Services (Wkrs)	Bloomington, MN	10/03/2001	NAFTA–5,390	Card services.
J and L Structural (USWA)	Ambridge, PA	10/04/2001	NAFTA–5,391	Crossmember beams.
International Wire Group (Co.)	Pine Bluff, AR	10/04/2001	NAFTA–5,392	Bare copper wire.
Liebert Corporation (Wkrs)	Irvine, CA	10/03/2001	NAFTA–5,393	Subassemblies for power supplies.
Bond Technologies (Wkrs)	Huntington Beach, CA	10/03/2001	NAFTA–5,394	Molded cables, harnesses & sheet metal.
Eudora Garment (Wkrs)	Gudora, AR	10/04/2001	NAFTA–5,395	Work pants, dresses, coveralls.
Intermetro Industries (Wkrs)	Wilkes Barre, PA	10/03/2001	NAFTA–5,396	Shelving and transport products.
Connolly North America (Wkrs)	El Paso, TX	10/05/2001	NAFTA–5,397	Leather parts.
IFF, Inc. (Wkrs)	Salem, OR	10/04/2001	NAFTA–5,398	Concentrated fruit juice.
Shirts Plus II (Wkrs)	Loretto, TN	10/05/2001	NAFTA–5,399	Blank t-shirts.
Incoe Corporation (Wkrs)	Frankfort, MI	10/09/2001	NAFTA–5,400	Plastic injection molds.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's Office	Petition No.	Articles produced
SBF, Inc.—Formfit Apparel (Co.)	Lafayette, TN	10/09/2001	NAFTA–5,401	Intimate apparel.
3M Solutions (Wkrs)	Gretha, VA	10/04/2001	NAFTA–5,402	Metal chassis.
Garan Manufacturing (Wkrs)	Adamsville, TX	10/09/2001	NAFTA–5,403	Knit shirts.
Glad Rags (Wkrs)	Roanoke, VA	09/04/2001	NAFTA–5,404	Women apparel.
W.G. Benjey (Wkrs)	Alpena, MI	10/12/2001	NAFTA–5,405	Screws.
H.R. Jones Veneer (Co.)	Grand Ronde, OR	10/02/2001	NAFTA–5,406	Veneer.
VF Imagewear (West)	Wilington, NC	10/10/2001	NAFTA–5,407	Men and boys clothing.
VF Imagewear (West) (Co.)	Wartburg, TN	10/09/2001	NAFTA–5,408	Work shirts.
Jen Sportwear (Wkrs)	San Fernando, CA	10/02/2001	NAFTA–5,409	T-shirts and shorts etc.
Cosco (Wkrs)	Ft. Smith, AR	10/12/2001	NAFTA–5,410	Wooden baby cribs.
Schmalbach Lubeca—Plastic Containers (Wkrs).	Erie, PA	10/12/2001	NAFTA–5,411	Steel mold components.
Laser Tool (Co.)	Saegertown, PA	10/12/2001	NAFTA–5,412	Plastic injection molds.
Cascades Tissue Group (Co.)	Pittston Township, PA	10/11/2001	NAFTA–55,413	Paper products.
Bobs Candies (Co.)	Albany, GA	10/11/2001	NAFTA–5,414	Hard candy.
Santee Company (The) (Wkrs)	Eden, NC	10/11/2001	NAFTA–5,415	Knit, dye finish fabric.
Gilbert Paper—Mead Corp. (PACE)	Menasha, WI	10/11/2001	NAFTA–5,416	Paper.
FCI USA (Co.)	Fremont, CA	10/11/2001	NAFTA–5,417	Electronic connectors.
CTI Audio (Co.)	Conneaut, OH	10/11/2001	NAFTA–5,418	Accessories for mobile communications.
Thermatex Corporation (PACE)	Newton Falls, OH	10/05/2001	NAFTA–5,419	Ceramic fiber.
Communications and Power Industries (Co.).	Palo Alto, CA	10/11/2001	NAFTA–5,420	Amplifers.
Stitches, Inc. (Co.)	El Paso, TX	10/11/2001	NAFTA–5,421	Industrial apparel.
TNS Mills (Co.)	Spartanburg, SC	10/11/2001	NAFTA–5,422	Woven fabric.
Wabash National (Wkrs)	Huntsville, TN	10/09/2001	NAFTA–5,423	Steel.
Paulsen Wire Rope (Co.)	Sunbury, PA	10/10/2001	NAFTA–5,424	Wire Rope.
Solectron Corp. (Wkrs)	Research Triangle Park, NC.	10/15/2001	NAFTA–5,425	Electronic devices.
Eastwood Industrial (Wkrs)	Albermarle, NC	10/12/2001	NAFTA–5,426	Ladies shirts.
Richmond Technology & Illinois Tools (Wkrs).	Redlands, CA	10/12/2001	NAFTA–5,427	Flexible packaging for electronics.
Controls, Inc. (Co.)	Logansport, IN	10/12/2001	NAFTA–5,428	Printed circuit boards.
Harsco Corporation (Wkrs)	Lansing, OH	10/15/2001	NAFTA–5,429	Steel pipe couplings.
Tect, Inc. (Co.)	Topton, PA	10/15/2001	NAFTA–5,430	Sewing t-shirts.
Tect, Inc.	Allentown, PA	10/15/2001	NAFTA–5,431	Cutting t-shirts.
Tect, Inc. (Co.)	Allentown, PA	10/15/2001	NAFTA–5,432	Knitting cotton fabric.
Tect, Inc, (Co.)	Temple, PA	10/15/2001	NAFTA–5,433	Sewing t-shirts.
Tect, Inc. (Co.)	Allentown, PA	10/15/2001	NAFTA–5,434	Sew, embroider, screen, package t-shirts.
Case New Hollard (UAW)	Burlington, IA	10/15/2001	NAFTA–5,435	Cylinder operation machining.
Purethane (Co.)	West Branch, IA	10/15/2001	NAFTA–5,436	Automotive armrests.
ADC (Wkrs)	Minneapolis, MN	10/16/2001	NAFTA–5,437	Tele-communication equipment.
United for Excellence (UFE) (Wkrs)	River Falls, WI	10/17/2001	NAFTA–5,438	Electronics.
Midwest Garment (Co.)	Chesterfield, MO	10/17/2001	NAFTA–5,439	Adult bibs, blankets, hospital gowns.
Monro and Co.—Clarendon Footwear (Co.).	Clarendon, AR	10/15/2001	NAFTA–5,440	Men's casual & safety toe footwear.
Monro and Co.—Dewitt Footwear (Co.)	Dewitt, AR	10/15/2001	NAFTA–5,441	Men's casual & safety toe footwear.
Weiser Lock (Co.)	Tucson, AZ	10/17/2001	NAFTA–5,442	Door hardware and security.
Barranco Apparel Group Ruth of Carolina (Wkrs).	Hendersonville, NC	10/17/2001	NAFTA–5,443	Children's dresses.
American Furniture (Wkrs)	Cincinnati, OH	10/17/2001	NAFTA–5,444	Hotel and motel furniture.
Graphic Packaging (AWPPW)	Portland, OR	10/16/2001	NAFTA–5,445	Cartons for frozen berries.
Wheeling Corragating (Wkrs)	Klamath Falls, OR	10/12/2001	NAFTA–5,446	Metal roofing and siding.
VF Imagewear (West) (Co.)	Mathiston, MS	10/17/2001	NAFTA–5,447	Work shirts.
Kings Mountain Hosiery Mill (Co.)	Kings Mountain, NC	10/19/2001	NAFTA–5,448	Casual & dress socks.
Ruppe Hosiery (Co.)	Kings Mountain, NC	10/19/2001	NAFTA–5,449	Casual & dress socks.
Pictsweet Mushroom Farm (Wkrs)	Salem, OR	09/21/2001	NAFTA–5,450	Mushrooms.
Mauney Hosiery Mills (Co.)	Kings Mountain, NC	10/22/2001	NAFTA–5,451	Socks.
Quality Mold (Wkrs)	Erie, PA	10/22/2001	NAFTA–5,452	Molds.

[FR Doc. 01–27798 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—05280]

PPG Industries Fiberglass Products Shelby, NC; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 7, 2001 in response to a petition filed on behalf of workers at PPG Industries Fiberglass Products, Shelby, North Carolina.

The petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 22nd day of October, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–27801 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05297]

Wackenhut Security, Agrium Security, Kennewick, WA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on September 4, 2001, in response to a worker petition which was filed on behalf of workers at Wakenhut Security, Agrium Security, Kennewick, Washington.

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 23rd day of October 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–27800 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Notice of Meetings and Agenda

The Fall meetings of committees of the Labor Research Advisory Council will be held on November 26, 27 and 28, 2001. All of the meetings will be held in the Conference Center, of the Postal Square Building (PSB), 2 Massachusetts Avenue, NE., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Monday, November 26, 2001

1:30 p.m.—Committee on Prices and Living Conditions—Meeting Room 9

1. Update on program developments
   a. Consumer Price Index
   b. International Price Indexes
   c. Producer Price Indexes
2. Topics for the next meeting

Tuesday, November 27, 2001

9:30 a.m.—Committee on Employment and Unemployment Statistics—Meeting Room 9

1. Report on the evaluation of Current Population Survey (CPS) union membership/contract coverage questions
2. American Time Use Survey update
3. Large scale layoffs, employment dynamics, and firm survival: report on BLS research using data from the Mass Layoff Statistics (MLS) program
4. Topics for the next meeting

1:30 p.m.—Committee on Occupational Safety and Health Statistics—Meeting Room 9

1. Changes to the Survey of Occupational Injuries and Illnesses in response to the new Occupational Safety and Health Administration recordkeeping requirements
2. Report on the 2000 Census of Fatal Occupational Injuries
3. Demonstration of the Census of Fatal Occupational Injuries Profiles system
4. Status report on the Survey of Respirator Use and Practices
5. Report on the Workplace Surveillance Conference sponsored by the National Institute for Occupational Safety and Health
6. Topics for the next meeting

Wednesday, November 28, 2001

9:30 a.m.—Committee on Productivity, Technology and Growth—Meeting Room 9

1. Reorganization of the Employment Projections program
2. Status of the 2000–2010 Projections
3. North American Industry Classification System (NAICS) issues
4. Project plans for Fiscal Year 2002
5. Discussion of employment projections agenda items for the Spring 2002 meeting
6. Service sector expansion plans
7. Capital measurement project for residential housing
8. Topics for the next meeting

Committee on Foreign Labor Statistics—Meeting Room 9

1. International trends in hourly compensation
2. Topics for the next meeting

1:30 p.m.—Committee on Compensation and Working Conditions—Meeting Room 9

1. Wage query system with regressions
2. Equity-based compensation
3. Topics for the next meeting

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on 202–691–5970.

Signed at Washington, DC this 30th day of October, 2001.

Lois L. Orr,

Acting Commissioner.

[FR Doc. 01–27810 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–24–M

PENSION AND WELFARE BENEFITS ADMINISTRATION

[Prohibited Transaction Exemption (PTE) 2001–45; Exemption Application No. D–10946]

Grant of Individual Exemption To Amend PTE 99–45, Involving Donaldson, Lufkin & Jenrette Securities Corporation (DLJ), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Grant of individual exemption to modify PTE 99–45.

SUMMARY: This document contains a final exemption before the Department of Labor (the Department) that amends PTE 99–45 (64 FR 61138, November 9, 1999), an exemption issued to DLJ. PTE 99–45, which is effective as of September 24, 1999, permits the (1) purchase or sale of a security between certain affiliates of DLJ which are foreign broker-dealers (the Foreign Affiliates) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, DLJ or the Foreign Affiliates; (2) the extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions that are effected on either an agency or a principal basis, or in connection with the writing of options contracts; and (3) the lending of securities to the Foreign Affiliates by the Plans. These transactions are described in a notice of pendency that was published by the Department on September 7, 2001 at 66 FR 46826 and clarified on September 17, 2001 by a Notice of Technical Correction (66 FR 48067), also issued by the Department.

The final exemption expands the scope of PTE 99–45 in order that it will apply to both current and future Foreign Affiliates of DLJ and Credit Suisse First Boston Corporation (CSFB) that are located in the United Kingdom and Australia and subject to the securities regulatory entities within these jurisdictions. In addition, the final exemption incorporates, by reference, many of the facts. representations and conditions contained in PTE 99–45, as well as certain revisions made in the Notice of Technical Correction.

EFFECTIVE DATE: This exemption is effective as of November 3, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 7, 2001, the Department published a notice of proposed exemption in the **Federal Register** at 66 FR 46826, that would amend PTE 99–45. PTE 99–45 provides an exemption form certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed on behalf of DLJ and CSFB pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32826, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this exemption is being issued solely by the Department.

The proposed exemption gave interested persons an opportunity to comment and to request a hearing. In this regard, all interested persons were invited to submit written comments or requests for a hearing on the pending exemption on or before October 22, 2001. All comments were to be made a part of the record. During the comment period, the Department received no comments or hearing requests from interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the itnerest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) In accordance with section 408(a) of the act, section 4975(c)(2), of the Code, and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990), the Department finds that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) The exemption is supplemental to, and not in derogation of, any other provision of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This exemption is subject to the express condition that the facts and representations set forth in the notice of proposed exemption, the Notice of Technical Correction, and the proposed and final exemptions relating to PTE 99–45, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Exemption

Under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990), the Department hereby amends PTE 99–45 as follow:

Section I. Covered Transactions

A. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 3, 2000, to any purchase or sale of a security between certain affiliates of Donaldson, Lufkin & Jenrette Securities Corporation (DLJ) or Credit Suisse First Boston Corporation (CSFB) which are foreign broker-dealers (the Foreign Affiliates, as defined below) and employee benefit plans (the Plans) with respect to which the Foreign Affiliates are parties in interest, including options written by a Plan, DLJ, CSFB, or a Foreign Affiliate, provided that the following conditions

and the General Conditions of Section II, are satisfied:

(1) The Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer;

(2) The terms of any transaction are at least as favorable to the Plan as those which the Plan could obtain in a comparable arm's length transaction with an unrelated party; and

(3) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, and the Foreign Affiliate is a party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, the Foreign Affiliate shall not be deemed to be a fiduciary with respect to Plan assets solely by reason of providing securities custodial services for a Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 3, 2000, to any extension of credit to the Plans by the Foreign Affiliates to permit the settlement of securities transactions regardless of whether they are effected on an agency or a principal basis, or in connection with the writing of options contracts, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) The Foreign Affiliate is not a fiduciary with respect to any Plan assets involved in the transaction, unless no interest or other consideration is received by the Foreign Affiliate or an affiliate thereof, in connection with such extension of credit; and

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder if such Act, rules or regulations were applicable.

C. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 3, 2000, to the lending of securities to the Foreign Affiliates by the Plans, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) Neither the Foreign Affiliate nor an affiliate thereof has discretionary authority or control with respect to the investment of Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The Plan receives from the Foreign Affiliate (by physical delivery or by book entry in a securities depository, wire transfer, or similar means) by the close of business on the day on which the loaned securities are delivered to the Foreign Affiliate, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable U.S. bank letters of credit issued by persons other than the Foreign Affiliate or an affiliate of the Foreign Affiliate, or any combination thereof. All collateral shall be in U.S. dollars, or dollar-denominated securities or bank letters of credit, and shall be held in the United States;

(3) The collateral has, as of the close of business on the preceding business day, a market value equal to at least 100 percent of the then market value of the loaned securities (or, in the case of letters of credit, a stated amount equal to same);

(4) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains items at least as favorable to the Plan as those the Plan could obtain in an arm's length transaction with an unrelated party;

(5) In return for lending securities, the Plan either (a) receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or (b) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the plan may pay a loan rebate or similar fee to the Foreign Affiliate, if such fee is not greater than the Plan would pay an unrelated party in a comparable arm's length transaction with an unrelated party;

(6) The Plan receives at least the equivalent of all distributions on the borrowed securities made during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities that the Plan would have received (net of tax withholdings) [1] had it remained the record owner of such securities.

(7) If the market value of the collateral as of the close of trading on a business day falls below 100 percent of the market value of the borrowed securities as of the close of trading on that day, the Foreign Affiliate delivers additional collateral, by the close of the Plan's business on the following business day, to bring the level of the collateral back to at least 100 percent. However, if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, the Foreign Affiliate may require the Plan to return part of the collateral to reduce the level of the collateral to 100 percent;

(8) Before entering into a Loan Agreement, the Foreign Affiliate furnishes to the independent Plan fiduciary (a) the most recent available audited statement of the Foreign Affiliate's financial condition, (b) the most recent available unaudited statement of its financial condition (if more recent than the audited statement), and (c) a representation that, at the time the loan is negotiated, there has been no material adverse change in its financial condition that has not been disclosed since the date of the most recent financial statement furnished to the independent Plan fiduciary. Such representation may be made by the Foreign Affiliate's agreeing that each loan of securities shall constitute a representation that there has been no such material adverse change;

(9) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon the Foreign Affiliate shall deliver certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Plan within (a) the customary delivery period for such securities, (b) five business days, or (c) the time negotiated for such delivery by the Plan and the Foreign Affiliate, whichever is least, or, alternatively such period as permitted by Prohibited Transaction Class Exemption (PTCE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987), as it may be amended or superseded.[2]

[1] The Department notes the Applicants' representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not lent the securities.

[2] PTCE 81–6 provides an exemption under certain conditions from section 406(a)(1)(A) through (D) of

Continued

(10) In the event that the loan is terminated and the Foreign Affiliate fails to return the borrowed securities or the equivalent thereof within the time described in paragraph (9), the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. The Foreign Affiliate is obligated to pay, under the terms of the Loan Agreement, and does not pay, to the Plan, the amount of any remaining obligations and expenses not covered by the collateral, plus interest at a reasonable rate. Notwithstanding the foregoing, the Foreign Affiliate may, in the event it fails to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then current market value of the collateral, provided that such replacement is approved by the independent Plan fiduciary; and

(11) The independent Plan fiduciary maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404b–1. However, in the event that the independent Plan fiduciary does not maintain the situs of the Loan Agreement in accordance with the indica of ownership requirements of section 404(b) of the Act, the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or the taxes imposed by section 4975(a) and (b) of the Code.

If the Foreign Affiliate fails to comply with any condition of this exemption in the course of engaging in a securities lending transaction, the Plan fiduciary which caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the Foreign Affiliate's failure to comply with the conditions of the exemption.

Section II. General Conditions

A. The Foreign Affiliate is a registered broker-dealer subject to regulation by a governmental agency, as described in Section III. C., and is in compliance with all applicable rules and regulations thereof in connection with any transactions covered by this exemption;

B. The Foreign Affiliate, in connection with any transactions covered by this exemption, is in compliance with the requirements of Rule 15a–6 (17 CFR 240.15a–6) of the 1934 Act, and Securities and Exchange Commission interpretations thereof, providing for foreign affiliates a limited exemption from U.S. broker-dealer registration requirements.

C. Prior to the transaction, the Foreign Affiliate enters into a written agreement with the Plan in which the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions.

D. The Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of any transaction such records as are necessary to enable the persons described in paragraph E. to determine whether the conditions of this exemption have been met except that—

(1) A party in interest with respect to a Plan, other than the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination, as required by paragraph E.; and

(2) A prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the control of the Foreign Affiliate, such records are lost or destroyed prior to the end of such six year period;

E. Notwithstanding the provisions of subsections (a)(2) and (b) of section 504 of the Act, the Foreign Affiliate makes the records referred to above in paragraph D., unconditionally available for examination during normal business hours at their customary location to the following persons or an authorized representative thereof:

(1) The Department, the Internal Revenue Service or the SEC;

(2) Any fiduciary of a Plan;

(3) Any contributing employer to a Plan;

(4) Any employee organization any of whose members are covered by a Plan; and

(5) Any participant or beneficiary of a Plan. However, none of the persons described above in paragraphs (2)–(5) of this paragraph E. shall be authorized to examine trade secrets of the Foreign Affiliate, or any commercial or financial information which is privileged or confidential.

F. Prior to any Plan's approval of any transaction with a Foreign Affiliate, the Plan is provided copies of the proposed and final exemption with respect to the exemptive relief granted herein.

Section III. Definitions

For purposes of this exemption,

A. The terms ''DLJ'' or ''CSFB'' as referred to in Section I., mean Donaldson, Lufkin & Jenrette Securities Corporation or Credit Suisse First Boston Corporation.

B. The term ''affiliate'' of another person shall include:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner. (For purposes of this definition, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

C. The term ''Foreign Affiliate,'' shall mean a current or future affiliate of DLJ or CSFB that is subject to regulation as a broker-dealer by—

(1) The Securities and Futures Authority, in the United Kingdom; or

(2) The Australian Securities & Investments Commission in Australia.

D. The term ''security'' shall include equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term ''security'' does not include swap agreements or other national principal contracts.

Section IV. Effective Date

This exemption is effective as of November 3, 2000.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

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the Act and the corresponding provisions of section 4975 (c) of the Code for the lending of securities that are assets of an employee benefits plan to a U.S. broker-dealer registered under the 1934 Act (or exempted from registration under the 1934 Act as a dealer in exempt Government securities, as defined therein).

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 99–45 and this final exemption, refer to the proposed exemptions and the grant notices which are cited above.

Signed at Washington, DC, this 31st day of October, 2001.

Ivan L. Strasfeld,

Director of Exemption, Determinations, Pension and Welfare Benefits, Administration, U.S. Department of Labor.

[FR Doc. 01–27754 Filed 11–5–01; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2001–43; [Exemption Application No. D–10916 and D–10917, et al.]

Grant of Individual Exemptions; The FHP International Corporation 401(k) Savings Plan; and The FHP International Corporation PAYSOP (Together, the Plans) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the code and the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The FHP International Corporation 401(k) Savings Plan; and The FHP International Corporation PAYSOP (together, the Plans)

Located in Santa Ana, California

[Prohibited Transaction Exemption 2001–43; Exemption Application Nos. D–10916 and D–10917]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, from April 21, 1997 through May 20, 1997, to: (1) The past receipt by the Plans of certain rights (the Talbert Rights) to purchase shares of common stock, par value $.01 per share, of Talbert Medical Management Holding Corporation (Talbert); (2) the past holding of the Talbert rights by the Plans; and (3) the disposition or exercise of the Talbert Rights by the Plans; provided that the following conditions are satisfied:

(A) The Plans' acquisition and holding of the Talbert Rights resulted from independent acts of FHP International Corporation (FHP) and Talbert as corporate entities, and all holders of common stock of FHP (FHP Common Stock) were treated in a like manner, including the Plans;

(B) With respect to Talbert Rights allocated to the Plans, the Talbert Rights were acquired solely for the accounts of participants who had directed investment of all or a portion of their account balances in FHP Common Stock pursuant to Plan provisions for individually-directed investment of participant accounts; and

(C) With respect to Talbert Rights allocated to the Plan, all decisions regarding the holding, disposition or exercise of the Talbert Rights were made, in accordance with Plan provisions for individually-directed investment of participant accounts, by the individual Plan participants whose accounts in the Plans received Talbert Rights, including all determinations regarding the exercise or sale of the Talbert Rights, except for those participants who failed to file timely and valid instructions concerning the exercise of the Talbert Rights (in which event the Talbert Rights were sold).

EFFECTIVE DATE: This exemption is effective from April 21, 1997 through May 20, 1997.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 7, 2001 at 66 FR 46840.

Written Comments and Hearing Requests: The Department received one letter from a commentator which did not address any issues relating to the proposed exemption, but sought more information concerning the transaction. The Department provided the additional information to the person via telephone. In addition, the Department received a number of telephone calls from other Plan participants requesting further information. Each of these inquiries was responded to by telephone and no additional questions were raised. The Department received no requests for a hearing with respect to the proposed exemption.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, Telephone (202) 219–8881. (This is not a toll-free number.)

Anthem Insurance Companies, Inc. (Anthem)

Located in Indianapolis, IN

[Prohibited Transaction Exemption 2001–44; Exemption Application No. D–10979]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective October 24, 2001, to the receipt, by an employee benefit plan (the Plan) or by a Plan participant (the Plan Participant) that is an eligible

member (the Eligible Member), by reason of the ownership of an insurance policy or contract issued by Anthem, of common stock (Common Stock) issued by Anthem, Inc. (the Parent Company), a newly-formed holding company or cash (Cash), in exchange for such Plan's or Plan Participant's mutual membership interest in Anthem, in accordance with a plan of conversion (the Plan of Conversion) adopted by Anthem and implemented under Indiana law.

This exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The Plan of Conversion is subject to approval, review and supervision by the Commissioner of Insurance of the Indiana Department of Insurance (the Commissioner) and is implemented in accordance with procedural and substantive safeguards imposed under Indiana law.

(b) The Commissioner reviews the terms and options that are provided to Eligible Members as part of such Commissioner's review of the Plan of Conversion, and the Commissioner approves the Plan of Conversion following a determination that such Plan is fair, reasonable and equitable to Eligible Members.

(c) Each Eligible Member has an opportunity to vote to approve the Plan of Conversion after full written disclosure is given to the Eligible Member by Anthem.

(d) Any determination to receive Common Stock or Cash by an Eligible Member which is a Plan, pursuant to the terms of the Plan of Conversion, is made by one or more Plan fiduciaries which are independent of Anthem and its affiliates and neither Anthem nor any of its affiliates exercises any discretion or provides ''investment advice'' within the meaning of 29 CFR 2510.3–21(c), with respect to such decisions.

(e) Any determination to receive Common Stock or Cash by an Eligible Member which is a Plan Participant, pursuant to the terms of the Plan of Conversion, is made by such participant and neither Anthem nor any of its affiliates exercises any discretion or provides ''investment advice'' within the meaning of 29 CFR 2510.3–21(c), with respect to such decisions.

(f) After each Eligible Member entitled to receive shares of Common Stock is allocated at least 21 shares, additional consideration may be allocated to Eligible Members based on actuarial formulas that take into account each Eligible Member's contribution to Anthem's statutory surplus, which formulas are subject to review and approval by the Commissioner.

(g) All Eligible Members that are Plans or Plan Participants participate in the transactions on the same basis and within their class groupings as all Eligible Members that are not Plans or Plan Participants.

(h) No Eligible Member pays any brokerage commissions or fees in connection with their receipt of Common Stock or in connection with the implementation of the commission-free purchase and sale program.

(i) All of Anthem's policyholder obligations remain force and are not affected by the Plan of Conversion.

Section III. Definitions.

For purposes of this exemption,

(a) The term ''Anthem'' means Anthem Insurance Companies, Inc.

(b) An ''affiliate'' of Anthem includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Anthem; (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.) and

(2) Any officer, director or partner in such person.

(c) A ''policy'' is defined as (1) Any individual insurance policy or health care benefits contract that has been issued by Anthem and under which the holder thereof has membership interests in Anthem; (2) any certificate issued by Anthem under a group insurance policy or health care benefits contract under which certificate the holder thereof has membership interests in Anthem; or (3) certificates of membership issued by Anthem in or under guaranty policies under which certificate the holder thereof is a member of Anthem with membership interests.

(d) The term ''membership interests'' means (1) voting rights of Anthem's members as provided by law and Anthem's Articles of Incorporation and Bylaws, and (2) the rights of members to receive cash, stock, or other consideration in the event of conversion to a stock insurance company under Indiana Demutualization Law or a dissolution of Anthem as provided by Indiana insurance law and Anthem;s Articles of Incorporation and Bylaws.

(e) The term ''Eligible Member'' or ''Eligible Statutory Member'' means a person or entity (1) whose name appears on Anthem's records as the holder of one or more in force policies issued by Anthem as of both and the date the Board of Directors adopts the Plan of Conversion and the effective date of the Plan of Conversion, and (2) who has had continuous health care benefits coverage with the same insuring company during the period between those two dates under any policy without a break of more than one day.

(f) The term ''Parent Company'' refers to a corporation organized and existing under the Indiana Business Corporation Law. Prior to the conversion, the Parent Company will be a wholly owned subsidiary of Anthem. Upon the conversion of Anthem to a stock company, the Parent Company will serve as the ''Indiana parent corporation'' of Anthem for purposes of Indiana law. Upon the effective date of the Plan of Conversion, the Parent Company will complete an initial public offering (the IPO) of shares of Parent Company Common Stock for cash.

Effective Date: This exemption is effective as of October 24, 2001.

For a more complete statement of the facts and representations supporting the Department;s decision to grant this exemption, refer to the notice of proposed exemption published on August 3, 2001 at 66 FR 40743.

Written Comments

The Department received two written comments with respect to the proposed exemption. The first comment, which was submitted on behalf of the UFCW Unions and Employers Health and Welfare Plan of Central Ohio, a Plan policyholder of Anthem, by legal representatives for the Plan's board of trustees (the Trustees), requests that the Department revise the final exemption and require that Anthem distribute the demutualization proceeds solely to the Plan, instead of to Plan Participants. Due to the substantive nature of the issue presented, the comment was forwarded to Anthem for response. The second comment, which was submitted by Anthem, clarifies and updates the proposed exemption in a number of areas.

Following is a discussion of the comments received, including the responses made by Anthem and/or the Department.

Plan Policyholder Comment

As noted above, the commenter states that it represents the Trustees of a multiemployer health and welfare plan which is funded exclusively through employer contributions. The Plan has offered participants the choice of either a self-insured option or a fully-insured option through an Anthem affiliate.

The commenter notes that Anthem's Plan of Conversion generally proposes to distribute the demutualization

consideration to individual certificate holders as opposed to group policyholders. The commenter asserts that group policyholders which contracted with certain companies prior to their merger with Anthem are deemed entitled to the proceeds of the demutualization. However, due to the timing of the Plan's contracting with the Anthem affiliate, the commenter explains that Anthem intends to distribute the demutualization proceeds to Plan Participants and not to the Plan. This, according to the commenter, creates an inequitable result because the premiums are paid entirely out of the Plan's assets and only those Plan Participants who have selected the fully insured option will be entitled to receive the proceeds from the demutualization.

In addition, the commenter indicates that the Trustees believe that the proceeds of the demutualization should be distributed to the Plan to be held in trust and utilized for the benefit of all Plan Participants and beneficiaries because it would be consistent with the Department's position on whether a Plan policyholder is entitled to keep the proceeds of a demutualization. Assuming the proceeds are ''plan assets,'' the commenter questions on what basis Anthem can distribute the proceeds to any party but the Plan.

Finally, the commenter notes that neither Anthem's Plan of Conversion nor the proposed exemption appear to contemplate the Plan as a policyholder but instead focus on the terms ''employer'' or ''association'' when describing a group policyholder or a plan sponsor. The unique nature of the Plan, according to the commenter, justifies different policyholder treatment and distribution of demutualization consideration to the Plan as opposed to a limited percentage of Plan Participants. Therefore, the commenter requests that the Department revise the final exemption and require Anthem to distribute the demutualization consideration to the Plan.

In response to the commenter, Anthem states that it is an Indiana-domiciled mutual insurance company owned by its Statutory Members, which are certain Anthem customers who have both voting and other ownership rights in the insurer. As an Indiana-domiciled mutual company, Anthem explains that Indiana Demutualization Law exclusively governs its conversion to a stock company and requires the fair market value its conversion to a stock company and requires the fair market value of the company to be paid to Eligible Statutory Members upon the demutualizaiton.[1]

In addition, Anthem explains that Indian Demutualization Law requires that the question of who qualifies as a Statutory Member be determined by reference to the mutual company's articles of incorporation, by-laws and records. Anthem points out that its membership rules are found primarily in its By-Laws. With respect to group health benefits contracts, Anthem notes that its By-Laws provide that Statutory Members are those persons who have been granted membership rights under insurance agreements between Anthem and the employer (or other person, including an employer association or employee organization) acting for and on the persons' behalf. Anthem further explains that is By-Laws have provided for deceased that a certificate holder with health benefits coverage from the insurer is granted membership rights rather than the holder of the group contract, regardless of who pays the premiums for health benefits coverage.

With respect to the commenter, Anthem confirms that the Plan received its group health benefits contract from an Anthem affiliate and that the Plan Participants were issue certificates of membership from Anthem. In addition, Anthem indicates that the Plan was issued a ''guaranty policy'' under which it would not be considered a Statutory Member. Instead, the certificate holders (i.e., the Plan Participants who elected the Plan's insured option) were granted membership rights. As Statutory Members, Anthem asserts that the Plan Participants were given the right to vote in the election of Anthem's Board of Directors and to vote on any proposition that the Board submits to a vote of the Statutory Members in accordance with Indiana law. Furthermore, Anthem explains that Indiana law requires that these Plan Participants (as Statutory Members) also have the right to receive consideration in the event of Anthem's demutualization.

[1] Under its Plan of Conversion, Anthem indicates that ''Eligible Statutory Members'' will be those persons (or entities) who were Statutory Members on June 18, 2001 (the date Anthem's Board of Directors adopted the Plan of Conversion), who continue to be Statutory Members on the effective date of the conversion and who have had continuous health care benefits coverage with the same company (either Anthem or its Blue Cross and Blue Shield subsidiaries in Kentucky, Ohio or Connecticut) during the period between those two dates without a break in coverage of more than one day. As used herein ''Eligible Statutory Members'' refer also to ''Eligible Members.''

In addition, Anthem's Plan of Conversion states that a Statutory Member is, as of any specified date, any person, who in accordance with the records, Articles of Incorporation or By-Laws of Anthem, is the holder of an ''in force'' policy.

The Department has considered the comment and has determined not to adopt the commenter's recommendation that the exemption be revised to require that Anthem distribute the demutualization consideration to the Plan. In this regard, the Department notes that Indiana Demutualization Law mandates that Anthem's Articles of Incorporation and By-Laws govern who is accorded membership interests in the company and to whom the demutualization consideration is to be paid. The Department also notes that Anthem's By-Laws predate the Plan's contractual arrangement with the company. Lastly, the Trustees, as fiduciaries of the Plan, determined to enter into, and be subject to the terms of, a group health benefits contract with an Anthem affiliate which conferred certain ownership and voting rights on Plan Participants that are Eligible Members of Anthem. Although the demutualization may not have been contemplated at contract execution by the Trustees, nevertheless, one of these ownership rights is the right to receive consideration in the event of Anthem's demutualization.

Anthem's Comment

1. *Operative Language Changes and Effective Date.* In Section I of the proposed exemption, in the operative language, the first sentence of the initial paragraph states, in part, that if the exemption is granted the restrictions and sanctions imposed under the Act and the Code will not apply to the receipt of certain demutalization consideration, by a Plan, or a Plan Participant, both of which are Eligible Members by reason of their ownership of an insurance policy or contract issued by Anthem. Anthem requests that this sentence be revised to delete the definition of ''Eligible Member'' because it believes the definition conflicts with the correct definition of Eligible Member, as set forth in Section III of the proposal.

In addition, Anthem requests that the final exemption be made effective as of October 24, 2001, and that this effective date be referenced in the grant notice. On October 29, 2001, Anthem represents that it anticipates entering into binding agreements to sell the Common Stock to underwriters on November 2, 2001. Because the granting of the exemption is a condition to the closing of the sale, Anthem states that it will not be able to deliver the Common Stock on November 2, 2001, pursuant to the agreements unless the exemption is signed and effective.

Therefore, Anthem suggests that the initial paragraph of the operative

language be revised to read as follows in the final exemption:

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(a)(1)(A) through (D) of the Code, shall not apply, effective October 24, 2001, to the receipt, by an employee benefit plan (the Plan) or by a Plan participant (the Plan Participant) that is an eligible member (the Eligible Member), by reason of the ownership of an insurance policy or contract * * *

In addition, Anthem requests that the final exemption reflect an effective date.

In response to these comments, the Department has made the requested changes to the operative language and has also added a new section to the final exemption captioned ''Effective Date.''

2. *Allocation of Common Stock to Eligible Members.* Section II(f) of the proposed exemption provides, in relevant part, that after each Eligible Member entitled to receive shares of Common Stock is allocated at least 21 shares, additional consideration will be allocated to Eligible Members who own participating policies based on actuarial formulas that take into account each participating policy's contribution to Anthem's statutory surplus and are subject to review and approval by the Commissioner. Anthem requests that Section II(f) be revised as follows to reflect more accurately how additional consideration will be allocated to Eligible Members:

After each Eligible Member entitled to receive shares of Common Stock is allocated at least 21 shares, additional consideration may be allocated to Eligible Members based on actuarial formulas that take into account each Eligible Member's contribution to Anthem's statutory surplus, which formulas are subject to review and approval by the Commissioner.

Anthem represents that its policies are generally issued and renewed for a term of one year. In order to compensate Eligible Members fairly for their membership interests, Anthem explains that the actuarial formulas used to allocate consideration take into account an Eligible Member's total contribution to the insurer's statutory surplus based on all of the policies and certificates under which the Eligible Member has had continuous coverage, rather than the actuarial contribution of a single policy or certificate held on the date used to calculate each Eligible Member's contribution to surplus. In addition, Anthem states that it decided to delete references to ''participating'' policies because it does not have any policies that require the payment of dividends or as to which any person has any reasonable expectation for the payment of dividends.

In response to this comment, the Department has revised Section II(f) of the final exemption, accordingly.

3. *Definition of Anthem.* Section III(a) of the proposed exemption defines the term ''Anthem'' to include any affiliate of Anthem, as defined in paragraph (b) of Section III. Anthem requests that the reference to the phrase ''any affiliate of Anthem, as defined in paragraph (b) of this Section III'' be deleted from the definition because Anthem and its affiliates are defined separately in the exemption application and many of the provisions from the exemption application have been incorporated into the proposal. Anthem notes that by treating it and its affiliates as the same entity changes the meaning of many of those provisions, as defined in the proposal. In this regard, Anthem points out that the clearest example of this is in the definition of ''Eligible Member'' in Section III(e). Without distinguishing between it and its affiliates, Anthem notes that the definition would incorrectly denote persons with policies issued by affiliates of Anthem as members of Anthem. Anthem further points out that policyholders of its affiliates are not Anthem members and, thus, will not have voting rights or receive compensation.

4. *Notice to Interested Persons.* In the Section of the proposal captioned ''Notice to Interested Persons,'' the first sentence of the third paragraph states, at 40748, that Anthem will provide a copy of the proposed exemption to interested persons within 15 days of the publication of the proposal in the **Federal Register**. Anthem states that this paragraph should be revised to reflect that the comment period for the proposed exemption was extended because ''The Member Information Statement'' (the MIS), which contained the ''Notice of Application for Prohibited Transaction'' (the Notice) was mailed over a period of several days, rather than on a single date. Anthem states that it began mailing the MIS on August 17, which was within 15 days of the date that the proposed exemption was published in the **Federal Register.** However, Anthem explains that it recognized that the mailing would take several days to complete, so the comment period was extended from September 17, 2001, to October 1, 2001, to allow members enough time from the date of the final mailing to file comments with the Department. Anthem further explains that its Notice informed members of the extended comment period.

In response, the Department notes this revision to the proposal.

5. *Transaction Change.* Finally, Anthem states that it wishes to update the Department concerning a change in the demutualization process. In this regard, Anthem notes that the six month lock-up period (referred to in Representation 12) during which all Eligible Members are prohibited from selling their shares of Common Stock has been eliminated for many Eligible Members. Anthem explains that Eligible Members will generally be free to sell their shares of Common Stock in the open market after they receive their notification of share ownership. However, Anthem indicates that a small number of Eligible Members (i.e., certain large group customers) who receive and continue to hold 30,000 or more shares of Common Stock in exchange for their membership interests will still be restricted from selling, transferring, pledging, hypothecating or otherwise assigning their shares for 180 days following the effective date of the Plan of Conversion, except where the transfer (a) Is in accordance with a Large Holder Sale program.[2] (b) occurs by operation of law,[3] or (c) occurs with the written consent of Anthem. After the expiration of the 180 day period, Anthem states that the large group Eligible Members will be free to sell their Common Stock in the open market.

Accordingly, after giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption subject to the modifications and clarifications described above.

For further information regarding the comments and other matters discussed herein, interested persons are

[2] The Large Holder Sale Program is designed to help ensure that the public trading market for the Common Stock is not adversely affected by the sale of large blocks before the trading market has time to achieve mature trading characteristics. The program applies only during the first 180 days following the effective date of the Plan of Conversion, and it applies only to ''Large Holders,'' a relatively small number of large group customers who will receive 30,000 or more shares of Common Stock in the demutualization. If Large Holders want to sell their shares of Common Stock during that 180 day period, they have to follow special procedures designed to limit the total number of shares sold by Large holder in the open market on any one trading day during that period. The Large Sale Holder Program cannot be changed without the consent of the Commissioner.

[3] A ''transfer by operation of law'' refers to a transfer of stock that occurs, not because of a voluntary sale or contractual assignment of the stock, but as the legal consequence of some other event. For example, if one corporation merges into another corporation in a statutory merger transaction, the assets of the merging corporation are deemed by the state corporate law merger statute to be transferred to the surviving corporation.

encouraged to obtain copies of the exemption application file (Exemption Application No. D–10979) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of Section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 2001.

Ivan Strasfield,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 01–27753 Filed 11–5–01; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Emergency Clearance; Public Information Collection Requirements Submitted to the Office of Management and Budget; Notice

AGENCY: National Science Foundation.

ACTION: Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB).

SUMMARY: The National Science Foundation (NSF) is announcing plans to request approval of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted below, comments on these information collection and record keeping requirements must be received by the designees referenced below by November 13, 2001.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov,* and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. Attn: Lauren Wittenberg, NSF Desk Officer.

Comments: Written 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 on respondents, including through the use of automated collection techniques or other forms of information technology; or (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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Request For Emergency Clearance for Data Collection in Support of a Cross-Site Evaluation of National Science Foundation's Directorate For Education and Human Resources The Urban Systemic Program

OMB Approval Number: OMB 3145-(new).

Expiration Date: Not applicable.

Abstract: The National Science Foundation (NSF) requests a six-month (180 days) emergency clearance for the Evaluation of the Urban Systemic Program (USP), a study that has been on-going since October 1999 under OMB 3145–0136. Due to a change in OMB terms of clearance for OMB 3145–0136, NSF is seeking to establish an independent clearance for the USP study. A four-month delay (for standard OMB clearance) would negatively impact the baseline data collection by placing the resumption of scheduling of data collection at the end of the 2001–2002 school year. Participating school districts (respondents) work on a nine-month schedule. Scheduling evaluator's visits at the height of end-of-year events and on the eve of summer vacation is inconvenient for the respondents. Furthermore, when the school year ends key interviewees including teachers are unavailable.

As part of the study, four site visits have been scheduled for fall of 2001. The inconvenience to these districts

represented by a delay or suspension of data collection activities would harm the overall evaluation effort. Finally, given the turnover in leadership in urban school districts, a time lapse in data collection will result in an increased risk of the departure of key USP staff, further delaying timely and reliable data collection. As part of multiple data collection activities over time, opportunities to supplement baseline data through observations of normal USP operations will be compromised, possibly leading to inconsistent data across sites.

USP began in 1999 when NSF made competitive awards of up to $3 million, for each of 5 years, to five urban school districts. The USP represents NSF's major current investment in improving science and mathematics education in urban school systems across the country, and having a third-party evaluative documentation will be important in interpreting the worthiness of the investment.

NSF uses the data to: (1) Determine whether to modify or extend the USP concepts and (2) share best practices and lessons learned about systemic reform with school, district, and state educators.

Specifically, during the first two years of the USP Cross-Site Evaluation First, the third-party has produced reports for others at NSF (e.g., the National Science Board). Though there are other sources of such documentation, the information provided by the Cross-Site team is valued because the team is conducting an evaluation and is not associated in any other way with the program sites. Second, the Division of Educational System Reform uses the information to supplement its annual program monitoring. Third, NSF will use the information as a program evaluation, both assessing its investment in the USP program and potentially helping to guide the design of future programs.

Respondents: State, local or tribal governments.

Number of Respondents: 378.

Burden on the Public: 270 hours.

Dated: November 1, 2001.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 01–27852 Filed 11–6–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On September 5, 2001, the National Science Foundation published a notice in the **Federal Register** of a Waste Management permit application received. A Waste Management permit was issued on November 1, 2001 to the following applicant:

Rennie S. Holt, Southwest Fisheries Science Center—Permit No.: 2002 WM–002.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 01–27785 Filed 11–5–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–8]

Notice of Issuance of Amendment to Materials License SNM–2505, Calvert Cliffs Nuclear Power Plant Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued Amendment No. 5 to Materials License No. SNM–2505 held by Calvert Cliffs Nuclear Power Plant (CCNPP) for the receipt, possession, storage, and transfer of spent fuel at the Calvert Cliffs independent spent fuel storage installation (ISFSI), located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

By application dated July 26, 2001, CCNPP requested an amendment to its ISFSI license to revise Technical Specifications 2.3 to remove the transfer cask drop height limit and Technical Specification 6.3 to revise the semi-annual environmental reporting period to be consistent with the annual reporting requirements of 10 CFR 50.36a(2). This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

The Commission has determined that, pursuant to the categorical exclusion provisions of 10 CFR 51.22(c)(10), an environmental assessment need not be prepared in connection with issuance of the amendment.

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 NRC's Public Electronic Reading Room 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 documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 25th day of October 2001.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–27860 Filed 11–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Entergy Operations, Inc.; Notice of Issuance of Amendment to Renewed Facility Operating License No. DPR–51

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 215 to Renewed Facility Operating License No. DPR–51 issued to Entergy Operations, Inc., (the licensee), which revised the Technical Specifications (TSs) for operation of Arkansas Nuclear One, Unit 1 (ANO–1), located in Pope County, Arkansas. The amendment is effective as of the date of issuance and shall be implemented within one year of the date of issuance.

The amendment converts the current TSs for ANO–1 to a set of improved TSs based on NUREG–1430, ''Standard Technical Specifications, Babcock and Wilcox Plants.''

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on June 28, 2001 (66 FR 34486). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (66 FR 46038 published on August 31, 2001).

For further details with respect to the action see (1) the application for amendment dated January 28, 2000, as supplemented by letters dated August 9 and September 28, 2000, and February 6, March 19, May 1, August 23, September 14, and September 19, 2001, (2) Amendment No. 215 to Renewed Facility Operating License No. DPR–51, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 30th day of October, 2001.

For the Nuclear Regulatory Commission.

William D. Reckley,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–27861 Filed 11–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Joint Meeting of the ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Risk Assessment will hold a joint meeting on November 15, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, November 15, 2001—8:30 a.m. until 12:00 Noon

The Subcommittees will discuss the status of NRC staff and industry initiatives to risk-inform 10 CFR 50.46 for emergency core cooling systems for light-water nuclear power reactors. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 31, 2001.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–27859 Filed 11–5–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of November 5, 12, 19, 26, December 3, 10, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 5, 2001

There are no meetings scheduled for the Week of November 5, 2001.

Week of November 12, 2001—Tentative

Wednesday, November 14, 2001

9 a.m.—Discussion of Intragovernmental and Security Issues (Closed-Ex. 1 & 9)

Thursday, November 15, 2001

2 p.m.—Discussion of Intragovernmental Issues (Closed-Ex. 1)

Week of November 19, 2001—Tentative

There are no meeting scheduled for the Week of November 19, 2001.

Week of November 26, 2001—Tentative

There are no meetings scheduled for the Week of November 26, 2001.

Week of December 3, 2001—Tentative

Monday, December 3, 2001

2 p.m.—Briefing on Status of Steam Generator Action Plan (Public Meeting) (Contact: Maitri Banerjee, 301–415–2277)

Wednesday, December 5, 2001

1:25 p.m.—Affirmation Session (Public Meeting) (if needed)

1:30 p.m.—Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360)

Week of December 10, 2001—Tentative

There are no meetings scheduled for the Week of December 10, 2001.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving the Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: November 1, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–27954 Filed 11–2–01; 2:02 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–9641]

October 31, 2001.

Identix Incorporated, a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

The Issuer has stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Delaware, in which it was incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. the Issuer's application relates solely to the Security's withdrawal from listing on the Amex and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

On May 18, 2001, the Board of Directors of the Issuer approved resolutions to withdraw the Issuer's Security from listing on the Amex and to trade it on the Nasdaq/NMS. The Issuer stated in its application that trading in the Security on the Amex will cease on October 29, 2001, and trading in the Security is expected to being on the Nasdaq/NMS at the opening of business on Monday, October 29, 2001. In making the decision to withdraw, the Issuer states that the Nasdaq/NMS has emerged as the predominate market for technology companies and believes the interest of the shareholders will benefit by trading on the Nasdaq/NMS.

Any interested person may, on or before November 26, 2001 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–27789 Filed 11–5–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(7).

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC–25249; 812–12646]

Russian Telecommunications Development Corporation; Notice of Application

October 31, 2001.

AGENCY: Securities and Exchange Commission (''Commission'')

ACTION: Notice of application under section 3(b)(2) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Russian Telecommunications Development Corporation (''RTDC'') seeks an order under section 3(b)(2) of the Act declaring it to be primary engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. RTDC is in the business of acquiring, developing, owning and operating a telecommunications business in Russia. Applicant also seeks an order under section 45(a) of the Act granting confidential treatment with respect to certain asset valuation information.

FILING DATES: The application was filed on September 27, 2001, and amended on October 31, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 23, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC, 20549–0609., Applicant, c/o MCT Corp., 555 King Street, Alexandria, VA, 22314.

FOR FURTHER INFORMATION CONTACT: Julia Kim Gilmer, Senior Counsel, at (202) 942–0528, or Janet M. Grossnickle, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the

application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC, 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. RTDC, a Delaware corporation, was formed in 1993 to acquire, develop, own and operate a telecommunications business in Russia.[1] RTDC states that it is a holding company that conducts its telecommunications business through its wholly-owned subsidiaries, and its direct and indirect interests in eight wireless telecommunications ventures and an international gateway switching venture (the ''RTDC Ventures''). The RTDC Ventures include three entities in which RTDC, directly or through a wholly-owned subsidiary, has at least a majority interest, and five entities that RTDC controls within the meaning of section 2(a)(9) of the Act (the eight entities are referred to collectively as the ''Controlled Companies'').[2] RTDC also owns a minority 22% interest in Moscow Cellular Communications (''MCC''), another RTDC Venture. Each of the RTDC Ventures is an operating company directly engaged in the telecommunications business.

2. RTDC historically has sought, and intends in the future to pursue acquisitions in operating companies in connection with RTDC's telecommuications business in Russia that will result in majority ownership of an acquired company or venture. However, RTDC has not and probably will not always be able to obtain more than 50% or more of a telecommunications venture due to the participation of local partners. RTDC states that relationships with local partners can be advantageous in facilitating the licensing procedure and ongoing compliance, for the local partner's experience in different regional markets and knowledge of local preferences and business practices, and for the existing relationships such partners have with suppliers, contractors, government agencies or potential customers.

3. RTDC states that negotiations are actively ongoing for the purchase of interests that would increase RTDC's position in four of the non-majority owned Controlled Companies, with a view to obtaining majority ownership. RTDC further states that it has obtained strong stockholder rights that ensure its ability to remain actively involved in the operations of the RTDC Ventures in which it does not have a majority interest. These rights, as provided for in the charters of the RTDC Ventures, shareholder agreements and under the laws of the Russian Federation, enable RTDC to block transactions, the election or dismissal of the ''general director'' of any RTDC Venture, and to exercise influence over matters of significant importance to the business affairs of the RTDC Ventures. RTDC, through its wholly-owned subsidiaries, also provides the Controlled Companies with: financing services; managerial, technical, finance, accounting, legal, administrative and support services and staff; assistance with construction of distribution networks and hiring staff; planning and implementation of budgets; and the design, acquisition, operation and monitoring of subscriber management and information systems.

Applicant's Legal Analysis

A. Section 3(b)(2) of the Act

1. RTDC requests an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, and therefore not an investment company as defined in the Act.

2. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40% of the value of the issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Under section 3(a)(2) of the Act, investment securities include all securities except Government securities, securities issued by employees securities companies, and securities issued by majority-owned subsidiaries of the owner which (a) are not investment companies, and (b) are not relying on the exclusions from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act.

3. RTDC states that more than 40% of its total unconsolidated assets consists of investment securities as defined in section 3(a)(2). Accordingly, RTDC may be deemed an investment company within the meaning of section 3(a)(1)(C) of the Act. RTDC states that as of June 30, 2001, its interests in majority-owned Controlled Companies and less than majority-owned Controlled Companies were approximately 37% and 49% of its total assets, respectively, consolidated with its wholly-owned subsidiaries.

4. Rule 3a–1 provides an exemption from the definition of investment company if no more than 45% of a company's total assets consist of, and not more than 45% of its net income over the last four quarters is derived from, securities other than Government securities and securities of majority-owned subsidiaries and companies primarily controlled by it. RTDC states that it may not be able to rely on rule 3a–1 because it does not primarily control some of the Controlled Companies and because historically it has not had net income, but rather experienced net losses. RTDC further states that it will be unable to rely on rule 3a–1 because the nature of its business and the markets in which it functions makes it likely that there will be substantial fluctuations in and uncertainty with respect to future income.

5. Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(1)(C), the Commission may issue an order declaring an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities directly, through majority-owned subsidiaries, or controlled companies conducting similar types of businesses. RTDC submits that it meets the requirements of section 3(b)(2) because it is in the business of acquiring, developing, owning and operating a telecommunications business through wholly-owned subsidiaries and the Controlled Companies.

6. In determining whether an issuer is ''primarily engaged'' in a non-investment company business under section 3(b)(2), the Commission considers the following factors: (a) the company's historical development, (b) its public representation of policy, (c) the activities of its officers and directors, (d) the nature of its present assets, and (e) the sources of its present income.[3]

a. *Historical Development.* RTDC states that it was formed in 1993 as a holding company for certain wireless telecommunications operations in Russia by MediaOne International Holdings, Inc. (''MediaOne''). RTDC was developed and expanded as a telecommunications holding company over the time that MediaOne owned the company. Since RTDC's acquisition by MCT Corp. through RTDCH in September 2000. RTDC has continued to operate as a telecommunications

[1] RTDC is a wholly-owned subsidiary of RTDCH Holdings, Inc. (''RTDCH'').

[2] Section 2(a)(9) defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. That section creates a presumption that an owner of more than 25% of the outstanding voting securities of a company controls the company.

[3] *Tonopah Mining Company of Nevada,* 26 SEC 426, 427 (1947).

holding company. Neither RTDC, nor any of the Controlled Companies, has any history of disposing of securities it owns or otherwise treating those securities as investment assets, rather than as the means through which RTDC operates and controls its telecommunications business. RTDC further states that it is not holding any of its current interests in the RTDC Ventures with a view of future sale.

b. *Public Representations of Policy.* RTDC states that it has never held itself out as an investment company within the meaning of the Act, and has not made any public representations that would indicate that RTDC is in any business other than that of acquiring, owning, developing, owning and operating a telecommunications business in selected markets outside the United States. RTDC asserts that it and its parent companies have consistently stated in press releases, private placement memoranda and periodic reports filed with the Commission that it is a telecommunications company that provides wireless telecommunications services in Russia.

c. *Activities of Officers and Directors.* RTDC states that its principal officers and directors have significant experience in pioneering the development of, acquiring interests in and managing telecommunications companies both domestically and in markets outside the United States. RTDC's other officers, who are responsible for various technical, operational, finance, legal and related matters, each have in-depth experiences in their respective areas. RTDC states that its officers and directors are primarily involved in, and responsible for, planning, development, engineering, operations, marketing, finance and administrative matters for RTDC and the RTDC Ventures. None of RTDC's principal officers or directors, with the exception of the Chief Financial Officer, Controller and Treasurer of RTDC, spends any time on securities investment activities. This person, who is primarily occupied with managing and supporting the budget, accounting, financing and administrative efforts of RTDC's telecommunications business, spends less than 1% of his time on cash management and performs no other activities that involve securities investment matters.

d. *Nature of Assets.* RTDC states that, as of June 30, 2000, the Controlled Companies represented approximately 86%, and MCC approximately 6%, of its total assets, consolidated with its wholly-owned subsidiaries. Less than 1% of RTDC's total assets, consolidated with its wholly-owned subsidiaries, consisted of cash and cash management investments. Approximately 6.5% of RTDC's total assets consisted of accounts receivable, prepaid expenses, property and equipment.

e. *Sources of Income.* RTDC states that the Controlled Companies typically generate little or no income for RTDC in the form of dividends and have not achieved consistent profitability that fairly reflects their relative importance to RTDC's overall business. RTDC asserts that it is more appropriate to analyze RTDC's business by evaluating its proportionate share of the revenues of the Controlled Companies and MCC in light of RTDC's total revenues. RTDC states that, for the past year ended on December 21, 2000, its wholly-owned subsidiaries and the Controlled Companies represented approximately 73%, and MCC represented approximately 27% of RTDC's total revenues. For the six months ending June 30, 2001, its wholly-owned subsidiaries and the Controlled Companies represented approximately 79%, and MCC represented approximately 21% of RTDC's total revenues.[4]

7. RTDC thus asserts that it qualifies for an order under section 3(b)(2) of the Act.

B. Section 45(a) of the Act

1. Section 45(a) provides that information contained in any application filed with the Commission under the Act shall be made available to the public, unless the Commission finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors. RTDC requests an order under section 45(a) of the Act granting confidential treatment to information submitted in Exhibit G to the application pertaining to the value of RTDC's interests in individual RTDC Ventures.

2. RTDC submits that the data disclosed in the application is sufficient to fully apprise any interested member of the public of the basis for the relief requested under section 3(b)(2) of the Act. RTDC states that the application discloses the actual dollar values of RTDC's total assets, receivables, cash, cash equivalents, Controlled Companies and MCC (on an aggregate basis), and other assets. RTDC's interests in the Controlled Companies and MCC are also disclosed as an approximate percentage of RTDC's total assets within categories that correspond to the relevant categories set out in section 3(b)(2) of the Act. RTDC submits that given the ranges of the values within the categories presented and the nature of the analysis upon which section 3(b)(2) determinations are based, more specific values are not likely to be relevant.

3. RTDC also believes that public disclosure of the value of its interests in the Controlled Companies and MCC could result in harm to RTDC and its direct and indirect shareholders because it could undermine RTDC's negotiating position in the event RTDC were to find it necessary or desirable to negotiate a sale of all or part of its interests in a RTDC Venture. RTDC is also seeking to negotiate purchases of additional shares in RTDC Ventures in which it does not already own a majority interest. For these reasons, RTDC believes that public disclosure of the information in Exhibit G is neither necessary nor appropriate in the public interest or for the protection of investors.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27788 Filed 11–5–01; 8:45 am]

BILLING CODE 8010–01–M

[4] For purposes of this analysis, revenues of the wholly-owned subsidiaries, the Controlled Companies and MCC were attributed to RTDC in proportion to RTDC's interests in these entities. RTDC consolidates its wholly-owned subsidiaries and AKOS, a Controlled Company in which RTDC holds a 92% interest, when preparing financial statements in accordance with Generally Accepted Accounting Principles (''GAAP''). RTDC uses the equity method of accounting for MCC and the Controlled Companies, except for AKOS. Under GAAP, the equity method of accounting means that each entity's income or losses, but not revenues, are attributed to RTDC based on RTDC's ownership interest in that entity.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45003; File No. SR–NYSE–31]

Self Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amendment Exchange Rule 387 To Apply to Member or Member Organizations

October 30, 2001.

On August 21, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 387 (''COD Orders'')

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in order to clarify the Rule's application to all ''member[s]'' and ''member organization[s].''

The proposed rule change was published for comment in the **Federal Register** on September 25, 2001.[3] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[4] and, in particular, the requirements of section 6 of the Act[5] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act[6] because, in clarifying the application of Exchange Rule 387 to both ''member[s]'' and ''member organization[s],'' it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling and facilitating transactions in securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–NYSE–2001–31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27762 Filed 11–5–01; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 44811 (September 18, 2001), 66 FR 49054 (September 25, 2001).

[4] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45004; File No. SR–NYSE–2001–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Amending NYSE Rule 72

October 31, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 3, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 72(b) to (i) permit clean crosses of 100,000 shares or more when a member organization is facilitating a customer order; and (ii) provide that a specialist may not effect a proprietary transaction to break up a cross being effected under the Rule. The text of the proposed rule change is below. Proposed new language is in italics.

Priority and Precedence of Bids and Offers

Rule 72I. Bids.—Where bids are made at the same price, the priority and precedence shall be determined as follows:

Priority of First Bid

(a) Except as provided in paragraph (b) below, when a bid is clearly established as the first made at a particular price, the maker shall be entitled to priority and shall have precedence on the next sale at that price, up to the number of shares of stock or principal amount of bonds specified in the bid, irrespective of the number of shares of stock or principal amount of bonds specified in such bid.

Priority of Agency Cross Transactions

(b) When a member has an order to buy and an order to sell an equivalent amount of the same security, and both orders are of 25,000 shares or more and are for the accounts of persons who are not members or member organizations, *or both orders are of 100,000 shares or more, and one side of the proposed transaction is, in whole or any part thereof, for the account of a member or member organization that is facilitating a customer,* the member may ''cross'' those orders at a price at or within the prevailing quotation. The member's bid or offer shall be entitled to priority at such cross price, irrespective of pre-existing bids or offers at that price. The member shall follow the crossing procedures of Rule 76, and another member may trade with either the bid or offer side of the cross transaction only to provide a price which is better than the cross price as to all or part of such bid or offer. A member who is providing a better price to one side of the cross transaction must trade with all other market interest having priority at that price before trading with any part of the cross transaction. No member may break up the proposed cross transaction, in whole or in part, at the cross price. *No specialist may effect a proprietary transaction to provide price improvement to one side or the other of a cross transaction effected pursuant to this paragraph.* A transaction effected at the cross price is reliance on this paragraph shall be printed as ''stopped stock''.

When a member effects a transaction under the provisions of this paragraph, the member shall, as soon as practicable after the trade is completed, complete such documentation of the trade as the Exchange may from time to time require.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

A member who has an order to buy and an order to sell an equivalent amount of the same security generally executes the orders against each other in what is commonly referred to as a ''cross'' transaction. In executing the cross, the member must make a public bid and offer on behalf of both sides of the cross in accordance with the provisions of Exchange Rule 76. A member who tries to execute a cross transaction in this manner may run the risk that other members may ''break up'' the proposed cross by trading with either the bid or offer side of the transaction as permitted under auction market procedures as codified in Exchange Rule 72.

In 1992, the Commission approved an amendment to Exchange Rule 72 to permit a member to execute certain types of cross transactions that are not

subject to ''break up'' at the cross price.[3] Rule (b) currently provides priority to agency crosses of 25,000 shares or more, at or within the prevailing quotation, where neither side of the cross is an order for the account of a member or member organization. Such crosses may, however, be broken up at a price that is better than the proposal cross price for one side or the other.

In certain circumstances where a customer of a member organization has a large size order, a member organization may look to facilitate the execution of the transaction at a single price by participating in whole or in part on the other side of the trade. To address these situations, the Exchange believes it is appropriate to amend Rule 72(b) to provide that a cross of 100,000 shares or more may be executed ''clean'' at the cross price if the member or member organization is facilitating a customer order in whole or in part. This will make it easier for member organizations and their customers to execute large size trades at a single price on the Exchange, where it is the desire of the trading parties to have these executions ''clean'' at the cross price. Such trades would not be subject to being broken up at the cross price, but would still be eligible for price improvement as currently provided for under Rule 72(b). The Exchange believes that this proposal addresses perceptions that because of decimal trading large cross transactions are at risk of being broken up at the cross price with the result that such transactions may not be brought to the Exchange in the first instance and exposed for possible price improvement. The Exchange believes that the 100,000-share minimum size requirement addresses the need for member organizations and their customers to execute large cross transactions promptly and efficiently, while ensuring that pre-existing market interest at the cross price would be displaced only where the transaction is of a very significant size. The Exchange proposes to operate this amendment as a pilot to run six months after approval by the Commission in order to ascertain what impact it may have on the Exchange's market.

The Exchange also believes it is appropriate, particularly in a decimal environment, to amend Rule 72(b) to provide that a specialist may not effect a proprietary transaction to provide price improvement to one side of a clean cross or the other. The Exchange understands that there may be a perception that specialists can break up a proposed cross transaction by trading for their own account at a minimally improved price, and, thereby, step ahead of a public customer on the other side of the cross. The proposed amendment will preserve the auction market principle of price improvement since non-proprietary interest of specialists and particular Floor brokers in the market may offer price improvement at any minimum variation. This amendment would not be a pilot but is filed for permanent effectiveness.

2. Statutory Basis

The Exchange believes the proposal is consistent with the requirement under Section 6(b)(5)[4] of the Act that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change strikes a reasonable balance between the ability of members and member organizations to execute cross transactions and the ability of other public market participants to offer price improvement.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filled with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2001–18 and should be submitted by November 27, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–27790 Filed 11–5–01; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 31343 (October 21, 1992) 57 FR 48645 (October 27, 1992)(SR–NYSE–90–39).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30.–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America: Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Thursday, November 29, 2001. The meeting begins at 2 p.m. The letter designations that follow each item mean the following: (I) Is an information item; (A) is an action item; (D) is a discussion item. The session includes the following items: (1) Welcome & Introductions (I); (2) Antitrust Statements (I);(3) Approval of 10-year National ITS Program Plan as

Program Advice to the U.S. Department of Transportation; (4) Adjournment.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on Thursday, November 29, 2001 at 2 p.m. at the ITS America Offices.

ADDRESSES: 400 Virginia Avenue, SW., Suite 800, Washington, DC 20024–2730. Phone: (202) 484–4847, Fax (202) 484–3483.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS AMERICA by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: October 31, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office, Department of Transportation.

[FR Doc. 01–27871 Filed 11–5–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP00–008

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency commence an investigation into an alleged defect in the water pump in model year (MY) 1994–1998 Saab 900S motor vehicles.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Russert, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–1869.

SUPPLEMENTARY INFORMATION: On September 18, 2000, Mr. Avery B. Goodman submitted a petition requesting NHTSA to open an investigation into an alleged defect in MY 1994–1998 Saab 900S vehicles. In April 1997, Saab Automotive AB (Saab) had issued Customer Satisfaction Campaign 10445, which referred to the replacement of the water pumps in MY 1994–1996 Saab 900 vehicles with four-cylinder engines. Saab stated that load variations in the belt circuit could cause the water pump pulley to crack at the hub center, subsequently causing the drive belt to jump off the pulley. In the event of a failure, there would be a loss of belt tension, causing loss of power steering, as well as other belt driven functions. The petitioner alleged a safety-related defect in his MY 1994 Saab 900, stating that the water pump pulley broke off at the weld to the pulley shaft. The petitioner was concerned that the water pump pulley failure resulted in the loss of power steering, air conditioning, and engine cooling systems.

The MY 1994 Saab 900 was a new vehicle design (with the exception of the convertible, which carried over the previous generation design until the 1995 model year). Engine positioning was changed, and a new accessory drive design was implemented. The new drive design featured a water pump with the drive belt pulley welded onto the pump shaft. In December 1994, Saab became aware of problems with cracking of the water pump pulley and subsequent loss of drive power to the air conditioning compressor, alternator, and power steering pump through warranty claim data.

Upon analysis, Saab discovered weld fatigue cracks at the water pump/pulley junction. Saab determined that the root cause was the center of the drive belt not being aligned with the center of the water pump pulley attachment. This induced rotational bending of the pulley at the weld joint to the water pump shaft, in line with applied drive belt load. Continual bending as the pulley rotated under normal engine drive conditions subsequently caused fatigue cracks in the weld.

Cracking of the water pump pulley center hub can result in the pulley separating from the water pump shaft, causing the drive belt to jump off of the pulley, and subsequently cause loss of drive belt tension. Loss of belt tension would cause a loss of power drive to the following components: Air conditioning compressor, engine water coolant pump, alternator, and power steering pump

Testing of a bolted pulley demonstrated the added strength of the bolted pulley design and no signs or potential for fatigue cracking. The bolted pulley design was implemented into vehicle production early in MY 1996 and Saab subsequently decided to implement Customer Satisfaction Campaign 10445 worldwide. Under that campaign, dealers were to inspect the water pump belt pulley. If there was no yellow identification mark, indicating that a newly designed water pump had been installed, and the pulley was not attached to the pump by bolts, dealers were to replace the pump.

There have been 4 complaints (including that of the petitioner) to NHTSA of problems with the power steering assist, water pump, water pump pulley, or similar concerns on MY 1994–1996 Saab 900 vehicles. One occurred on a new MY 1995 vehicle, the other three, including the petitioner's, occurred on MY 1994 vehicles in 1999. Saab reported an additional 5 complaints (Saab had a total of 8 complaints, but 3 duplicated ODI complaints) of similar water pump pulley failures on MY 1994–1996 vehicles since the initiation of Campaign 10445. There have been no reports of problems with the power steering assist, water pump, water pump pulley, or similar concerns on MY 1996, 1997 and 1998 Saab 900 vehicles.

If the pulley fails, engine cooling, power steering assist, generator charging ability, and the air conditioning would all fail. The petitioner expressed concern with the loss of power steering and alleged he had difficulty controlling his vehicle on the freeway. Although he did not mention his speed, he said he was slowing and attempting to exit the freeway. In a study conducted by Saab in October 1993, unrelated to this petition, loss of power steering assistance was analyzed to determine what effect it could have on a driver's ability to maintain steering control. Saab concluded that without the variable power assist, subject vehicles could be controlled safely at highway speeds. The agency's experience supports Saab's conclusion that vehicles can be controlled at highway speeds despite a loss of power steering. With a loss of power steering at low speeds, it is still possible to complete a turn or a parking maneuver, although it typically takes more effort on the part of the driver to turn the steering wheel. While slowly

turning a corner, or parking, loss of power steering does not pose a significant risk to traffic safety. The loss of drive to the generator prevents the vehicle's battery from being charged, but is a progressive loss of battery power and does not represent a safety concern. Loss of engine cooling could cause the vehicle to overheat, typically resulting in coolant overflow at the radiator or a burst cooling system hose, however, there have been no reports of such incidences. Air conditioning is an auxiliary function, the loss of which does not affect the safe operation of the vehicle.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of the alleged safety-related defect as defined by the petitioner in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: November 1, 2001.

Kathleen C. DeMeter,

Director, Office of Defects Investigation, Safety Assurance.

[FR Doc. 01–27869 Filed 11–5–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10053–Notice 1]

Safety Rating Program for Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice, request for comments.

SUMMARY: Section 14(g) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act requires that, by November 2001, a notice be issued to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraint systems (CRS).

In response to this mandate, NHTSA has reviewed existing rating systems that other countries and organizations have developed, and conducted its own performance testing to explore a possible rating system for child restraints. The agency has tentatively concluded that the most effective consumer information system is one that gives the consumer a combination of information about child restraints' ease of use and dynamic performance, with the dynamic performance obtained through higher-speed sled testing and/or in-vehicle NCAP testing. The agency is also giving consideration to conducting *both* higher-speed sled tests and in-vehicle NCAP testing in conjunction with the Ease of use rating. This document provides a review of the information and reasoning used by the agency to reach that conclusion, describes the rating systems planned to meet the TREAD requirements, and seeks comment on this plan.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than Janaury 7, 2002.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For issues related to a performance rating, you may call Brian Park of the New Car Assessment Program (NPS–10) at 202–366–6012.

For issues related to a compatibility/ease of use rating, you may call Lori Miller of the Office of Traffic Safety Programs (NTS–12) at 202–366–9835.

You may send mail to both officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

I. Overview
II. 2000 Public Meeting and Draft Child Restraint Systems Safety Plan
A. 2000 Public Meeting
B. 2000 Child Restraint Systems Safety Plan
C. Public Comments About Child Restraint Ratings
III. CRS Dynamic Performance Rating Programs
A. Existing Programs for Rating Dynamic Performance of CRS
1. Consumer's Union
2. Japanese NCAP
3. Australian CREP
B. Existing Programs for Rating Dynamic Performance of Vehicles Equipped with CRS
1. Euro NCAP
2. Australia
C. CRS Dynamic Testing by IIHS
D. CRS Dynamic Testing within NHTSA
1. CRS Performance in FMVSS No. 213 Sled Testing
a. Advantages
b. Disadvantages
2. CRS Performance in Higher-speed Sled Testing
a. Advantages
b. Disadvantages
3. CRS Performance in NCAP Frontal Vehicle Testing
a. Advantages
b. Disadvantages
IV. Child Restraint Ease of Use Rating
A. Child Passenger Safety Selection, Use, and Installation Website
B. Summary of Existing Ratings for Ease of Use
1. Australia
2. Consumer's Union
3. Euro NCAP
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I. Overview

Congress has directed the National Highway Traffic Safety Administration (NHTSA) to develop a child restraint safety rating system that is practicable and understandable (Section 14 (g) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, November 1, 2000, Pub.L. 106–414, 114 Stat. 1800) and that will help consumers to make informed decisions when purchasing child restraints. Section 14(g) reads as follows:

(g) Child restraint safety rating program. No later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a notice of proposed rulemaking to establish a child restraint safety rating consumer information program to provide practicable, readily understandable, and timely information to consumers for use in making informed decisions in the purchase of child restraints. No later than 24 months after the date of the enactment of this Act the Secretary shall issue a final rule establishing a child restraint

safety rating program and providing other consumer information which the Secretary determines would be useful (to) consumers who purchase child restraint systems.

In response to this mandate, the agency reviewed presentations given at a public meeting in February 2000, and comments submitted in response to a notice announcing a draft Child Restraint Systems Safety Plan. The agency also examined other existing and proposed child restraint programs. Four options that emerged were: (1) A rating based on Federal Motor Vehicle Safety Standard (FMVSS) No. 213 compliance tests (sled tests), (2) a rating based on higher-speed sled testing, (3) a rating based on in-vehicle testing, and (4) a rating based on ease of use. The agency then further explored each option to determine if it would generate information that is practicable, repeatable, and appropriate.

After considering the various options, NHTSA has tentatively concluded that the most effective consumer information system is one that gives the consumer a combination of information about child restraints' ease of use and dynamic performance, with the dynamic performance obtained through higher-speed sled testing and/or in-vehicle NCAP testing. The agency is also giving consideration to conducting *both* higher-speed sled tests and in-vehicle NCAP testing in conjunction with the ease of use rating.

This notice is arranged as follows. First, the notice will discuss the February 2000 public meeting and the draft Child Restraint Systems Safety Plan, and the comments received from the public. Second, the notice will discuss other existing and proposed performance ratings, the research NHTSA has done, and NHTSA's current plan for rating child restraint performance. Third, the notice will discuss other existing and proposed ratings based on compatibility and/or ease of use, and NHTSA's current plan for rating child restraint ease of use. Fourth, the notice will discuss why NHTSA is not planning a summary rating for child restraints. Last, the notice will briefly discuss how NHTSA plans to distribute child restraint ratings to the public.

II. 2000 Public Meeting and Draft Child Restraint Systems Safety Plan

A. 2000 Public Meeting

On February 9, 2000, NHTSA conducted a public meeting in Washington, DC, to discuss the safety performance of child restraint systems and options for giving consumers information on the safety performance of different child restraints (65 FR 1224, January 7, 2000, Docket No. NHTSA–2000–6628). The announced topics were voluntary standards, strategies for enhancing compliance margins, improved labeling, and possible ways of rating child restraint performance.

B. 2000 Child Restraint Systems Safety Plan

On November 27, 2000, NHTSA published a notice requesting comments on a draft Child Restraint System Safety Plan (65 FR 70687, Docket No. NHTSA–2000–7938). The overall goal of NHTSA's Child Restraint Systems Safety Plan was to reduce fatalities and reduce injuries to U.S. children aged 0–10 years who are involved in crashes. To realize this goal, the plan employed three key strategies: encourage correct use of child restraints for all children, ensure that child restraints provide optimal protection, and give consumers useful information about restraining their child.

C. Public Comments About Child Restraint Ratings

Several presenters at the public meeting and commenters to the plan addressed the idea of a performance rating based on compliance margins. The concept of compliance margins is based on Federal Motor Vehicle Safety Standard (FMVSS) No. 213, Child Restraint Systems (49 CFR 571.213). Under this concept, child restraints would be ranked according to how large a margin they passed the standard's performance criteria. The larger the margin that the child restraint passed the standard by, the higher the child restraint would be ranked. A Maryland Child Safety Technician suggested the use of compliance tests to develop ratings, citing sufficient differences in crash test results. However, he voiced concerns whether such a rating system could address the issue of vehicle compatibility.

Other commenters opposed the development of a CRS rating based on the compliance margin. Juvenile Products Manufacturers Association, Inc. (JPMA) stated that, ''while the current FMVSS No. 213 standard provides an exceptional rating system (essentially an easily-understood pass-fail), the industry would certainly consider some other type of performance rating system.'' However, JPMA noted that with so many variables, it is likely that a rating system may have a potentially negative effect rather than a positive one. JPMA thought it appropriate also to mention that ''the current dynamic standard, FMVSS No. 213, is more severe than about 95 percent of all crashes, and the historical performance of PROPERLY USED car seats both in testing and in the field is exceptional, better even than seat belts.'' [1] Ford Motor Company and other child safety experts suggested that the agency consider having a rating system only after revising FMVSS No. 213. They stated that the current standard sled pulse is too severe and the test protocol is outdated. These commenters recommended that the revised standard should reflect the current child passenger environment.[2]

Commenters addressed the idea of including child restraints in frontal New Car Assessment Program (NCAP) tests. Evenflo supports the addition of child restraints to NCAP tests. The company believes that because the performance requirements of FMVSS No. 213 are so demanding, all child restraints passing such a standard deserve a high rating. Evenflo believes that distinguishing safety performance between child restraints that pass FMVSS No. 213 is difficult. The company also feels that the addition of child restraints to NCAP tests will allow for an evaluation of how well the child restraint system works with the vehicles.[3] ARCCA, Inc., favors the incorporation of child restraints into NCAP tests. ARCCA stated that, NCAP tests more closely replicate real world conditions than the FMVSS No. 213 compliance tests. In addition, the incorporation of child restraints into the program would maximize its benefits.

Both Partners for Child Passenger Safety [4] and Graco Children's Products [5] oppose adding child restraint systems to NCAP crash tests. These organizations believe that the performance of child restraints in NCAP tests may be characteristic of the child restraint, the vehicle, or the restraint/vehicle interaction. This poses questions as to the significance of the results of such tests. Ford agrees with these comments, adding that vehicle/CRS interface factors and various vehicle crash pulses obscure the results of child restraint performance in NCAP tests.[6]

Consumers and consumer advocates almost universally expressed the opinion that any child restraint rating

[1] Robert Waller, Jr., Juvenile Products Manufacturers Association, Inc., Docket 6628.

[2] Comments on Child Restraint System Ratings, Ford Motor Company, Docket 7938.

[3] Evenflo Company, Inc., Randy Kiser, Docket 7938.

[4] Partners for Child Passenger Safety, Flaura K. Winston, MD, PhD, Dennis R. Durbin, MD, MSCE, Kristy Arbogast, PhD, Shannon D. Morris, Docket 7938.

[5] Graco Children's Products, Steve Gerhart, David E. Campbell, Docket 7938.

[6] Comments on Child Restraint System Ratings, Ford Motor Company, Docket 7938.

should include factors for compatibility with various vehicles and ease of use. These commenters noted that a good performance rating would be meaningless if the child restraint was not compatible with the consumer's vehicle or was difficult to use properly.

The Insurance Corporation of British Columbia (ICBC) claimed that high misuse rates of child restraints are a common finding. Children aged 3 years and older are restrained, most often, only in adult seat belts. To compensate for misuse, ICBC recommended that the NHTSA establish an ease of use rating.[7] Evenflo also feels that the most problematic area, the area in which improvement would have the greatest positive impact, is in the nonuse and misuse of child restraints.[8] The Automotive Coalition for Traffic Safety (ACTS) agreed, and stated that the dynamic performance of child restraints should not be a big issue. ACTS further suggested, however, that the recent addition of the top tether should reduce misuse. The University of North Carolina (UNC) Highway Safety Research was also a proponent of an ease of use rating. They stated that the crash test performance of child restraints is only part of the information that should be incorporated into a rating system. Safety Belt Safe concurred, mentioning that even top-rated systems are difficult to use. They stated that child restraint ratings should be based on real-world conditions and behavior, not solely on crash tests. Graco Children's Products, Inc. also asked that a rating system be based on more than simply crash performance. They suggested that other factors such as labeling and instruction clarity, ease of installation and vehicle compatibility, fit of child, and ease of use, be included.

One manufacturer expressed concern about starting an ease of use rating system. The manufacturer asked what type of person would do the evaluating. This manufacturer believed that it would be a good idea to have inexperienced people conduct the evaluation of child restraint systems. The manufacturer suggested using the same people gives consistency in test methodology. This commenter thought the agency might have difficulty getting the same people always. The child restraint manufacturers also believed that a rating system would drive the child restraint manufacturers to improve their products and provide more ease of use features.

NHTSA met with two manufacturers of child restraints, Britax and Evenflo. These two manufacturers both stated that the seats with higher cost are the restraints with more advanced features which are likely to be ease of use features. Both manufacturers described how a child restraint rating system might affect the retail market. They believed that the retail buyers would limit their purchases of child restraints to those with high ratings. Consequently, the agency might drive the retail market to the seats with the higher prices.

III. CRS Dynamic Performance Rating Programs

A. Existing Programs for Rating Dynamic Performance of CRS

1. Consumer's Union

The July 2001 issue of Consumer Reports was the Consumer's Union's most recent report on child restraints.[9] They gave a rating for the dynamic performance of each child restraint, which is part of the overall rating given to child restraints. This overall rating is the averaged score of dynamic performance, ease of use, installation, and stroller use. The installation score is determined by how securely a child restraint can be installed in three different cars with different seats and safety-belt types. Ease of use evaluates how difficult it is to adjust the straps and the harness. A stroller score is also given to applicable child restraints. This score is based on the safety, convenience, and the durability of the child restraint and stroller. The dynamic score was determined from a sled test representing a 30 mph (48 km/h) frontal crash. The seats were tested using dummies that approximate an infant, 3-year-old toddler, and 6-year-old child. Head Injury Criterion (HIC), chest G, head excursion, and knee excursion were compared with the injury criteria established by NHTSA to determine the dynamic performance rating.[10] A six-category range was used to rate child restraints based on the dummy measurements. The six categories were: Not Acceptable, Poor, Fair, Good, Very Good, and Excellent.

The child restraints of the 2001 survey were tested both with and without the top tether. The results from this study showed that all but one child restraint provided better protection while using the top tether in frontal crashes.

2. Japanese NCAP

The Ministry of Land, Infrastructure, and Transport (MLIT) in Japan recently announced a proposal to rate child restraint systems. MLIT is asking for comments at this time. Japanese NCAP proposes to evaluate baby seats (rear-facing) and infant seats (forward-facing or convertible). They do not plan to test bed-type-seats or booster seats. Nine-month-old and three-year-old child dummies will be used for the evaluation.

Child restraints will be tested in frontal sled tests. Child restraints will be tested using the ECE Reg. 44 crash pulse at 35 mph (56 km/h) in a Toyota Estima (similar to the Sienna in the U.S.) sled buck. A rating system will comprise the dummy readings, the level of physical damage, release of CRS anchorage, and dummy kinematics. A four-tier rating system will be used: Excellent, Good, Acceptable, and Not Recommended.

3. Australian CREP

The Child Restraint Evaluation Program (CREP) is a joint program run by many of the same groups as Australian New Car Assessment Program (ANCAP). CREP tests child restraints in dynamic sled tests with a top tether, which is required in Australia. Two frontal crashes are simulated at 49 and 56 km/h (30 and 35 mph). Side and rear crashes are simulated at 32 km/h (20 mph). CREP conducts another test at the same speed, but with the CRS positioned at a 45° angle relative to the sled. One additional dynamic test is done to rear-facing and convertible child restraints only. This is an inverted test conducted at 16 km/h (10 mph) to simulate a rollover.

CREP gives a rating, incorporating both the dynamic test results and ease of correct use results. They report these ratings as either preferred buy or standards approved. The preferred buy seats did well in the dynamic tests and the ease of correct use tests. The standards approved rating is given to seats that passed the 49 km/h (30 mph) test, but had excessive head movement or broke a load-bearing component during the 56 km/h (35 mph) test.[11]

[7] Identification and Publication of Relative Performance of Different Child Restraint Systems, Insurance Corporation British Columbia, Betty Brown, Docket 6628.

[8] Evenflo Company Inc., Randy Kiser, Docket Number: 7938.

[9] Consumer Reports, Traveling With Kids, July 2001.

[10] Pittle, Greenberg, Galeotafiore, Champion, Comments of Consumer Union to the National Highway Traffic Safety Administration on the Child Restraint System Plan, Docket Number: NHTSA–7938, 2001.

[11] www.nrma.com.au, July 23, 2001.

B. Existing Programs for Rating Dynamic Performance of Vehicles Equipped With CRS

1. Euro NCAP

The European New Car Assessment Program evaluates the safety of children in vehicle crash testing. The subject vehicle's manufacturer provides a recommendation for which child restraints are to be used during the tests. The Europeans install child restraints in vehicles and subject them to offset frontal and side impact tests. In the offset frontal testing, two child crash dummies are placed in the back of the test vehicle. The two types of child dummies used in the test are a 3-year-old P dummy and an 18-month-old infant P dummy. Both dummies are placed in the appropriate CRS, either forward-facing or rear-facing, designated for their ages. For the side impact test, the dummies are secured in the same model child restraint used for the offset frontal crash test.

Euro NCAP evaluates dummy kinematics. In addition, technicians evaluate ease of use, ease of installation in the vehicle, and how securely they can install the CRS. Currently, Euro NCAP does vehicle tests for child restraints without using a top tether. Euro NCAP gives points based on the dynamic performance of the child dummies during the full-scale crash tests. These points are subject to modifiers that will reduce the points earned. Such modifiers include penalties for ejection, poor seat labeling, and vehicle incompatibilities. A total of four points is possible for the child scores. These points are added to the overall total, which is used to determine the vehicle's star rating. However, if any anomaly leads to a dangerous event (e.g., if the child seat breaks or if a belt becomes unlatched), Euro NCAP notes the event to consumers in their publications and web site.[12]

2. Australia

The Australian New Car Assessment Program (ANCAP) harmonized its testing procedures with Euro NCAP in 1999. Therefore, in accordance with the Euro NCAP procedures, ANCAP does both an offset frontal crash at 64 km/h (40 mph) and a side impact test at 50 km/h (31 mph). Two child restraints are placed in the rear seat of each vehicle. TNO P1.5 (18-month) and P3 (3-year-old) dummies are used to assess injury. ANCAP plans to rate the dynamic performance of child restraints in vehicle tests, however, the rating protocol will likely be different from that published by Euro NCAP.

C. CRS Dynamic Testing by IIHS

The Insurance Institute for Highway Safety (IIHS) currently does not rate child restraints. However, IIHS recently did several vehicle frontal crash tests that included child restraints. Vehicle velocities in these car-to-car tests were 48 km/h (30 mph), and vehicle frontal engagement ranged from 49% to 89%. Dummies used in the testing were the 6-month-old Infant CRABI, the 12-month-old CRABI, and the 3-year-old Hybrid III.

IIHS evaluated the dummy results for the 6-month-old CRABI, the 12-month-old Infant CRABI, and the 3-year-old Hybrid III. They used the corresponding reference values specified in the May 12th, 2000 **Federal Register** notice for FMVSS No. 208.[13] The results for the 6-month-old CRABI and the 12-month-old CRABI were all well below the allowable limits. The results for the 3-year-old Hybrid III dummy showed all injury readings were less than the reference values except for neck tension. IIHS suggested that these results mean the current neck tension criterion overestimates the possibility of an AIS[14] ≥ 3 injury.[15]

D. NHTSA CRS Dynamic Testing

In response to the TREAD Act, NHTSA examined three dynamic test methods for rating child restraint systems. The first dynamic option was a sled test at 30 mph (48 km/h). This option would use the results of the FMVSS No. 213 compliance testing to determine a rating. Two possible rating schemes could be used to rate or rank the child restraint dynamic performance. One possible rating scheme would be based on the compliance margins with which a dummy met the limits of the standard on HIC, chest acceleration, head excursion, and knee excursion. A second rating scheme would use the injury risk curves that NCAP uses to rate adult occupant protection in a frontal crash. Scaling these curves to represent a 3-year-old child would produce a five-star classification system. The probability of injury for the 3-year-old child is as follows:

$$P_{head} = [1+\exp(5.02 - 0.00431*HIC)]^{-1}$$

$$P_{chest} = [1+\exp(5.55 - 0.0756*ChestG)]^{-1}$$

A second dynamic testing option examined was a high-speed sled test at 35 mph (56 km/h). This test method would be similar to the current FMVSS No. 213 compliance test; however, the sled acceleration pulse would have a greater magnitude to increase the speed to 35 mph (56 km/h). A third dynamic testing option considered was a full-scale crash test. This approach would add a child restraint in the rear seat of a vehicle when it is tested for frontal NCAP, and rate the vehicle on how well the CRS and vehicle work together to protect the child. These last two options would also use the scaled injury risk curves for a rating.

Each of the next three sections describes the testing conducted by the agency to assess each of the proposed options. The summaries review the trends of child restraint system (CRS) responses in the Federal Motor Vehicle Safety Standard (FMVSS) No. 213 sled testing, higher-speed sled testing, and frontal NCAP in-vehicle testing.

1. CRS Performance in FMVSS No. 213 Sled Testing

As specified in Standard No. 213, 49 CFR § 571.213, the agency does compliance testing of child restraints on a sled buck at a nominal speed of 30 mph (48 km/h). Currently, a Hybrid II dummy is used in testing to represent a 3-year-old child.

In model year 2000, the agency tested 50 upright, forward-facing child restraints according to FMVSS No. 213. Twenty-four seats were tested without a top tether, and 26 seats were tested with a top tether. We restrained all seats with only a lap belt (no lower anchorage or shoulder belt). The pertinent test results are tabulated in the Appendix, Table A2.

Currently, to pass the FMVSS No. 213 compliance test, a child restraint must achieve dummy injury numbers of a Head Injury Criterion (HIC) less than 1,000 and a resultant chest acceleration of less than 60 G's. For the compliance tests, HIC is calculated using an unlimited period and chest acceleration uses a 3 ms clip. As shown in Figure 1, regardless of whether we equipped the child restraints with a top tether, all child restraints achieved dummy injury readings below the maximum allowable values. Figures 2 & 3 illustrate the margin of compliance for HIC and chest acceleration, respectively. The margin of compliance is one minus the measured injury reading divided by the injury assessment reference value (IARV) times 100. Higher percentages are better, having less probability of injury. Regarding the HIC, all model year 2000

[12] *http://www.euroncap.com/results.htm,* August 23, 2001.

[13] Notice for FMVSS No. 208, Federal Register, Vol. 65, No. 93, page 30680, May 12, 2000.

[14] Association for the Advancement of Automotive Medicine, *The Abbreviated Injury Scale,* Des Plaines, 1990.

[15] Susan Meyerson & Adrian Lund, Insurance Institute for Highway Safety, ''Child Restraint Durability in High-Speed Crashes,'' 2001 SAE conference, SAE2001–01–0123.

child restraints tested easily fall within the limits specified by the FMVSS No. 213 compliance tests. Most had a compliance margin of more than 50%. Although the margin is not as large for chest acceleration, all tested child restraints passed this compliance requirement as well.

FMVSS. No. 213 also has a requirement for head and knee excursion. Head excursion is limited to 720 mm (28 in) when a top tether is used, and 813 mm (32 in) without use of a top tether. Knee excursion is limited to 915 mm (36 in). Figures 4 & 5 illustrate the margin of compliance for head excursion and knee excursion, respectively. Head and knee excursion limits are compliance limits imposed to reduce the chances of a child striking the vehicle interior or submarining (sliding under the belt feet first) in an automotive crash. Head and knee excursions are much closer to the compliance limits than HIC and chest acceleration. (This may reflect attention to occupant protection, since increases in distance traveled by the occupant reduces the forces experienced by the occupant.)

To further investigate the possibility of using FMVSS No. 213 compliance testing to rate child restraints, NHTSA performed additional sled tests to gather child restraint protection data. These sled tests were performed in accordance with the specifications outlined in FMVSS No. 213 compliance tests, with two exceptions. The three-year-old Hybrid III dummy was used to assess injury rather than the Hybrid II dummy. Also, the current compliance test secures child seats in two configurations, lap belt only and lap belt with top tether. These additional sled tests secured the child seat with the lap/shoulder belt and tether. One child restraint tested was secured with LATCH.[16]

Nine child restraints were tested. Figure 6 shows the individual plots of chest acceleration versus HIC. Injury risk curves are also plotted, and illustrate that eight of the nine child restraints would receive a 5 star rating, while the other one would be borderline 5 star/4 star.

[16] ''LATCH'' is a term used by industry and retail groups referring to the child restraint anchorage system required by Federal Motor Vehicle Safety Standard No. 225. LATCH stands for ''Lower Anchorages and Tethers for Children.'' The term is used to refer to vehicles equipped with the anchorage system (e.g., ''LATCH vehicles'') and to child restraints equipped with attachments that connect to the anchorage system (e.g., ''restrained with LATCH,'' or ''LATCH child restraints''). For convenience, we will use the term in this notice.

Advantages and Disadvantages of a Rating System Based on FMVSS No. 213 Compliance Testing

a. Advantages

—Ratings for most child restraint systems could be implemented quickly and inexpensively using Hybrid II results now obtained in Standard No. 213 compliance testing.
—The compliance testing is a simple pass and fail rating system. Carrying out a rating based on the margin of compliance is straightforward. The performances of child restraints could be used as a rating system.
—The rating system based on sled testing subjects all child restraints to the same impulse loading, so child restraint performance is assessed with little or no influence of outside variables.

b. Disadvantages

—FMVSS No. 213 is currently under revision. Ford Motor Company and others suggest that the agency consider delaying the child restraint safety rating until after the revision of FMVSS No. 213.
—A rating based on dynamic sled testing does not take into account the compatibility between child restraints and vehicles. Many people believe that a child restraint and a subject vehicle must be evaluated as a system to effectively assess child safety protection.
—To the extent that current child restraints all exceed the standard by a wide margin, as in the case for HIC, the compliance margin may not meaningfully distinguish among child restraints. For example, if we use the star rating system, nearly every child restraint would get 5 stars. If we use the percentage of compliance margin, should we tell the public a child restraint with a 60% margin is safer than one with a 55% margin? Also, it would be difficult to explain to the public which compliance margin (i.e., HIC, chest acceleration, excursions) is more important to safety.

2. CRS Performance in Higher-speed Sled Testing

Some commenters suggested that the agency should consider having a child restraint rating based on sled tests at a higher speed (35 mph) than the compliance testing (30 mph). As NCAP currently tests motor vehicles at 5 mph (8km/h) above the compliance tests, the same reasoning could be applied to the sled testing of child restraints. (It was also recommended that the rating system use a realistic vehicle pulse and a vehicle seat as part of the test condition.) To determine the viability of developing an effective rating system as a consumer program for child restraint testing, the agency has conducted higher-speed sled testing.

NHTSA conducted higher-speed sled tests using the same nine child restraints as in the previous section. The same FMVSS No. 213 test procedure was used with Hybrid III three-year-old dummies. To attain the higher speed, a sled pulse with a similar shape and duration length as that of the 213 pulse was used, except that the change-of-velocity was elevated from 30 mph (48km/h) to 35 mph (56km/h).

All of the child restraints tested produced dummy injury measurements well below the FMVSS No. 208 criteria of 570 HIC and 55g chest acceleration. Figure 7 shows the results plotted with the NCAP injury risk curves. Although the injury assessment values are slightly greater for the 35 MPH (56 km/h) sled tests than the 30 mph (48 km/h) sled test (shown in Figure 6), eight of the nine child seats fell within the 5 star range, and one fell just below in the 4 star range.

Advantages and Disadvantages of a Rating System Based on Higher-speed Sled Tests

a. Advantages

—Running tests at higher speeds is the same approach we have used for front and side crashworthiness ratings in NCAP, and would be expected to magnify performance differences among child restraint systems beyond that obtained in compliance testing.
—A rating based on sled performance would be consistent because all child restraints would be subjected to the same impulse loading and would be placed on the same simulated seat.

b. Disadvantages

—A rating based on a higher sled test speed would again not take into account compatibility between child restraints and vehicles. Many people believe that a child restraint and a subject vehicle must be evaluated as a system to effectively assess child safety protection.
—A higher test speed with the Standard No. 213 crash pulse may be so severe that the information would not be a helpful indicator of expected CRS performance in the majority of real-world crashes.
—Based on tests with nine child seats, the higher test speed may not sufficiently ''spread out'' the performance differences to allow NHTSA to provide meaningful information to the public.

3. CRS Performance in NCAP Frontal Vehicle Testing

The agency evaluates vehicle crashworthiness in frontal and side impact under the New Car Assessment Program (NCAP). Under this program, the agency conducts approximately 40 frontal and 40 side crash tests each year. For the frontal crash, the agency does these tests with two 50th percentile adult male dummies in the front seat. Historically, NCAP does not put any occupants in the rear seats of the vehicles. However, because there is room in the rear seats of most vehicles, it has been suggested that NHTSA add child restraints to the rear of NCAP frontal crash tests.

NHTSA has evaluated child restraints in frontal crash tests conducted under the New Car Assessment Program. In model year (MY) 2001 testing, NCAP used various child restraints in the rear seats of vehicles undergoing frontal NCAP crash tests. Child restraints were placed in a total of twenty NCAP vehicles, varying in type and size. The agency evaluated performances of six different five-point-harness forward-facing child restraints. The evaluation assessed (1) the variability of CRS performance in various vehicle types and sizes, (2) CRS/vehicle interaction, and (3) performance among different child restraints. CRS performance in the NCAP vehicle tests is shown in Table A1 in the Appendix.

In each vehicle tested, the subject child restraint was secured tightly, and as prescribed by the child restraint manufacturer's instructions. In addition, all child restraints, whether secured with LATCH or secured with a lap/shoulder belt, used a top tether. A Hybrid III three-year-old dummy was used to assess performance. All testing used the full instrumentation package available for the child dummy. The injury assessment reference values for FMVSS No. 208 were used to evaluate the results.

Figure 8 shows the overall child dummy performance concerning the Head Injury Criterion (HIC 15) and resultant chest acceleration, plotted with the NCAP injury probability curves scaled for the three-year-old. The performance is shown for child restraints with LATCH or with a belt restrained CRS with a top tether. As shown, many (38.7%) dummy readings exceeded the allowable injury criterion for HIC 15 (570) or the allowable chest G criterion (55 G's). Using the star rating system, most vehicles would be rated with 3 or 4 stars for rear seat child occupancy protection. Five samples had injury readings low enough for a five-star rating; only one vehicle was rated with two stars. This is in contrast to driver and right passenger frontal NCAP test results which result in about 88% 4 and 5 star ratings.

All seats tested in the NCAP vehicle crash tests used five-point harnesses, while the FMVSS No. 213 tests use all types of harnesses. Figure 9 shows the model year 2000 compliance tests results for only seats with a five-point harness and lap belt only. This graph shows that the tethered seats produced lower HIC responses than those seats without a top tether. The HIC responses for both the tethered and the non-tethered seats are clustered among their respective seat types. In comparing the data in Figures 8 and 9, we may infer that the full-scale crashes produce a greater range of values for the Head Injury Criterion. One could further infer that the greater range of HIC response shown in the NCAP data of Figure 8 is due not only to the child restraint, but also due to crash variations, such as crash pulse, belt geometry (important for child restraints that use a lap/shoulder belt), seat contour, and seat cushion stiffness.

The influence of these additional factors for crash testing is shown more clearly in Figure 10. Figure 10 shows seven vehicles that underwent NCAP crashes with the Cosco Triad child restraint. As shown, the Cosco Triad did not give the same performance in these seven NCAP vehicles. HIC injury values varied from approximately 300 to 650. The performances of the Evenflo Horizon V and the Fisher Price Safe Embrace II show like trends in vehicle testing. This is shown in Figure A1 in the Appendix.

The agency has conducted this testing to address whether a specific child restraint would do the same in various NCAP vehicles. We determined that the answer is no. The agency next examined whether various child restraints would do equally well in a specific vehicle.

Figure 11 shows the relative performance of four different CRSs crashed in two different minivans. Two crash tests were conducted with each minivan, and there were two child restraints placed in the rear seat for each test. The first Grand Caravan was tested with the Century STE and Horizon V. The second time, it was crashed with the Safe Embrace II and the Horizon V. For the Ford Windstar, the first test had two Safe Embrace II child restraints in the rear seat; in the second test, Cosco Triad child restraints were used. All child restraints in each comparison were restrained with either LATCH (which includes a top tether) or a lap/shoulder belt and a top tether. Although the data are extremely limited, and there was only one CRS (Safe Embrace II) that was used in both vehicles, CRS performance appeared to be better when tested in the Ford Windstar, and may be an indication that the vehicle has an influence on child safety protection.

Figures 12 & 13 show vehicle crash pulse duration and acceleration peak versus chest acceleration. Although there is considerable scatter in the data, there appear to be slight trends, which would indicate that the vehicle's structural response could have an influence on the child restraint performance. Figure 12 suggests that, as the time duration of the crash increases, there is a reduction in chest acceleration. Figure 13 shows that, as the peak acceleration of the vehicle increases, there is a trend toward higher chest acceleration. (The agency did not find similar trends for the Head Injury Criterion.)

Based upon this limited amount of data, it appears that a child restraint tested in a vehicle with good crash pulse characteristics (i.e., longer time duration, lower peak acceleration) could perform better than the same child restraint tested in a vehicle that does not.

Further, good performance does not depend upon cost of the CRS. The agency examined the cost of child restraints (MY 2000) versus the relative performance of forward-facing child restraints tested with the three-year-old dummy in FMVSS No. 213 sled tests. Figure 14 shows no correlation between the cost of child restraints and their performance in dynamic sled testing. For the low IARV's, (HIC < 400 and chest G <40), there are CRS from all price ranges. In addition, the two CRS with the highest HIC and chest G responses were in the $100–$150 cost range (i.e., a high cost range). Therefore, the limited available data show that a CRS need not be expensive to provide good child protection.

Advantages and Disadvantages of Rating a Vehicle Equipped With a Child Restraint

Unlike the rating systems proposed for the sled tests at 30 mph (48 km/h) and 35 mph (56 km/h) which rate only the child restraint, this option would rate the vehicle equipped with a CRS as a system in protecting the child.

The following discusses the pros and cons of basing a rating system on in-vehicle testing of child restraints.

a. Advantages

—In-vehicle testing would address the interaction of the vehicle and the child restraint in overall safety

performance, since it would encourage vehicle manufacturers to take into account child restraint performance in designing vehicles.
—Using in-vehicle testing to evaluate a child restraint in the vehicle would enhance world harmonization with Euro NCAP and ANCAP.
—CRS testing can be easily incorporated into the New Car Assessment Program. The NCAP program conducts about 40 frontal crashes annually; adding child restraints to these tests could be done at a relatively low cost.

b. Disadvantages

—Such a system would provide a rating for the vehicle rather than the child restraint. Also, the consumer may mistakenly think that some child restraints may appear to have poor performance if the agency only tests them in certain vehicles, when in actuality they may perform well in other vehicles.
—To the extent that the agency only tests a child restraint in vehicles that perform well, that information may mislead the public about the protection offered by that child restraint in lesser-performing vehicles.
—This rating system would not help consumers choose a child restraint suitable for an older vehicle model.
—Adding the CRS and dummy to the NCAP vehicle would require the removal of fluids and/or vehicle components to attain the test weight, and thereby potentially influence assessment of other NCAP crash results such as fuel leakage.

IV. Child Restraint Ease of Use Rating

A. Child Passenger Safety Selection, Use, and Installation Website

In addition to implementing a child restraint rating program, NHTSA has also been mandated by Congress to consider how to provide consumer information on the physical compatibility of child restraints and vehicle seats on a model-by-model basis (Section 14(b)(4) of the TREAD Act).

In May 1995, the Blue Ribbon Panel on Child Restraint and Vehicle Compatibility made a series of recommendations including a suggestion that vehicle manufacturers create a chart illustrating which hardware and what procedures of installation were necessary to ensure proper installation of child restraints in vehicles. In the Fall of 1995, NHTSA considered this recommendation and at the time, determined that the agency would try to develop a child restraint and vehicle compatibility database and make it available on a CD–ROM to child passenger safety advocates and others who assist the public with child safety education and proper installation. It was believed that the program would allow the cross-referencing of data regarding specific child restraints considering the weight and age of the child, vehicle make, model and year choices indicating available seating locations, resulting in a list of compatible child restraints and vehicle seating and installation information. The original plan was to have a database containing child restraint installation information for 100 different 1993–1996 model year vehicles, using 35 child restraints.

Over the course of developing this database, it became apparent that collecting data on several child restraints in hundreds of vehicles, resulting in the combination of thousands of child positioning possibilities was inherently subjective, prohibitively expensive, and very labor intensive. In addition, the information that would be available to assist consumers was limited to a certain type vehicle and a certain type child restraint, which would serve only a small number of consumers. Further, the LATCH rulemaking will greatly enhance the compatibility of child restraints and vehicles, which reduces the need for a CD–ROM database. Realizing these limitations, NHTSA began to explore ways in which we could develop a service that would provide accurate and up-to-date information to consumers on how to properly select the appropriate restraint for their child, and use and install it properly. In addition, NHTSA wanted to utilize the infrastructure of trained and certified child passenger safety technicians (over 19,000 to date) throughout the country.

In March 2001, NHTSA developed and made available an internet-based service on its website, providing recommendations for the correct use of each type of child restraint to help consumers select the most appropriate child restraint system (http://www.nhtsa.dot.gov/people/injury/childps/csr2001/csrhtml/safetyFeatures.html). It provides a current listing, along with pictures, of all new child restraints available along with a list of various features available on the child restraints that may make them easier to use and install. It provides a list of model year 2001 vehicles with child restraint features, as well as vehicle owner's manual instructions for child restraint installation. In addition, this website application includes pictures of proper use and step-by-step instruction on installation. It also describes and shows common compatibility problems between vehicles and child restraints and offers solutions to obtain the best fit. This website application allows for the continual addition of current and accurate information, at minimum cost, and significantly expands public access. The site has received thousands of visits per week since its placement in March.

This application is not specific to child restraints and vehicles on a model-by-model basis, as originally intended. However, it provides guidelines for the selection of the appropriate restraint, tips for proper use and installation, and points consumers in the proper direction for installation assistance, by linking to a listing of thousands of inspection stations located throughout the country where consumers can go and have their child restraint inspected by a certified child passenger safety technician. For these reasons, and because providing the information on a model-by-model basis has proven to be limited, impracticable, and prohibitively costly, we have decided that the web-based approach is the appropriate method of providing the consumer information to the public.

B. Summary of Existing Ratings for Ease of Use

1. Australia

The New South Wales Roads and Traffic Authority (RTA) joined with the National Roads and Motorists Association (NRMA) and the Royal Automobile Club of Victoria (RACV) to conduct a joint program to assess the relative performance of child restraints available in Australia. In addition to crash testing, the program covers installation, use and compatibility with a range of vehicles. The child restraints that performed the best were given a ''preferred buy rating.'' To be awarded a ''preferred buy rating,'' a child restraint must perform well in crash tests that are more severe than the Australian Standard and perform well for ease of correct installation and ease of use.

Child restraint/vehicle compatibility is evaluated by fitting each restraint in both the rear center and rear left seats of test vehicles. The vehicles used to evaluate compatibility are the top-selling models in each of the following categories: large sedan, large station wagon, small hatchback, medium hatchback, multipurpose vehicle, and large four-wheel drive. In addition to the determination that the restraint and vehicle are compatible, the NRMA also evaluates restraints on how easy they

were to install in vehicles and how easily children could be secured in them.

2. Consumer's Union

Consumers Union (CU), a nonprofit membership organization, has been evaluating child restraints for more than 25 years. Their child restraint ratings can be found on their web site and in their publication, Consumer Reports magazine.

Consumers Union tests child restraints for crash protection, ease of use, and the ability to install properly the restraint with different seatbelts.[17] In making its judgment about ease of use the following attributes are considered:

—Threading vehicle belt through restraint,
—Adjusting harness strap position for different size children,
—Adjusting harness strap tension,
—Adjusting ''belt positioner'' on boosters,
—Placing child in the restraint and arranging the harness,
—Engaging/disengaging the harness locking mechanism,
—Ease of installation in a vehicle with and without the detachable base,
—Ease of disengaging the restraint from a detachable base,
—Carry handle comfort with a 20 pound dummy, and
—Presence of recline angle gauges or indicators and ease of using recline level adjustment.

All of the items are evaluated subjectively on a five-point scale (Excellent, Very Good, Good, Fair, and Poor). The crash protection, ease of use, and installation ratings are also combined into an overall rating.

3. Euro NCAP

In the European New Car Assessment Program, vehicle manufacturers recommend the make/model of a child restraint suitable for a 3-year-old child and a second restraint suitable for an 18-month-old infant. These restraints are then installed in the rear seat of the vehicle during the crash tests. Technicians then provide an evaluation of the ease of installation in the vehicle when setting up the test. NHTSA is not aware of any defined criteria for this evaluation. The evaluation provides information about the compatibility of some child restraint make/models with tested vehicles. In addition, if a vehicle does not have a device for deactivating a frontal protection air bag, a notation is made about the quality of the vehicle's warning about the hazards of air bags with child restraints.

[17] If an infant restraint is sold with a stroller the stroller is also evaluated.

4. ICBC

The Insurance Corporation of British Columbia (ICBC) is a public agency in Canada that was established in 1973 to provide universal auto insurance to motorists in British Columbia, Canada. In July 1999, ICBC invited members of the child restraint usability task force of ISO/TC22/SC12/WG1 (Child Restraints) to meet in Victoria, BC. The purpose of the two-day meeting was to prepare a draft document of usability criteria and objective tests for child restraint manufacturers. Consumer and insurance representatives who evaluated the ''usability'' of child restraints sold in BC subsequently used the draft document. The findings were subsequently published in an ICBC brochure called ''Buying a Better Child Restraint.''

Depending on features and type of restraint, the ICBC strategy rates some or all of the following features:

—Ready to use
—Instructions for use,
—Ease of conversion,
—Labeling on the child restraint,
—Securing the child in the restraint,
—Installation of the child restraint, and
—Tether straps

Several factors are evaluated within each feature category by the evaluators. The participants in the initial meeting rated each of these factors A, B or C according to risk and severity of misuse. The factors with the higher risks of injury if misused were rated ''A,'' while the factors with the lower risks of injury were rated ''C.'' The evaluators then rate each factor, based on agreed upon standards, either ''good,'' ''acceptable,'' or ''poor.'' This rating is then combined with the A, B, or C weighting for that factor. All of the ratings for all of the factors for a feature are combined and an overall rating for that feature is determined. The ICBC does not combine the ratings for each feature to develop an overall rating.

5. Japan

The Japanese Ministry of Land, Infrastructure and Transport, in cooperation with the National Organization for Automotive Safety & Victims' Aid, tests and evaluates the safety of automobiles currently on the market in Japan. The results of these tests are publicly released under the title New Car Assessment Japan. Japan has proposed rating child restraints as part of its New Car Assessment program in 2002.

In addition to dynamic testing, Japan has proposed rating child restraints on ease of use. Specialists would rate the restraint in five categories. These categories are the user manual and other information (i.e., ease of understanding and accuracy), illustrations and instructions on the child restraint (i.e., ease of understanding and accuracy), the safety features of the child restraint (i.e., recline device, cover, and attachment storage), ease of installation (i.e., ease of threading belts and ability to tightly install), and how well the child restraint fits into the vehicle (i.e., ease of adjustment and buckle release mechanism).

Japan proposes to rate each item within the five categories using a 5-level rating system. NHTSA was provided with a summary of the proposal translated into English, which did not indicate what criteria would be used for each category. The category rating would then be the average level of each item within that category. A graphical representation of the ratings would be presented on a ''radar chart'' with a spoke for each of the five categories.

C. Planned Child Restraint Ease of Use Rating System

1. Assessment of Existing Ease of Use Rating Systems

After analyzing all the comments and gathered information, NHTSA has tentatively decided that it appears possible to have a fair and repeatable rating for ease of use. The agency has modeled its planned approach on that used by ICBC, because ICBC uses objective criteria for what is ''good,'' ''acceptable,'' and ''poor'' for each factor rated. NHTSA is also proposing to use a weighting system for the relative importance of each feature within each ease of use category. The agency is planning to rate ease of use features in four categories as A, B, or C, with A being the highest rating and C the lowest. In addition, NHTSA is also considering taking the ICBC rating system one step further by combining these four ratings into an overall rating for ease of use using the same scale.

Almost all of the features evaluated by the other programs NHTSA examined are included in NHTSA's planned program. The difference between ICBC and the other ease of use rating systems (Australian, CU, Euro NCAP, and Japanese) was the known objective criteria for each feature in the ICBC program and the known weighting of the features within each category in the ICBC program. To the extent that a feature evaluated by another program is not included in our program, NHTSA has tentatively determined that it is not a feature related to safety when using

the child restraint in a vehicle.[18] The additional difference between our planned approach and Euro NCAP is that Euro NCAP only evaluates those seats that have been selected by vehicle manufacturers for inclusion in the crash test. NHTSA hopes to be able to evaluate all or almost all the child restraints available in the US market at the time of the evaluation.

NHTSA personnel spent a day conducting a hands-on evaluation of the ICBC rating program to determine the repeatability of the program. With the assistance of a representative of the ICBC rating program, those present were divided into two teams. Both teams evaluated the same six seats. Their scores were put in a computer program that incorporates the weighting. The personnel compared the evaluation scores. While the teams had some minor differences in ratings for features within each category, the agency task force team evaluation resulted in 100 percent repeatability for each category.

While NHTSA agrees that overall, the features selected and rated in the ICBC program are those that are most subject to misuse, analysis of each component and review of the evaluation criteria has led NHTSA to modify slightly the ICBC program. One of the reasons why changes were made was an effort to simplify the information provided to consumers. Other changes were made to reflect child restraint standards of the United States to the extent that they are different from those in Canada. Last, some modifications were also made based on information learned from the repeatability exercise. All of the changes are explained in greater detail below.[19]

2. Four Rating Categories

Depending on features and type of restraint, the ICBC strategy rates up to seven categories:

—Ready to use,
—Instructions for use,
—Ease of conversion,
—Labeling on the child restraint,
—Securing the child in the restraint,
—Installation of the child restraint, and
—Tether straps

Based upon its assessment, NHTSA is planning to rate four categories for each restraint:

—Assembly,
—Evaluation of Labels/Instructions,
—Securing the Child,
—Installation in Vehicle,

NHTSA combined labeling and instructions into one category. In NHTSA's experience, most labels and instructions are stylistically similar, and therefore any restraint is likely to have the same rating in each of these categories. In addition, ICBC has indicated and our experience also showed, that these categories are the least objective. NHTSA believes that combining them into a single category would reduce the influence they would have on a combined rating for ease of use and/or the importance a consumer would place on the individual rating. NHTSA also moved the criteria for ''Ease of Conversion'' to a ''Securing the Child'' category, since the ease of adjusting a child restraint for different size children is directly related to the ease of securing a child in the restraint. Finally, NHTSA moved ''Tether Straps'' to the ''Installation in Vehicle'' category, because there is only one criterion related to tether straps, and because this category also relates to ease of installation in a vehicle.

a. Assembly

NHTSA has decided to include the following features in the ''Assembly'' category:

—All functional parts including seat pad or cover attached and ready to use
—Tether attached to child restraint
—Owner's manual easy to find
—Obvious storage pocket for manual

NHTSA chose not to include the ICBC feature, ''any other add-ons in box'' because it is believed that such add-ons, for example extra pads, cup holders, sun canopy, were not related to ease of use or the safety function of the child restraint. Any add-on that is to be used and is a functional part of the restraint or related to correct use of the restraint is to be included under the ''all functional parts including seat pad or cover attached and ready to use'' category.

NHTSA has chosen to modify the criteria used to evaluate the feature, ''obvious storage pocket for manual.'' ICBC defines ''good'' as ''easy access when CRS installed in all modes,'' an ''acceptable'' as ''easy access not accessible when CRS installed in all modes,'' and ''poor'' as ''none found or not easy access/storage (incl. Plastic tabs).'' During NHTSA's evaluation of the ICBC criteria using several child restraints, we found that in some cases the storage pocket for the instructions manual was easily accessible in all modes, however it was difficult to use. In other words, it was difficult to take the instructions out of the storage pocket and difficult to put them back in. With this difficulty, it is believed that if consumers take the instructions out of the storage pocket they will not put them back. Therefore, NHTSA's planned criteria are:

—A = Easily accessible when installed in all modes and manual can be removed and replaced easily
—B = Easily accessible when installed in all modes but manual cannot be removed and replaced easily (any use of plastic clips as the sole means of storing the instructions will not be higher than ''B'')
—C = Not accessible when installed in all modes.

NHTSA has also modified the criteria used to evaluate the feature ''owner's manual easy to find.'' ICBC defines a ''good'' as ''yes, attached to CRS,'' an ''acceptable'' as ''in box,'' and a ''poor'' as ''no.'' NHTSA regulations also require written instructions; therefore no child restraint manufactured for sale in the United States should receive a ''poor'' under the ICBC program. However, when evaluating the ICBC system, both infant restraints we evaluated had the written instructions attached between the restraint and the detachable base. This forces the consumer to learn how to release the base from the infant restraint without the assistance of instructions. NHTSA felt that a rating should distinguish between written instructions attached so that they were clearly visible as the restraint was removed from the box (many had them in a plastic bag attached to the harness) and those where you had to search for the written instructions. NHTSA also believes that any form of attachment is preferable to having the instructions loose in the box, and therefore has moved the ''in box'' criteria to ''C.''[20] While NHTSA did not find any restraints that would have received a ''C,'' NHTSA is concerned that if the instructions were loose they could be lost before purchase if the box were damaged or opened for inspection. NHTSA's planned criteria are:

—A = attached to child restraint in a clearly visible location
—B = attached to child restraint but not clearly visible
—C = in box, not attached

[18] NHTSA requests comments on whether we should delete any of the features we have proposed to include, or whether we should include features that we have not included in today's proposal. For example, should rear-facing restraints be rated according to the leg room they provide, which may be a feature that would make the restraint easier to use by infants with long legs?

[19] A copy of the planned evaluation form is included in the appendices to this notice. Details of the program are discussed only to the extent that they differ from ICBC's program.

[20] The agency is mindful that Standard No. 213 requires an owner registration card to be attached to the child restraint, and that too many materials attached to the restraint could dilute the consumer's attention to the registration card. Comments are requested on whether attaching the owner's manual to the restraint will overwhelm the card.

b. Evaluation of Labels/Instructions

NHTSA has decided to evaluate the following features in the ''Evaluation of Labels/Instructions'' category:

—Clear indication of child's size range
—All mode/s of use clearly indicated e.g., rear-facing only or forward- and rear-facing if convertible
—Air bag warning in written instructions
—Shows harness slots okay to use for occupant size
—Instructions for routing for both lap belt and lap/shoulder belt in all modes
—Visibility of seat belt routing
—Visibility of tether use
—Information in written instructions and on labels match
—Durability of labels

Beyond combining two of ICBC's categories, NHTSA has deleted the feature ''is airbag warning visible no matter where CRS is installed.'' NHTSA requires an air bag warning label on rear-facing child restraints in a location that would receive a ''good'' under the ICBC program. Therefore, NHTSA feels this feature can be deleted. NHTSA is retaining the feature ''air bag warning in written instructions'' as NHTSA found a great variety in written instructions with regard to the visibility of this important information.

NHTSA has added ''information on written instructions and on labels match'' as a separate feature. While NHTSA did not encounter any child restraint during its exercise that had different information on the labels than in the written instructions, the representative from ICBC indicated that they find this commonly. For example, the height or weight ranges may be different between the two sources of information. While NHTSA suspects this results because written instructions are printed in a large quantity and therefore not updated as frequently as labels, it could be very confusing to consumers. Therefore, NHTSA felt it deserved a separate category.

NHTSA has also added a feature ''durability of labels.'' NHTSA has received complaints about labels fading and peeling. When evaluating the ICBC program, NHTSA found two child restraints with one or more labels already beginning to peel as they were removed from the box. In a recently published Notice for Proposed Rule Making (NPRM) on child restraint labels, NHTSA did not propose a durability requirement.[21] However, we believe that adding this feature to the ratings will encourage manufacturers to improve label durability. To achieve an ''A'' rating, all of the labels would have to use a technology such as molding or heat embossing. Sticky labels would receive a ''B'' rating unless any of the labels had already started to peel when the restraint was removed from the box. In the later case, the restraint will receive a ''C'' rating.

Under ICBC's program, almost all labels receive a poor for many of the features unless the label is on both sides of the restraint. NHTSA has received comments on labeling upgrades requesting us to keep in mind the limited space on child restraints. Providing a rating on whether restraints have labels on both sides will encourage manufacturers to place labels on both sides, resulting in using the limited space on the restraint for additional labels. NHTSA is considering modifying the ratings to allow for an ''A'' rating if the label meets the specified criteria and is on one side of the restraint. To this end, child restraints would not receive a ''C'' rating if the label was only on one side of the restraint. Encouraging manufacturers to make instructions more accessible, easier to use, and clearer, should provide a justifiable solution instead of encouraging labels on both sides of the child restraint.

c. Securing the Child

NHTSA has tentatively decided to evaluate the following features found in the ICBC ''Securing the Child'' category:

—Buckle can be secured in reverse (harness strap buckle)
—Harness adjustment easy to tighten and loosen when child restraint installed
—Number of harness slots/usable slots
—Ease of attaching/removing base
—Ease of conversion rear-facing to forward-facing or forward-facing to booster and back again
—Visibility of harness slots
—Ease of changing harness slot position
—Ease of reassembly if pad/cover removed for cleaning
—Ease of adjusting/removing shield

In addition to combining the two categories, the agency will slightly modify the rating criteria for two of the features. First, under ''buckle can be secured in reverse,'' (referring to the harness strap crotch buckle which on most child restraints has a red square buckle release) a ''good'' rating by ICBC is a ''no,'' an ''acceptable'' rating is ''yes, but usual release works,'' and a ''poor'' rating is ''yes & difficult to release/access.'' NHTSA has modified the rating to the following: an ''A'' rating is ''no, or yes but usual release works with same degree of effort,'' a ''B'' rating is ''yes, but usual release requires more effort,'' a ''C'' rating is ''yes, but can't use release mechanism.'' The safety concern with being able to reverse a buckle is that during an emergency a parent may be unable to release the mechanism and remove the child from the seat. NHTSA has tentatively chosen to modify this rating based on our opinion that if reversing the buckle did not make the release more difficult to use, there is not a safety concern. Further, NHTSA thought that reversing the buckle might provide a benefit for children who may have learned to unbuckle the release mechanism. With the buckle reversed, the child would be less likely to unbuckle him or herself.

The other modification is the rating criteria for the feature ''ease of changing harness slot position.'' Under the ICBC program a ''good'' rating is ''easy to attach/remove; clear slots easy to thread; easy to attach to hardware,'' an ''acceptable'' rating is ''possible for one person to do; slots may be misaligned/pad in way/in slots; hardware slot shared,'' and a ''poor'' rating is ''other, slot size too small for easy threading; loose mandatory pieces; could misroute through buckle.'' Under the NHTSA program an ''A'' rating is ''no need to rethread; possible for one person to do,'' a ''B'' rating is ''possible for one person to do, easy to attach/remove; large slots easy to thread,'' and a ''C'' rating is the same as that used by ICBC. The reason NHTSA is proposing to make a change to the evaluation criteria is that we've observed that no matter how easy it seems to rethread, some people will rethread the harness wrong.

d. Installation in Vehicle

NHTSA has decided to evaluate the following features in the ''Installation in Vehicle'' category:

—Separation of vehicle belt path
—Ease of vehicle belt routing (hand clearance)
—Ease of seat belt routing (boosters)
—Ease of use of any belt-positioning hardware on CRS including lock-off
—Tether easy to tighten and release
—Belt-positioning device allowing slack to occur

NHTSA is considering adding a feature, ''Ease of tightening belt around CRS.'' Based on experience with installing child restraints we have found some features on child restraints, specifically on infant seat bases, that made tightening of the vehicle belt system difficult, or that resulted in the tilting of the infant seat base to one side upon tightening of the vehicle's lap and shoulder belt through the infant seat base, resulting in an improperly secured

[21] Docket Number: NHTSA–2001–10916.

child restraint. Therefore, we feel there is a need to consider this aspect of installation. NHTSA would need to develop evaluation criteria on what features of a child restraint would receive an ''A,'' ''B,'' or ''C'' rating under this category. NHTSA is soliciting views and comments on this consideration.

3. Weighting the Features

The ICBC program ranks each feature within each category based upon the level of importance. These rankings were determined by the child restraint usability task force of ISO/TC22/SC12/WG1 (Child Restraints) [22] at a meeting in British Columbia. Each ease of use feature is rated as an A, B, or C according to risk of injury and severity of misuse. Component features that could be associated with a high risk of injury if misused are to be rated ''A''. Each ranking is assigned a numerical scale where A = 3 points, B = 2 points, and C = 1 point. The ratings are similarly assigned a numerical scale where good = 3 points, acceptable = 2 points, and poor = 1 point. To determine the rating for a category, the numerical value of the rating for each feature is multiplied by the numerical value of that feature's ranking. The maximum possible score is then divided into thirds to determine the point ranges for the category rating.

This notice is proposing a slightly modified version of this scheme. Whereas we agree with the ICBC relative ratings for the component elements, we do not believe that enough is known to assign weights to the four categories in terms of importance. The discussion on the overall summary rating in Section 8 elaborates on this choice. The NHTSA proposed approach is as follows:

Each component feature is assigned a numerical scale of 1–3 points, with features having the highest relationship to safety receiving 3 points. The ratings are similarly assigned a numerical scale where A = 3 points, B = 2 points, and C = 1 point. To determine the rating for a category, the numerical value of the rating for each feature is multiplied by the numerical value of that feature's ranking. Point ranges for A, B, and C are determined through a 3-part split of the range of possible points for that factor, from the minimum (if all scores were coded ''C'') to the maximum (if all scores were coded ''A'') number of points. Appendix B and Appendix C displays this scheme, with a hypothetical example seat rated.

NHTSA proposes to keep the same ranking as ICBC uses for the component features it has retained. For the four new features that we have added, we have assigned them a 2-point ranking. While we believe these features are important enough to add them to the rating system, their proposed lower ranking reflects the fact that ICBC chose not to include them.

4. Ease of Use Rating Protocol

ICBC uses two 2-person teams to evaluate each child restraint. Prior to the evaluation, the teams have a day of training. ICBC has found that, while the rating for some features may vary between the teams, the overall rating for the category tends to be the same. To the extent that the teams end up with a different rating for a category, they jointly reexamine the child restraint before a rating is determined. Child restraints are installed in a bench seat of a generic minivan for purposes of the evaluation.

NHTSA found that the ratings of the two teams we used in our evaluation also matched. Therefore, we are planning to use the same protocol for rating child restraints for ease of use.

During the evaluation, the teams would install the child restraint in the current FMVSS No. 213 bench. If and when the FMVSS No. 213 bench is updated, the team will use the updated test bench. No dummy will be used during this process.

5. Overall Ease of Use Rating

Market research in recent years has shown that most consumers prefer summary ratings or information because they find it quicker and easier to read and understand. At the same time, a certain significant percentage of consumers also like detailed information that is presented in hierarchical fashion, with the more general information presented initially. NHTSA is planning to combine the planned child restraint ease of use ratings into a summary ease of use rating. While NHTSA notes that it does not have clear information about how organizations that currently provide a summary rating determine that rating, study of the ICBC model has led to the conclusion that it is reasonable to apply a modified version of their model. The notable exception is that NHTSA does not believe it is possible to weight the importance of the four overall categories. As a result, a straight combination numerical rating is not proposed. If all of the individual scores were added to one overall numerical score, the factors containing more component elements would carry more weight. Therefore, the proposal for the combined rating is majority rule for the four categories, with two qualifiers. The two qualifiers are that a seat cannot receive a B rating if more than 1 out of 4 categories is a C and, correspondingly, a seat cannot receive an A rating if more that 1 out of 4 categories is rated other than A. In the example in Appendix C, the seat received a high number of C ratings in important components, thereby resulting in 2 out of 4 categories being rated C. Application of the qualifier gives it a C rating.

V. Discussion and CRS Rating System Proposal

The agency has not made a final determination on which of the four rating systems (three dynamic plus ease of use), or combination of those rating systems, would be most appropriate and responsive to the Congressional mandate of TREAD. However, we have tentatively concluded that the most effective consumer information system is one that gives the consumer a combination of information about child restraints' ease of use and dynamic performance, with the dynamic performance obtained through higher-speed sled testing and/or in-vehicle NCAP testing.

Section 14(g) of TREAD set forth the requirement to establish a CRS rating consumer information program. Other sections of TREAD mention providing ''consumer information on the physical compatibility of child restraints and vehicle seats on a model-by-model basis'' [14(b)(4)] and ''whether to include child restraints in each vehicle crash tested under the New Car Assessment Program'' [14(b)(9)]. From this, the agency has tentatively concluded that a rating program that rates the CRS and/or the vehicle would satisfy the Congressional mandate.

Table 1 shows six factors that were felt to be of primary importance in determining an appropriate CRS rating system. From this table, it is clear that a single rating alternative does not achieve all of the six objectives. Ease of use is the only option that potentially addresses misuse, and thus the agency feels that such a rating option could have a substantial impact on proper CRS use. However, an Ease of Use rating would not provide information on dynamic performance. Given the advantages and disadvantages regarding the various dynamic performance rating options described in the preceding sections, the agency has tentatively

[22] Working group TC22/SC12/WG1, ''Child Restraint Systems,'' to the International Organization for Standardization (ISO), a worldwide voluntary federation of ISO member bodies, is considering developing an ease of use usability rating system for child restraint systems. The group has based its preliminary work on the rating system of ICBC, which is similar to NHTSA's work thus far.

concluded that higher-speed sled tests and/or in-vehicle NCAP testing would be preferable methods for providing dynamic performance information. Comments on which dynamic rating option, individually or in conjunction with the Ease of use rating, would provide the most useful information to the consumer as well as improve overall child safety are requested. Comments are also requested on whether or not the agency should consider conducting *both* higher-speed sled tests and in-vehicle NCAP testing in conjunction with the Ease of use rating. If, in addition to the Ease of use rating, the agency were to provide both a higher-speed sled test rating for the child seat, and an in-vehicle NCAP rating of child occupant protection for the vehicle, would such information be meaningful for the consumer and worth the costs of administering the tests given the relative advantages and disadvantages of each? Also, if the agency were to implement an in-vehicle NCAP rating system, what child seat(s) should be used? Should the agency select child seat(s) from those specified in FMVSS No. 208? If so, should a procedure be based upon only one of these seats to standardize the child seat for all vehicles? If only one child seat is selected, what criteria should the agency use in selecting that seat? If not, is the protocol provided below preferable?

Possible Assessment Protocol for Higher-speed Sled Tests

The following assessment protocol for testing and rating a child restraint in a higher-speed sled test is proposed if this dynamic procedure is selected.

—The agency would select child restraints for higher-speed sled tests so that most of the forward-facing child restraint models sold in the United States would undergo the higher-speed sled test for the evaluation of child restraints.
—Forward-facing child restraints would be placed on the same seat used for the compliance test. The restraint would be secured to the using the LATCH system. Installation instructions prescribed by the manufacturer of the child restraint would be followed.
—Hybrid III three-year-old and/or 12 month CRABI dummies would be placed in the child restraint for assessing injury. Dummy selection would depend upon the weight rating of the CRS. Child restraints designed for weight classifications covering both dummies would be tested with both and provided two rating. Head and chest accelerations would be recorded. The injury assessment reference values developed for child dummies in FMVSS No. 208 would be calculated.
—A five star rating would be applied to the dynamic performance using the HIC and chest acceleration to compute probability of injury as was illustrated in Figure 7.
—Child restraints would also be examined for structural integrity after the test. The physical structural integrity evaluation specified in the FMVSS No. 213 procedure would be applied.
—A rating for the CRS would be made available to the public in a manner similar to that now employed for other NCAP vehicle results.

Possible Assessment Protocol for NCAP Frontal Vehicle Testing

The following assessment protocol for testing and rating vehicles with child restraints for in-vehicle NCAP is proposed if this dynamic procedure is selected.

—After the agency has selected the vehicles for frontal NCAP testing, each vehicle manufacturer would be asked for a recommendation of at least three forward-facing child restraints for children up to a weight of 50 pounds for each vehicle to be tested. At least one of the vehicle manufacturer-recommended child restraints must have a retail price of less than $60. A different CRS manufacturer must make each of the three restraints. An integrated child restraint may be one of the recommended child restraints. Each of the three recommended child restraints must be currently available in the market. If the vehicle manufacturer chose not to make a recommendation, then the agency would choose from any child restraint available in the market.
—One of the three vehicle manufacturer-recommended child restraints would be selected for use in the crash test. A procedure that uses the child restraint in the LATCH configuration would be followed. The agency would follow both the vehicle and child restraint manufacturers' recommendations for installing the child restraint in the passenger vehicle. Our expectation is that the vehicle manufacturer's set-up instructions would be consistent with the installation instructions for the child restraint.
—A forward-facing child restraint would be placed in the seat directly behind the right front passenger, i.e., on the right-hand side of the second row of seats. A 3-year-old Hybrid III dummy would be placed in the child restraint system. Head and chest accelerations would be recorded. The injury assessment reference values developed for child dummies in FMVSS No. 208 would be calculated. If the vehicle is equipped with a built in child seat, testing could be conducted with either or both the built in and add on child restraints.
—A five star rating would be applied to the dynamic performance using the HIC and chest acceleration to compute probability of injury as was illustrated in Figure 7.
—Child restraints would also be examined for structural integrity after the test. The physical structural integrity evaluation specified in the FMVSS No. 213 procedure would be applied.
—A rating for child protection would be added to the vehicle frontal NCAP ratings. In the process of developing the proposed rating system, the agency made several decisions.

These decisions and our rationale for making them are the following:

1. For in-vehicle testing, only frontal NCAP tests are being proposed. Child restraints are not currently compliance-tested under lateral loading conditions. Although lateral test requirements for CRS are being proposed in an upgrade to FMVSS No. 213 under a separate TREAD rulemaking action, the agency felt that the issue of a possible lateral rating should be considered following completion of the FMVSS No. 213 upgrade.

2. The in-vehicle proposed protocol rates only one CRS in the rear seat. Due to the very tight schedule available for conducting and assessing potential CRS NCAP protocol, the agency elected to concentrate on forward-facing child restraints rather than attempt to also include rear-facing child restraints and/or booster seats. The decision to concentrate on the forward-facing CRS was based on the belief that the forward-facing CRS would provide the most meaningful information to the consumer, given that development of procedures for all three systems could not be accomplished in the short time frame. Following incorporation of the forward-facing CRS, the feasibility of incorporating a rating which included rear-facing CRS and/or booster seats would subsequently be considered.

3. The in-vehicle proposed rating uses only the three-year-old dummy. Again, due to the very tight schedule, the agency felt it necessary to collect as much data as possible for one dummy and that the three-year-old would provide the most meaningful information for the consumer. Upon

incorporation of a child restraint system rating with the three-year-old dummy, consideration would subsequently be given to dummies of other sizes.

4. Higher-speed testing which was conducted by the agency used only Hybrid III three-year-old dummies. However, if the higher-speed dynamic performance is selected, utilization of both twelve month CRABI and Hybrid III three year old dummies would be proposed.

Comments on these decisions and the agency's rationale for them are requested. Also, comments regarding possible future extension of the CRS NCAP rating to side impact, other types of CRS, and dummy size are also sought.

VI. Combined Child Restraint Rating

NHTSA is not currently planning to do an overall summary rating combining ease of use and dynamic performance. To date, we have not been able to develop an acceptable methodology for a summary rating. However, we request comments and suggestions on this issue.

VII. Distribution

NHTSA currently produces a print brochure titled Buying a Safer Car that provides NCAP ratings and safety feature information for new vehicles. Because new motor vehicles are commonly introduced in the fall, NHTSA produces the first printing for each model year in the fall. Because NCAP testing cannot begin until the vehicles are available from dealers, this printing only has test results for vehicles which were tested in previous model years and which have not changed significantly. A second printing is produced in the spring after the completion of the NCAP testing program.

NHTSA also publishes an annual brochure titled Buying a Safer Car for Child Passengers. This brochure provides new vehicle safety features and other information relevant to children. The brochure identifies vehicles that have built-in child seats, manual air bag cut-off switches, rear center rear seat lap/shoulder belts, rear-seat adjustable upper belts, and interior trunk releases.

If NHTSA were to elect to have a rating based solely on a vehicle equipped with a child restraint, the existing brochures would be an appropriate venue for the distribution of the ratings. If NHTSA chooses another rating system, we believe new printed information about child restraint ratings will be needed. The current brochures are a helpful model for new print information about child restraint ratings. However, unlike vehicles, child restraint models do not tend to change on an annual cycle. Therefore, NHTSA would have to pick a date and only include in a print brochure child restraints that are available in the marketplace at that time. Representatives from ICBC have indicated that the largest concentration of new child restraint introductions seems to occur in Canada in the months of May and June. To assist us in timing a print brochure, NHTSA requests comments on whether this timing is also accurate for the United States.

NHTSA notes that a print brochure could be used in addition to our web site. Unlike printing, this site can be updated on a continuous basis. Therefore, NHTSA could test child restraints as they became available and add new models to the web site when testing was complete.

VIII. Submission of 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 address given above 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 above 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 above 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 above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

I. Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

II. On that page, click on ''search.''

III. On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1999–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

IV. On the next page, which contains docket summary information for the docket you selected, click on the desired comments.

You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not 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 check the Docket for new material.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166, and Pub.L. 106–414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

Issued on: October 29, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

BILLING CODE: 4910–59–P

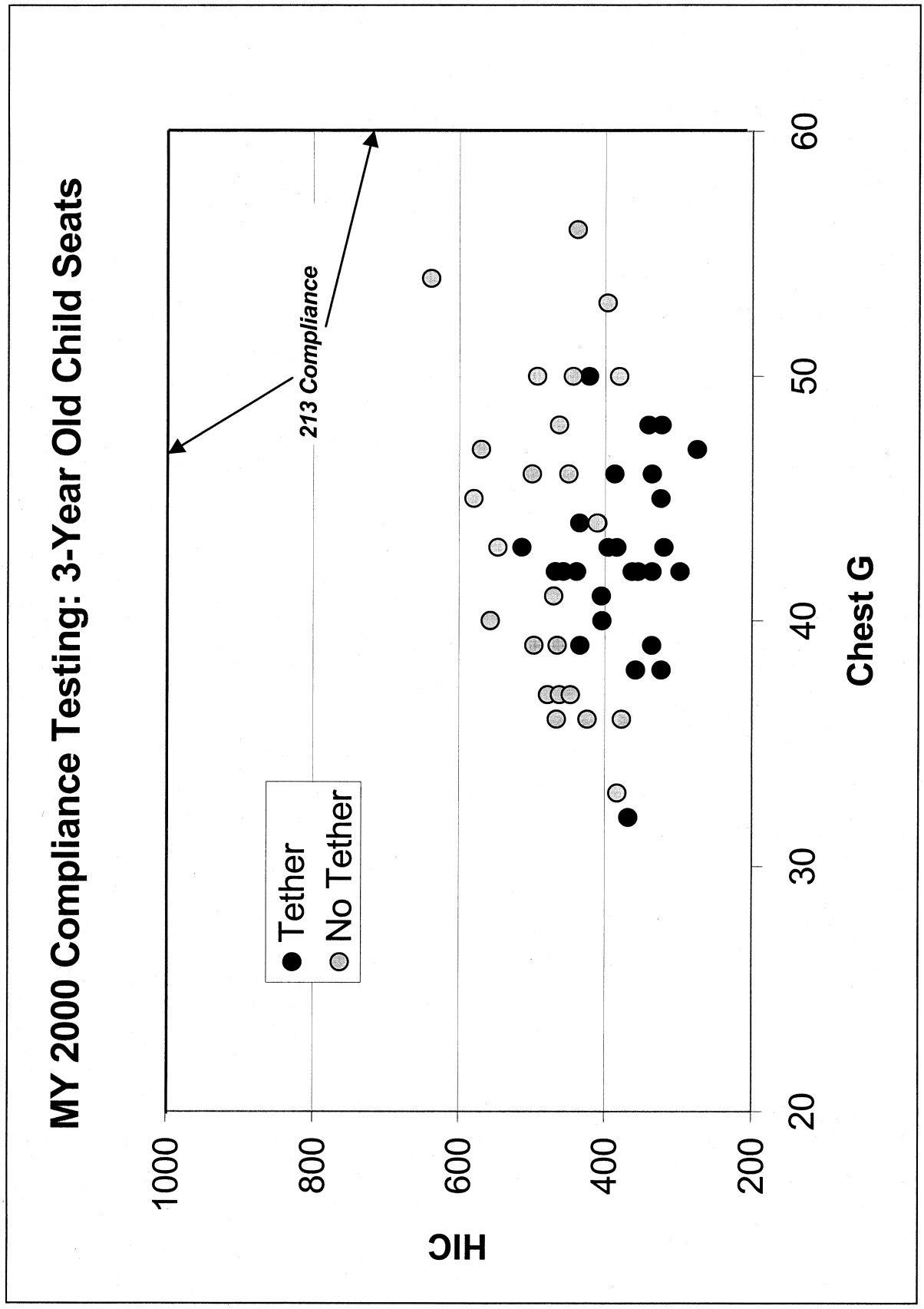


Figure 1: MY 2000 FMVSS No. 213 Sled Test Results (3-Year-Old Hybrid II Child Dummy)

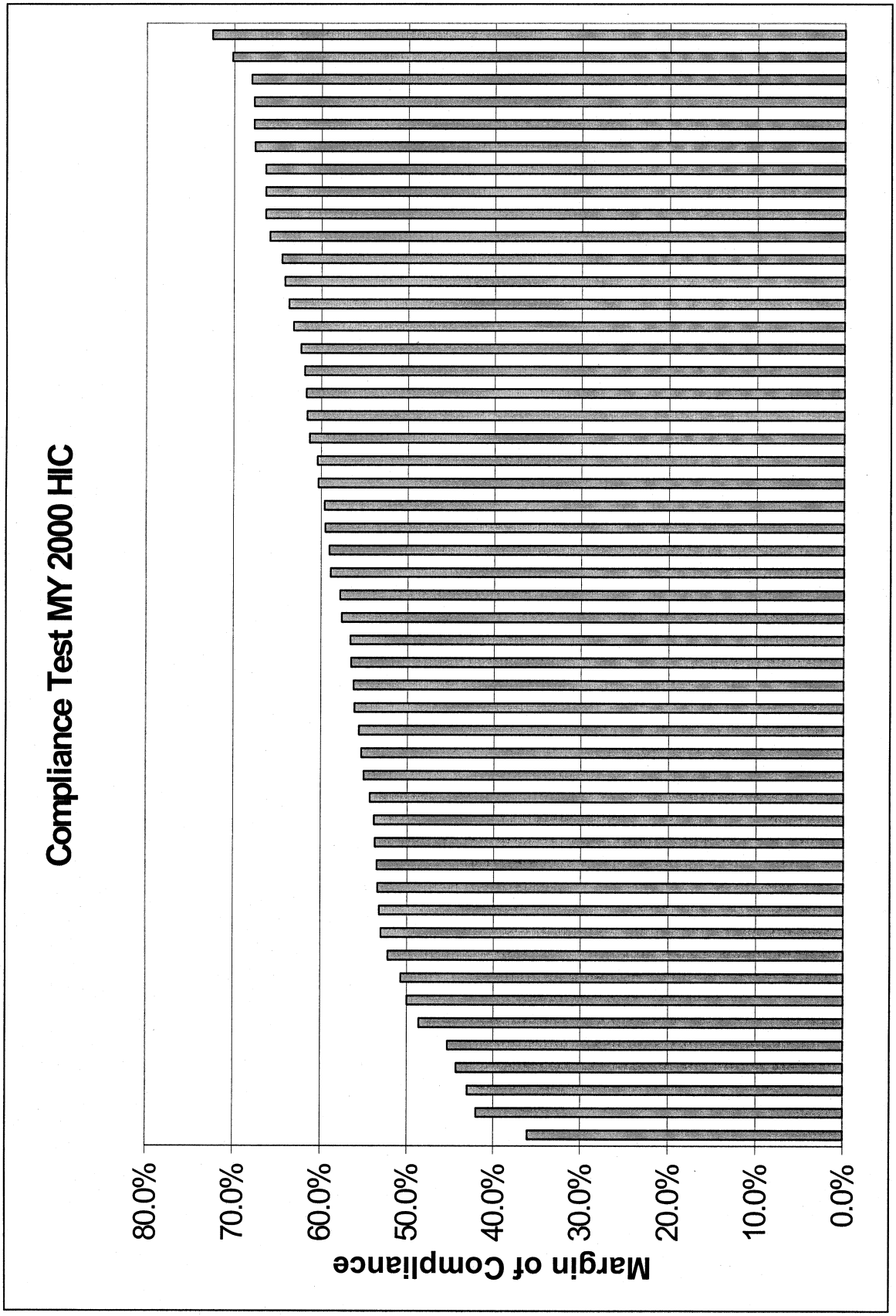


Figure 2: Margin of Compliance for Head Injury Criteria

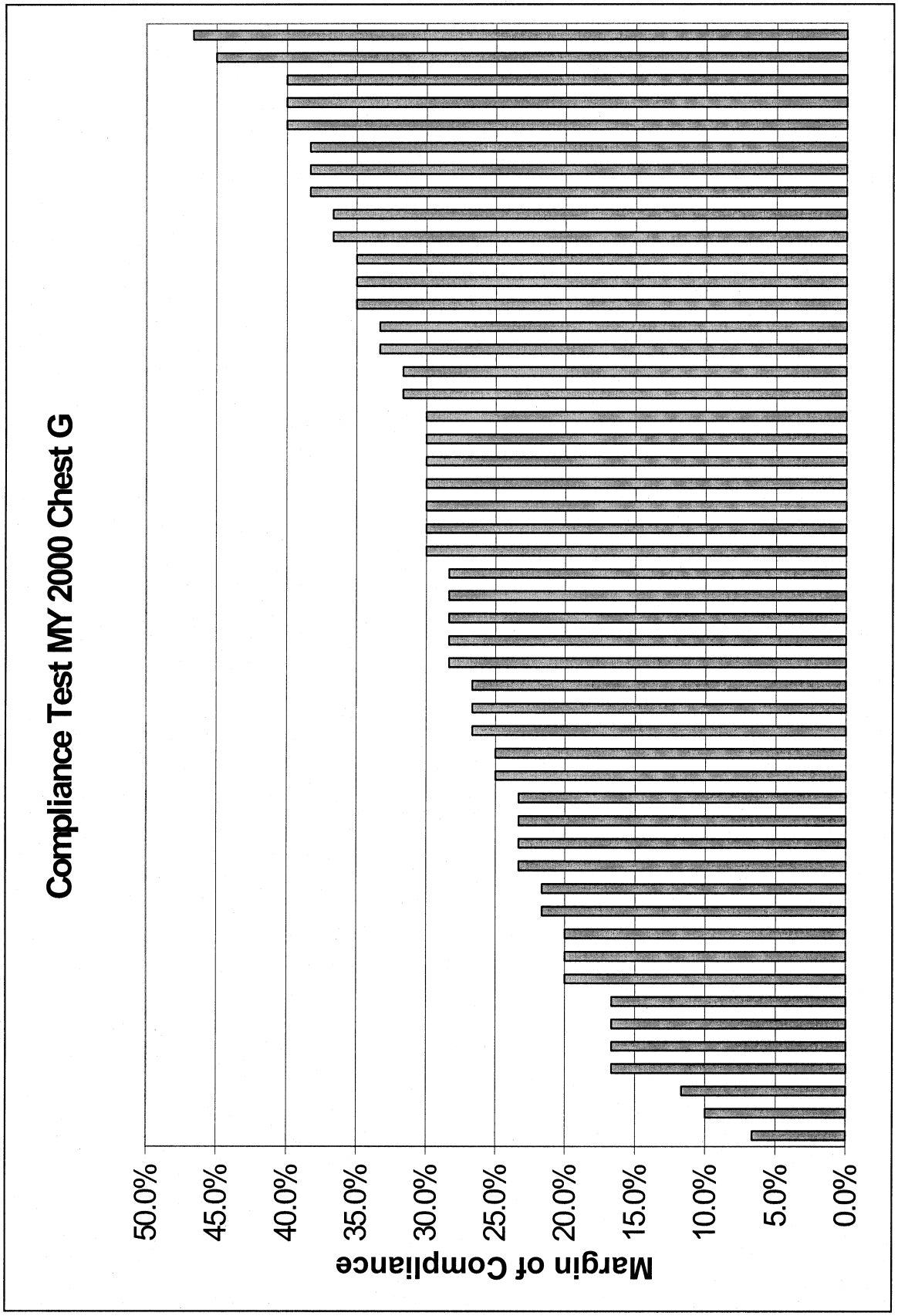


Figure 3: Margin of Compliance for Chest Acceleration

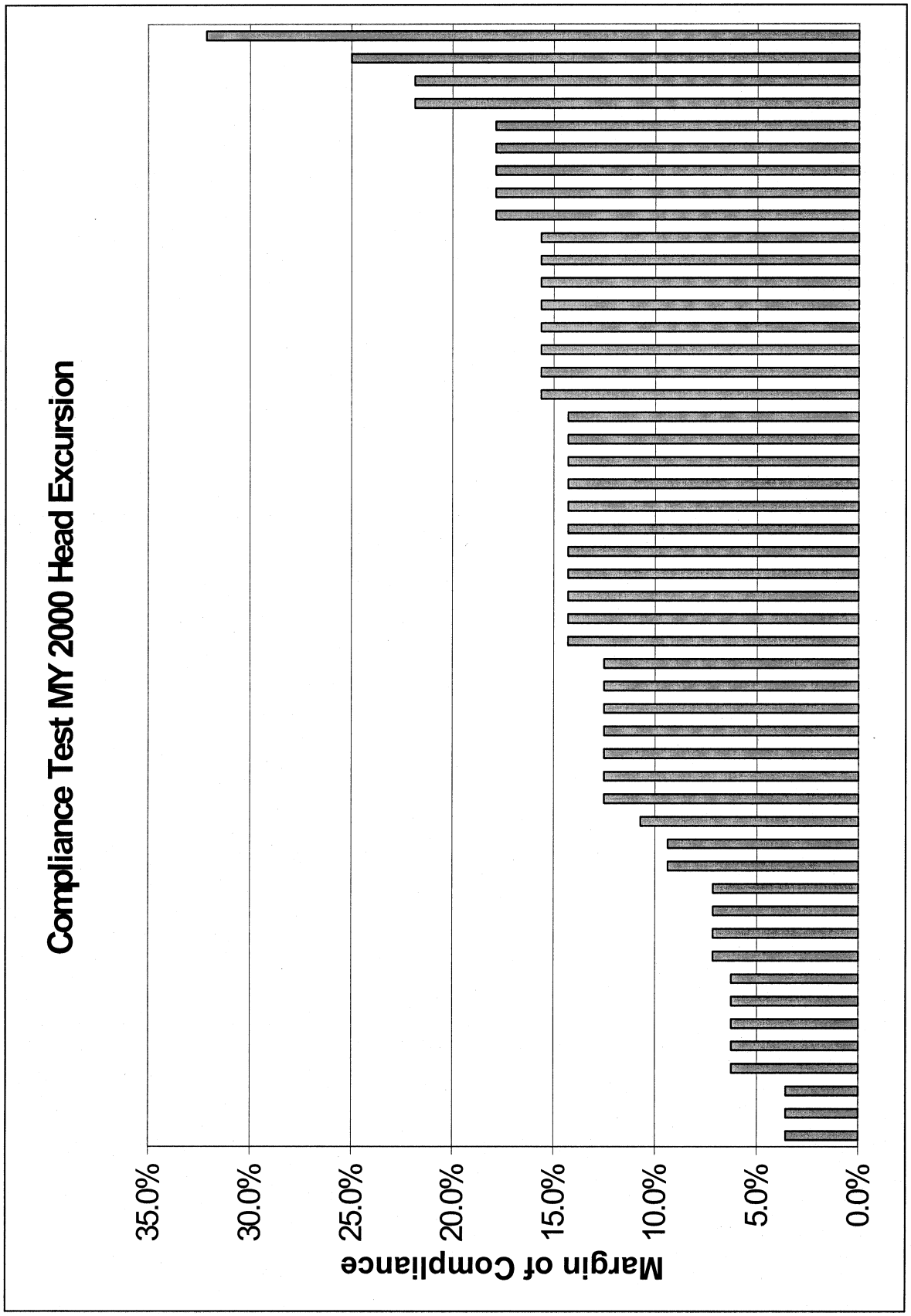


Figure 4: Margin of Compliance for Head Excursion

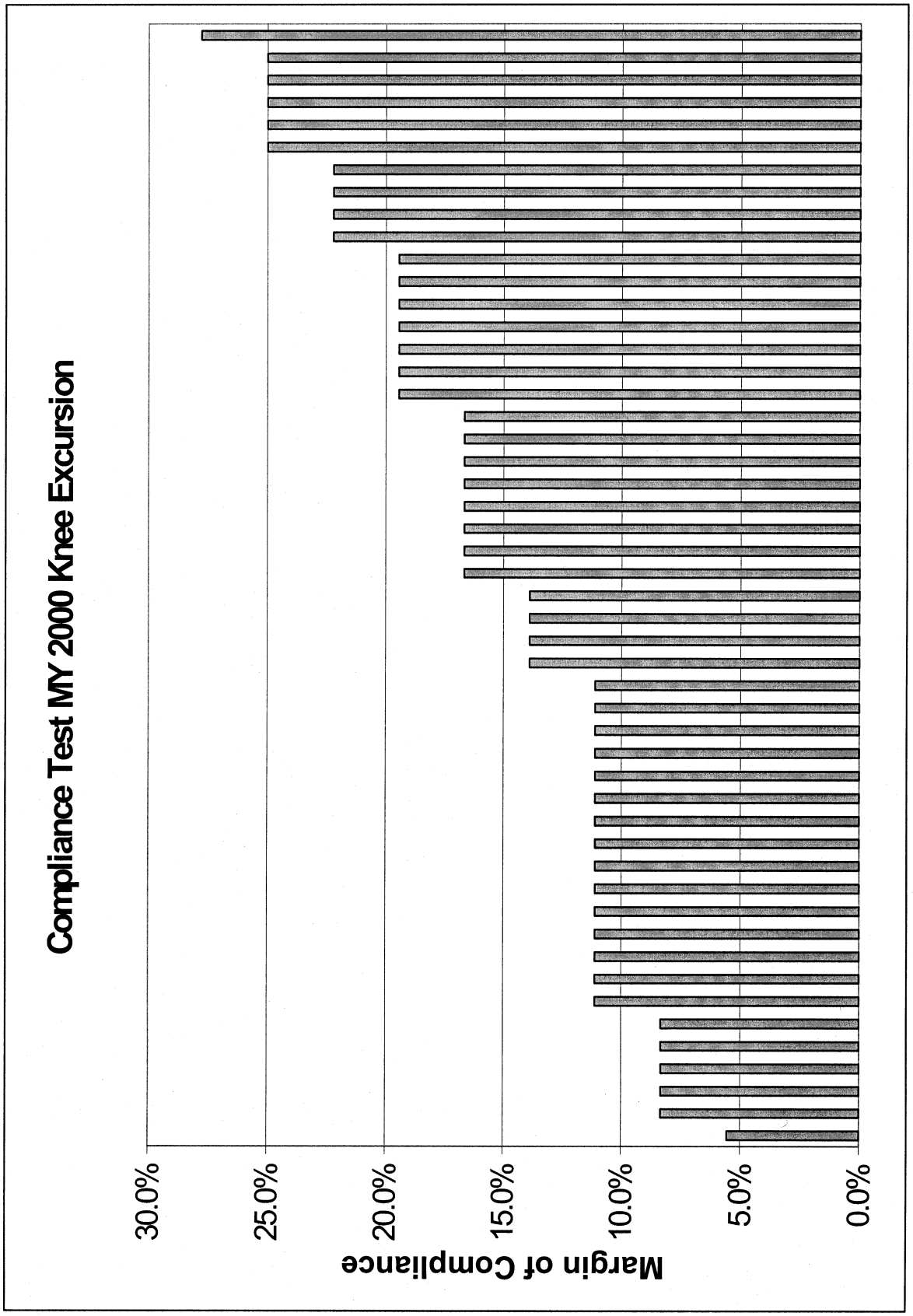


Figure 5: Margin of Compliance for Knee Excursion

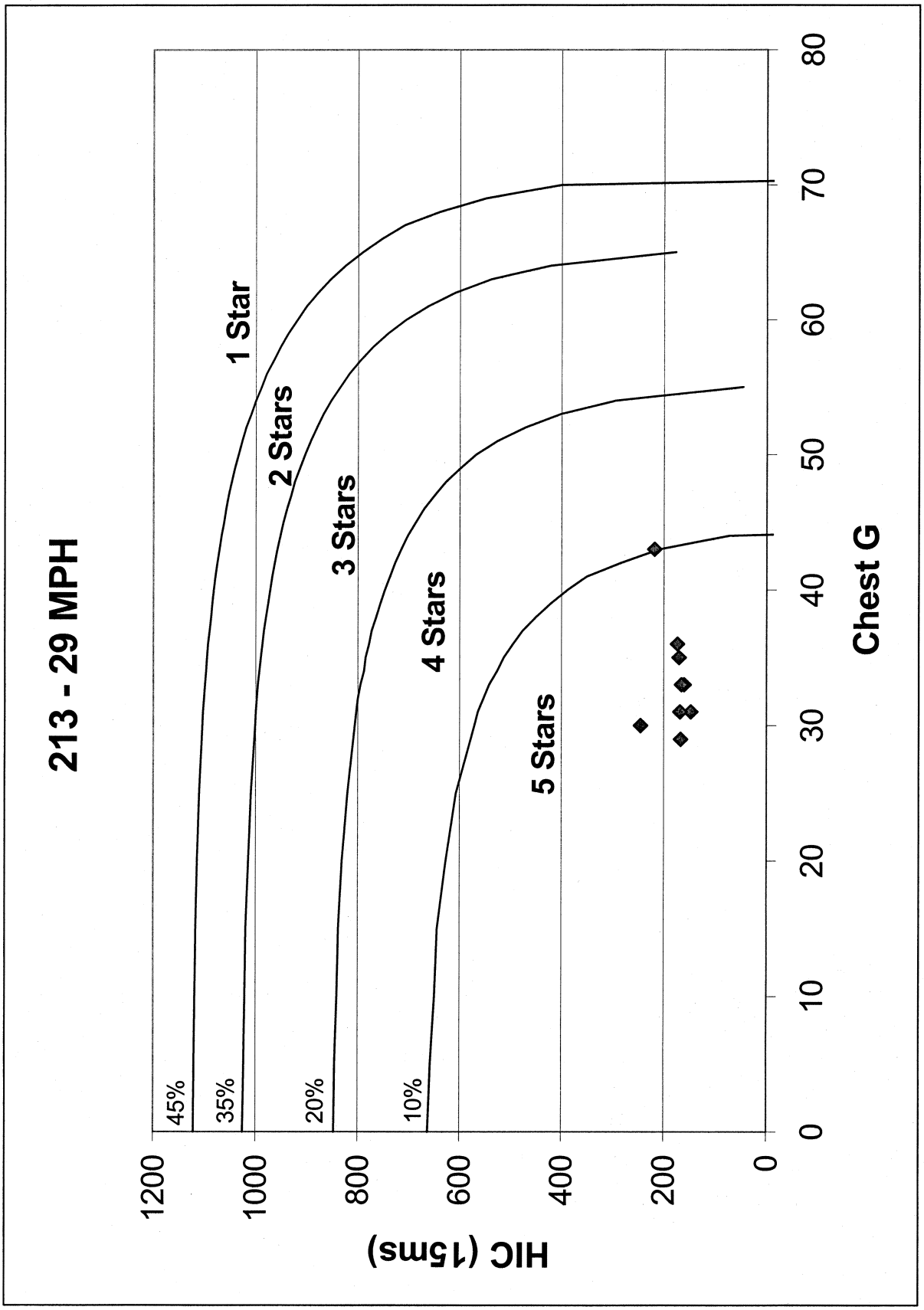


Figure 6: Compliance Test with Scaled NCAP Curves

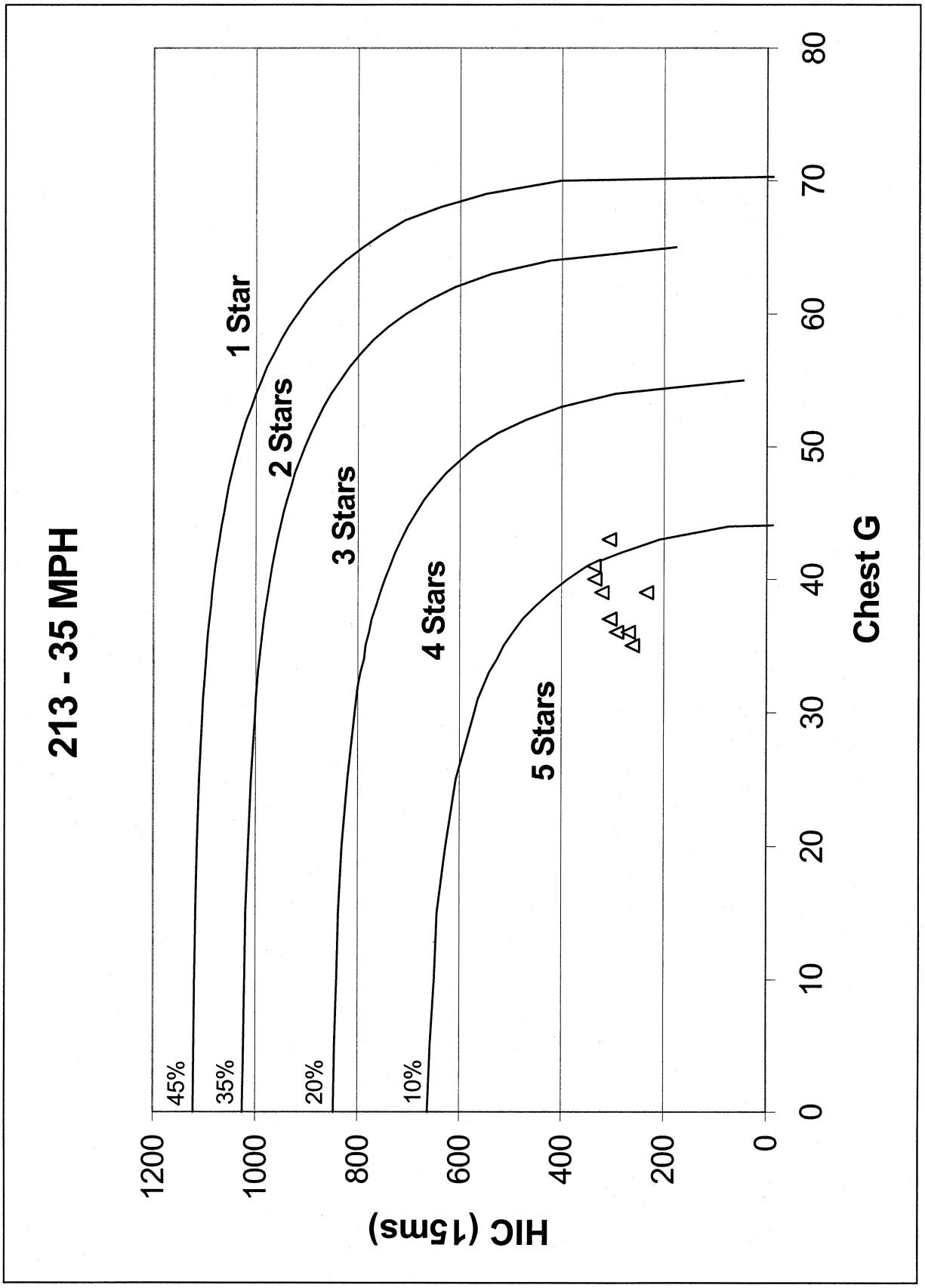


Figure 7: Higher Speed Sled Tests with Scaled NCAP Curves

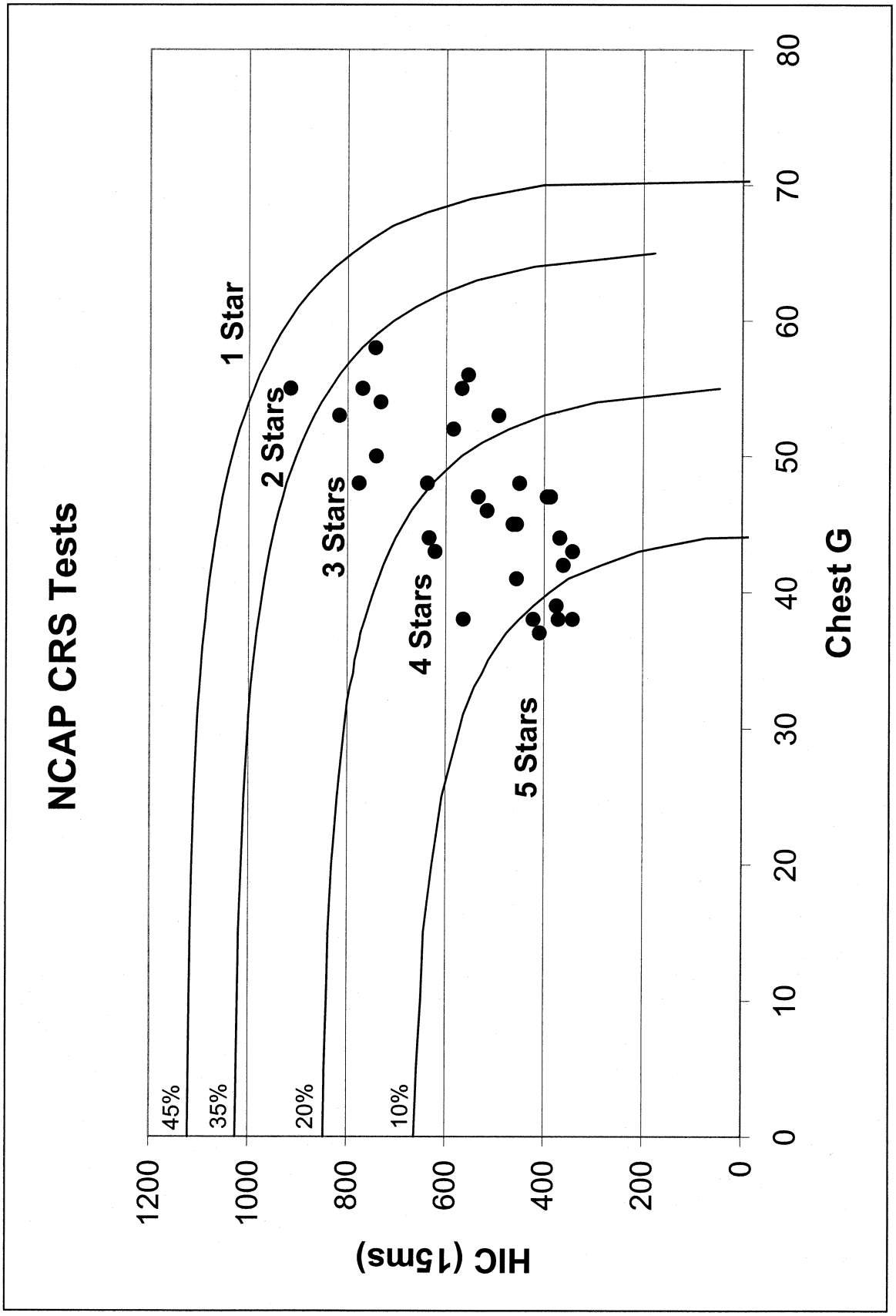


Figure 8: Vehicle NCAP Tests with Scaled NCAP Curves

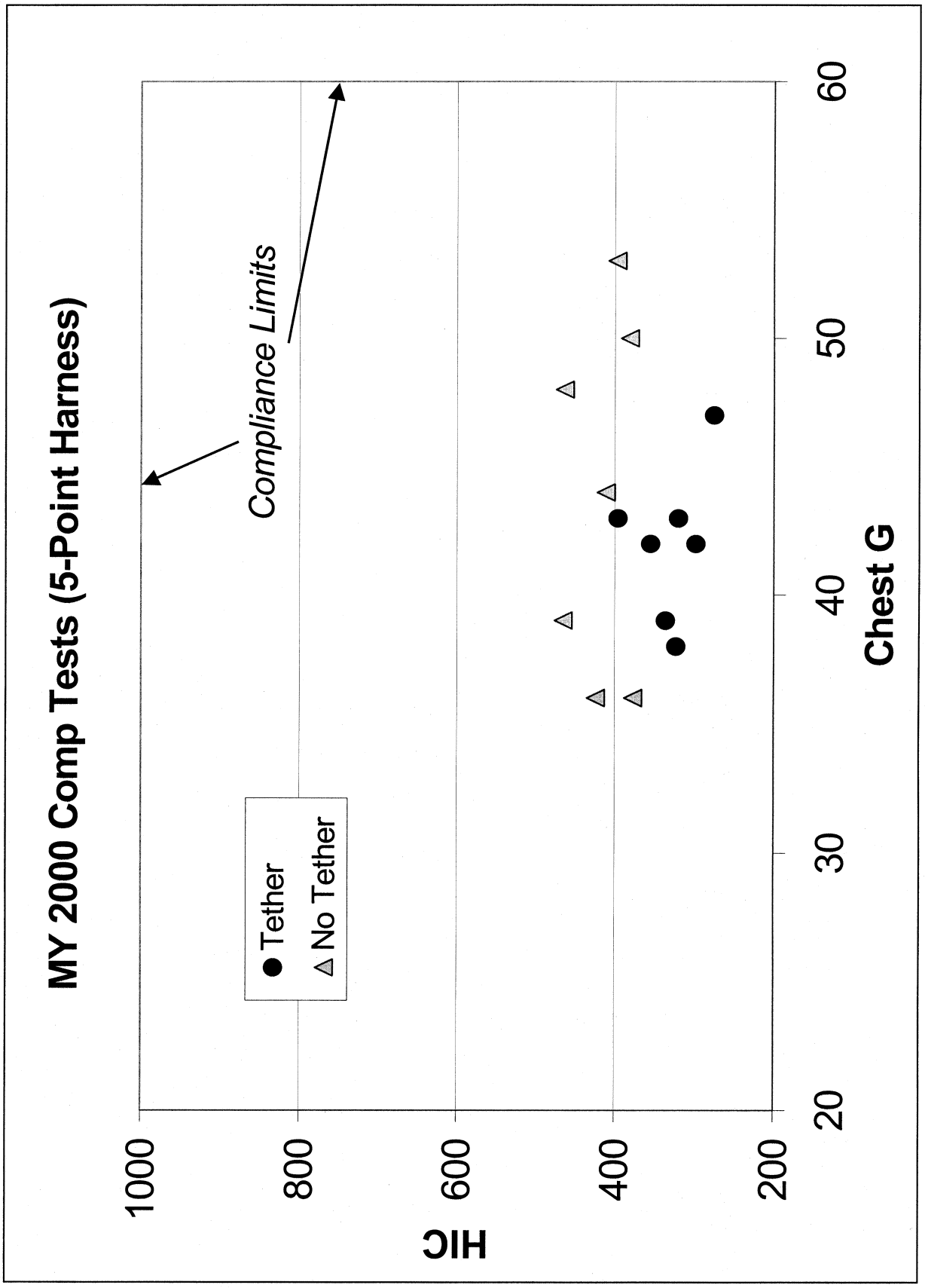


Figure 9: MY 2000 Compliance Tests, 5-Point Harness (3-Year-Old Hybrid II Child Dummy)

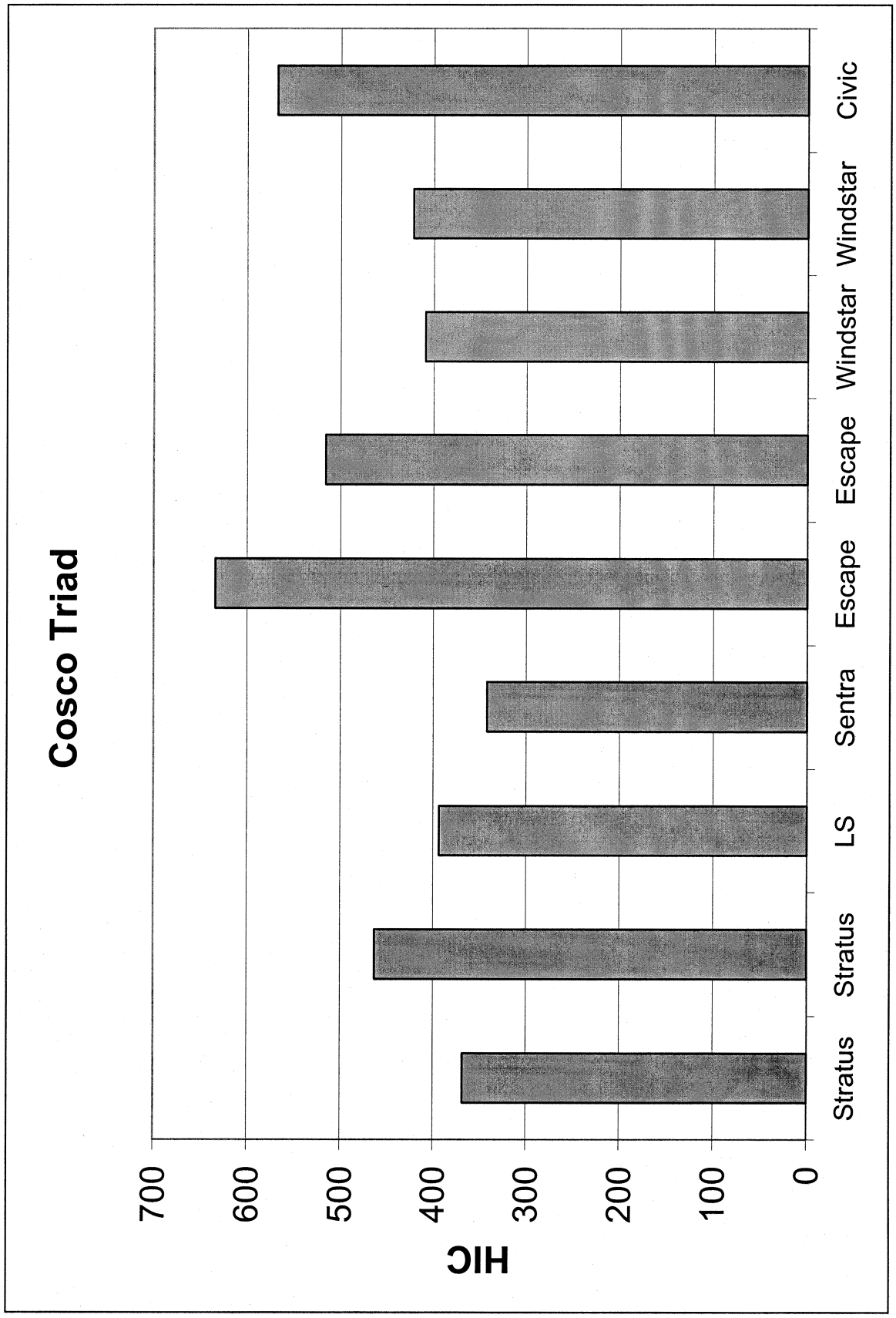


Figure 10: Performance of the Triad Child Restraint in Various Vehicles

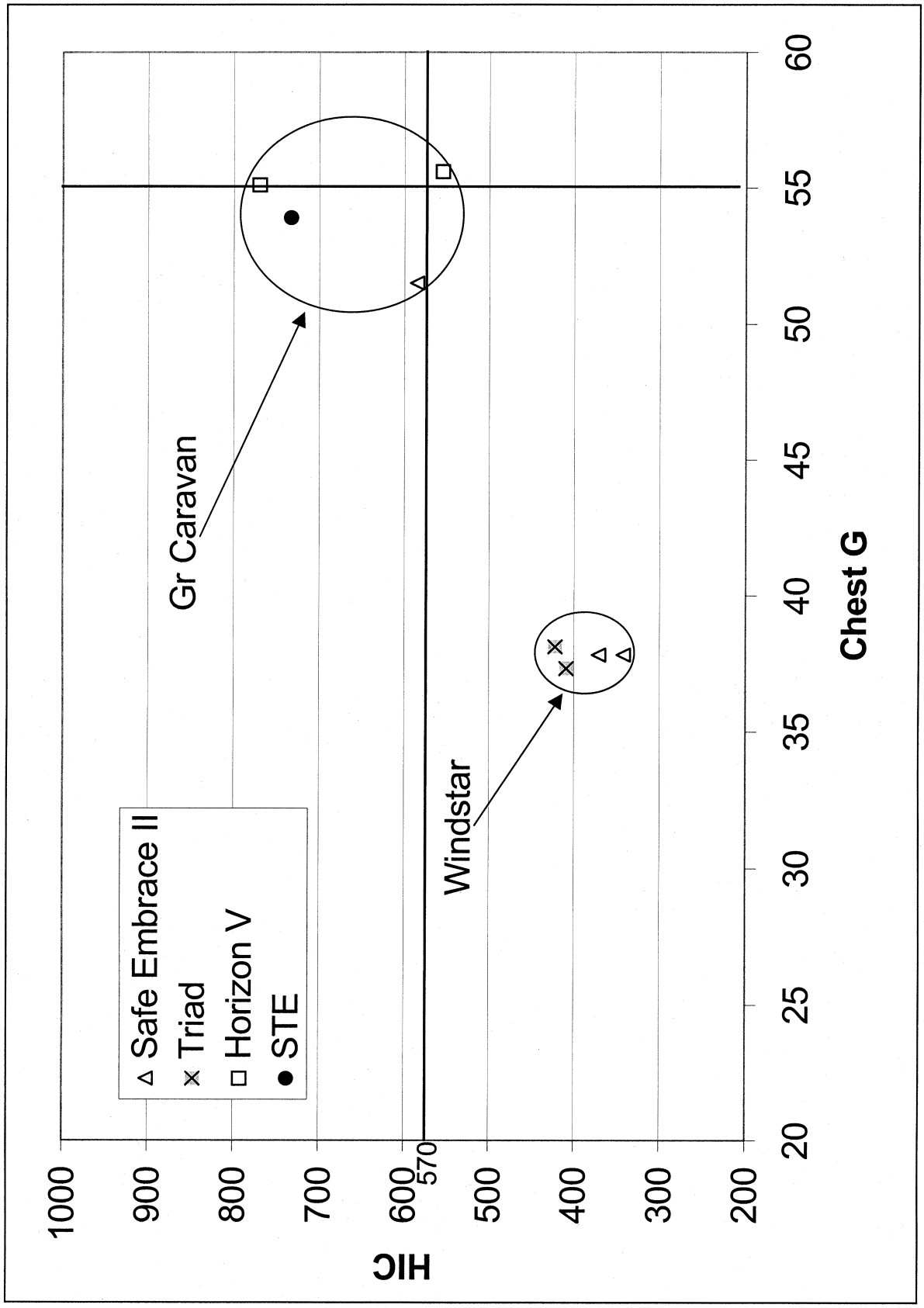


Figure 11: Example Comparison of Performance of Child Restraint Types in Same Vehicle Class (3-Year-Old Hybrid III Child Dummy)

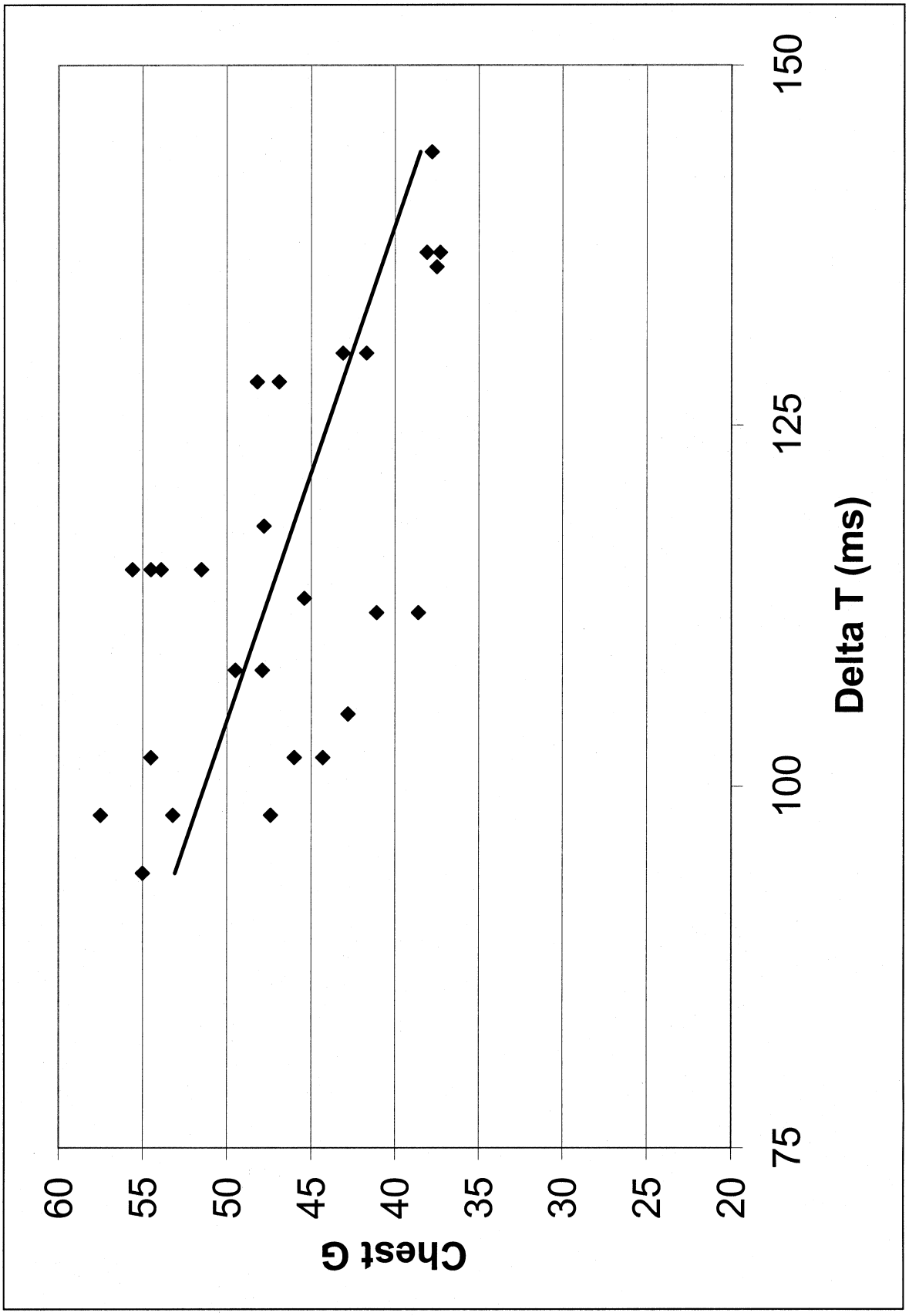


Figure 12: Child Dummy Chest G versus Time Duration of the Crash (Delta T)

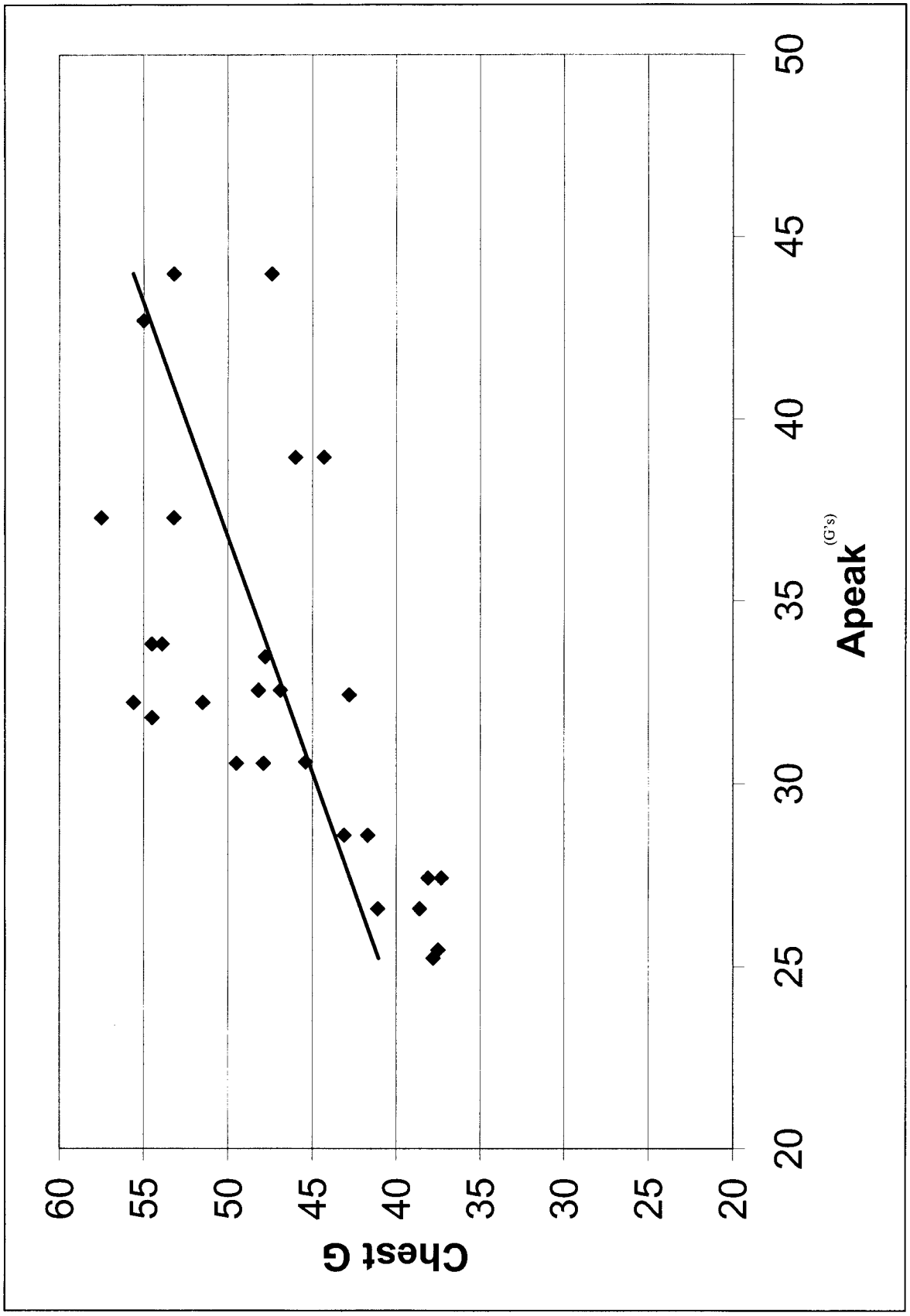


Figure 13: Child Dummy Chest G versus Peak Acceleration of the Vehicle

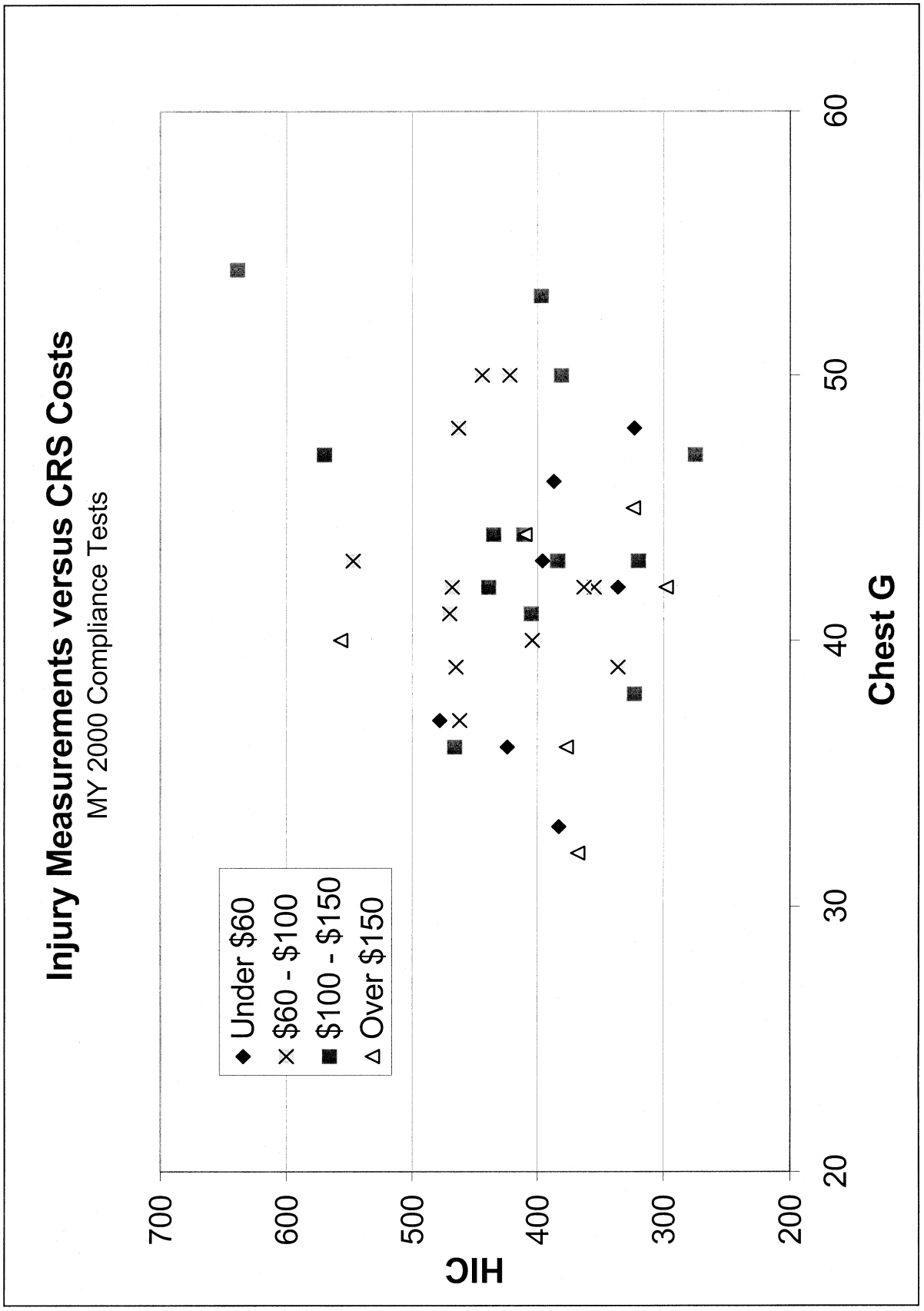


Figure 14: IARV versus CRS Cost

Table 1: Chief Factors for Child Restraint Systems Notice

Chief Factors Influencing the CRS Notice Decision	Alternative #1 - compliance margin	Alternative #2 - sled test at higher speed	Alternative #3 - CRS in-vehicle testing	Alternative #4 - Ease of Use
Gives timely information to the consumer	X	X		X
Gives meaningful information to the consumer		?	X	X
Improves safety for the population at risk		?	X	X
Ensures we evaluate many child seats	X	X		X
Considers the overall system and addresses vehicle compatibility			X	
Decreases CRS misuse				X

Appendix A Dynamic Testing

Table A1. MY2000 Frontal In-Vehicle Testing of Child Restraints @ 35 MPH

Makes	Models	CRS Makes	CRS models	LATCH	Rear posit	Head	Chest		Upper Neck Peak Values					Upper Neck Nij			
						HIC(15 msec)	CH disp mm	CH 3 ms g	Shear N	Ext Nm	Flex Nm	Comp N	Tension N	Ten-ext	Ten-flex	Com-ext	Com-flex
Chevrolet	Suburban	Britax	Roundabout	Non-LATCH	Right Rear	564	16	38	817.7	6.2	8.2	65.6	1870.2	0.27	0.00	0.94	0.89
Chevrolet	Impala	Britax	Roundabout	Non-LATCH	Right Rear	361	20	42	690.0	10.1	3.8	163.4	1699.1	0.83	0.80	0.42	0.04
Dodge	Durango	Century	STE	Non-LATCH	Left Rear	638	16	48	870.0	16.1	19.8	74.5	1713.9	1.08	1.01	0.07	0.02
Dodge	Gr Caravan	Century	STE	Non-LATCH	Left Rear	771	15	54	52.3	17.7	10.9	619.6	2235.6	0.96	1.08	0.05	0.36
Chevrolet	Impala	Century	STE	Non-LATCH	Left Rear	622	14	43	680.9	12.5	16.9	110.3	1938.5	1.08	0.76	0.20	0.09
Volvo	S60	Century	STE	Non-LATCH	Left Rear	744	12	58	767.6	14.3	18.4	271.5	2073.8	0.55	0.13	1.98	1.11
Honda	Civic	Cosco	Triad	LATCH	Right Rear	568	16	55	588.1	12.9	4.8	452.9	1884.1	0.75	0.95	0.50	0.10
Toyota	Echo	Cosco	Triad	LATCH	Right Rear	302	12	54	714.5	14.1	12.4	218.8	1390.0	0.84	0.73	0.50	0.02
Ford	Escape	Cosco	Triad	Non-LATCH	Left Rear	516	13	46	71.9	6.5	15.2	394.6	1773.2	1.00	0.80	0.20	0.19
Ford	Escape	Cosco	Triad	LATCH	Right Rear	634	N/A	44	770.0	15.7	7.4	383.7	1865.8	1.07	0.89	0.42	0.10
Lincoln	LS	Cosco	Triad	Non-LATCH	Left Rear	1029	14	53	845.0	23.3	13.8	397.3	2227.5	1.50	0.96	0.96	0.09
Lincoln	LS	Cosco	Triad	LATCH	Right Rear	394	13	47	775.4	17.3	16.3	265.2	1833.4	0.99	0.91	0.58	0.01
Nissan	Sentra	Cosco	Triad	LATCH	Right Rear	342	10	43	628.7	11.0	4.5	443.1	1617.7	0.88	0.80	0.36	0.00
Dodge	Stratus	Cosco	Triad	LATCH	Left Rear	463	18	45	56.6	11.7	7.6	202.1	1794.3	0.80	0.93	0.40	0.00
Dodge	Stratus	Cosco	Triad	LATCH	Right Rear	368	17	44	609.4	9.8	6.5	270.4	1778.4	0.85	0.89	0.32	0.00
Ford	Windstar	Cosco	Triad	Non-LATCH	Left Rear	422	12	38	632.5	11.9	8.2	260.9	1834.7	0.75	0.96	0.33	0.02
Ford	Windstar	Cosco	Triad	LATCH	Right Rear	409	13	37	619.4	13.6	7.5	211.3	1592.7	0.78	0.85	0.30	0.01
Honda	Accord	Even Flo	Horizon V	LATCH	Left Rear	456	14	41	723.3	12.1	8.8	160.2	1944.6	0.56	1.03	0.43	0.03
Dodge	Durango	Even Flo	Horizon V	Non-LATCH	Right Rear	534	21	47	1385.3	17.6	7.9	86.9	2139.1	1.03	1.09	0.69	0.01
Toyota*	Echo	Even Flo	Horizon V	LATCH	Right Rear	916	18	55	886.2	12.2	13.4	116.3	2167.5	0.92	1.12	0.32	0.02
Dodge	Gr Caravan	Even Flo	Horizon V	LATCH	Right Rear	585	18	52	604.5	15.3	9.7	414.6	1896.9	0.77	1.00	0.59	0.02
Dodge	Gr Caravan	Even Flo	Horizon V	LATCH	Right Rear	734	14	54	N/A	15.2	12.8	453.2	2052.5	N/A	N/A	N/A	N/A
Nissan	Maxima	Even Flo	Horizon V	Non-LATCH	Left Rear	742	16	49	718.5	17.0	17.5	180.8	2078.6	1.00	1.14	0.65	0.03
Nissan	Maxima	Even Flo	Horizon V	LATCH	Right Rear	777	21	48	967.9	28.8	14.3	388.1	2119.9	1.02	1.16	1.24	0.00
Volvo	S60	Even Flo	Horizon V	Non-LATCH	Right Rear	817	20	53	675.9	13.1	13.9	298.7	2148.7	0.28	0.09	1.05	1.03
Nissan	Sentra	Fisher Price	Safe Embrace II	LATCH	Right Rear	456	22	45	996.3	9.9	5.1	293.5	2182.3	1.10	0.98	0.43	0.02
Honda	Accord	Fisher Price	Safe Embrace II	LATCH	Right Rear	375	19	39	949.2	12.6	7.0	250.5	1943.0	1.10	0.93	0.50	0.02
Hyundai	Elantra	Fisher Price	Safe Embrace II	LATCH	Right Rear	450	20	48	1109.2	9.0	5.8	258.1	2351.6	1.15	1.11	0.32	0.00
Ford	Escape	Fisher Price	Safe Embrace II	Non-LATCH	Left Rear	493	15	53	104.6	10.2	18.3	329.0	2331.7	1.38	1.01	0.09	0.17
Ford	Escape	Fisher Price	Safe Embrace II	LATCH	Right Rear	387	16	47	993.4	11.7	6.8	246.1	2085.0	1.06	1.04	0.38	0.01
Dodge	Gr Caravan	Fisher Price	Safe Embrace II	LATCH	Left Rear	556	17	56	780.2	10.6	7.3	790.2	2271.0	0.75	1.14	0.53	0.01
Ford	Windstar	Fisher Price	Safe Embrace II	Non-LATCH	Left Rear	342	15	38	83.4	7.8	14.1	159.4	1889.0	0.77	0.67	0.01	0.10
Ford	Windstar	Fisher Price	Safe Embrace II	LATCH	Right Rear	371	18	38	705.8	9.7	5.7	N/A	N/A	N/A	N/A	N/A	N/A

* The top tether vehicle anchorage broke in this test.

Appendix A Dynamic Testing

Table A2: MY 2000 Compliance Testing Results: 3-Year-Old Forward-Facing (Upright) Child Seats @ 30 MPH

Test No	Child Restraint Make/Model	Tether Used	HIC	HIC Comp-%	Chest G	Chest G Comp-%	Head Excursion (inches)	Head Excursion Comp-%	Knee Excursion (inches)	Knee Excursion Comp-%
35	Britax Freeway Plus	N	410	59.0%	44	26.7%	30	6.3%	32	11.1%
36	Britax Freeway Plus	Y	324	67.6%	45	25.0%	24	14.3%	28	22.2%
41	Britax Roundabout	N	377	62.3%	36	40.0%	30	6.3%	32	11.1%
42	Britax Roundabout	Y	298	70.2%	42	30.0%	21	25.0%	27	25.0%
55	Century Bravo 5 Pt.	N	381	61.9%	50	16.7%	27	15.6%	30	16.7%
56	Century Bravo 5 Pt.	Y	323	67.7%	38	36.7%	24	14.3%	27	25.0%
61	Century Bravo Overhead Shield	N	493	50.7%	50	16.7%	28	12.5%	30	16.7%
62	Century Bravo Overhead Shield	Y	358	64.2%	38	36.7%	24	14.3%	27	25.0%
67	Century Encore 5 Pt.	N	463	53.7%	48	20.0%	28	12.5%	30	16.7%
68	Century Encore 5 Pt.	Y	336	66.4%	39	35.0%	26	7.1%	28	22.2%
73	Century Encore Overhead Shield	N	547	45.3%	43	28.3%	27	15.6%	33	8.3%
74	Century Encore Overhead Shield	Y	468	53.2%	42	30.0%	26	7.1%	28	22.2%
84	Century Room to Grow	Y	457	54.3%	42	30.0%	27	3.6%	31	13.9%
83	Century Room to Grow	N	580	42.0%	45	25.0%	27	15.6%	31	13.9%
89	Century Smart Move 5 Pt.	N	397	60.3%	53	11.7%	30	6.3%	33	8.3%
90	Century Smart Move 5 Pt.	Y	275	72.5%	47	21.7%	23	17.9%	27	25.0%
93	Cosco Alpha Omega (02331)	N	639	36.1%	54	10.0%	30	6.3%	32	11.1%
94	Cosco Alpha Omega (02331)	Y	439	56.1%	42	30.0%	24	14.3%	27	25.0%
99	Cosco Alpha Omega (02332)	N	570	43.0%	47	21.7%	30	6.3%	34	5.6%
101	Cosco Alpha Omega (02332)	Y	435	56.5%	44	26.7%	25	10.7%	29	19.4%
100	Cosco Alpha Omega (02332)	Y	384	61.6%	43	28.3%	24	14.3%	29	19.4%
107	Cosco Olympian Overhead Shield	N	470	53.0%	41	31.7%	29	9.4%	32	11.1%
108	Cosco Olympian Overhead Shield	Y	422	57.8%	50	16.7%	23	17.9%	29	19.4%
113	Cosco Touriva 5 Pt.	N	424	57.6%	36	40.0%	28	12.5%	32	11.1%
114	Cosco Touriva 5 Pt.	Y	396	60.4%	43	28.3%	23	17.9%	32	11.1%
119	Cosco Touriva Overhead Shield	N	478	52.2%	37	38.3%	28	12.5%	32	11.1%
120	Cosco Touriva Overhead Shield	Y	387	61.3%	46	23.3%	23	17.9%	28	22.2%
126	Evenflo Champion Overhead Shield	N	438	56.2%	56	6.7%	27	15.6%	32	11.1%
127	Evenflo Champion Overhead Shield	Y	341	65.9%	48	20.0%	27	3.6%	30	16.7%
133	Evenflo Conquest I	Y	323	67.7%	48	20.0%	24	14.3%	30	16.7%
138	Evenflo Conquest V	N	383	61.7%	33	45.0%	27	15.6%	32	11.1%
139	Evenflo Conquest V	Y	336	66.4%	42	30.0%	23	17.9%	30	16.7%

Appendix A Dynamic Testing

144	Evenflo Horizon I	N	462	53.8%	37	38.3%	27	15.6%	32	11.1%
145	Evenflo Horizon I	Y	404	59.6%	40	33.3%	24	14.3%	29	19.4%
150	Evenflo Horizon V	N	465	53.5%	39	35.0%	29	9.4%	32	11.1%
151	Evenflo Horizon V	Y	355	64.5%	42	30.0%	24	14.3%	29	19.4%
156	Evenflo Medallion V	N	466	53.4%	36	40.0%	27	15.6%	32	11.1%
157	Evenflo Medallion V	Y	405	59.5%	41	31.7%	26	7.1%	31	13.9%
162	Evenflo Secure Advantage	N	444	55.6%	50	16.7%	28	12.5%	32	11.1%
163	Evenflo Secure Advantage	Y	363	63.7%	42	30.0%	24	14.3%	29	19.4%
168	Evenflo Secure Choice	N	450	55.0%	46	23.3%	25	21.9%	33	8.3%
169	Evenflo Secure Choice	Y	434	56.6%	39	35.0%	26	7.1%	30	16.7%
174	Evenflo Ultara I	N	500	50.0%	46	23.3%	28	12.5%	32	11.1%
175	Evenflo Ultara I	Y	336	66.4%	46	23.3%	24	14.3%	30	16.7%
183	Fisher-Price Safe Embrace	N	411	58.9%	44	26.7%	25	21.9%	31	13.9%
184	Fisher-Price Safe Embrace	Y	320	68.0%	43	28.3%	19	32.1%	26	27.8%
189	Kolcraft Performa	N	447	55.3%	37	38.3%	27	15.6%	33	8.3%
190	Kolcraft Performa	Y	514	48.6%	43	28.3%	24	14.3%	29	19.4%
194	Safeline Sit'n'Stroll	N	557	44.3%	40	33.3%	28	12.5%	33	8.3%
195	Safeline Sit'n'Stroll	Y	368	63.2%	32	46.7%	27	3.6%	32	11.1%
		MEAN	421.1	57.9%	43	28.2%	26	13.2%	30	15.6%
		StDev	77.8	7.8%	5.2	8.7%	2.5	5.6%	2.0	5.6%
		Min	275	36.1%	32	6.7%	19	3.6%	26	5.6%
		Max	639	72.5%	56	46.7%	30	32.1%	34	27.8%
		Range	364	36.4%	24	40.0%	11	28.6%	8	22.2%

Appendix A Dynamic Testing

Table A3: Summary of Recommended Injury Criteria for the Final Rule			
Recommended Criteria	**6YO Child**	**3YO Child**	**1YO Infant**
Head Criteria: HIC (15 msec)	700	570	390
Neck Criteria: Nij	N/A	N/A	N/A
In-Position Critical Intercept Values			
Tension (N)			
Compression (N)			
Flexion (Nm)			
Extension (Nm)			
Peak Tension (N)			
Peak Compression (N)			
Neck Criteria: Nij	1	1	1
Out-of-Position			
Critical Intercept Values			
Tension (N)	2800	2120	1460
Compression (N)	2800	2120	1460
Flexion (Nm)	93	68	43
Extension (Nm)	37	27	17
Peak Tension (N)	1490	1130	780
Peak Compression (N)	1820	1380	960
Thoracic Criteria			
1. Chest Acceleration (g)	60	55	50
2. Chest Deflection (mm)	40	34	30
	(1.6 in)	(1.4 in)	(1.2 in)
Lower Ext. Criteria:			
Femur Load (kN)	N/A	N/A	N/A

Appendix A Dynamic Testing

Table A4: CRS Performance Test Matrix

Test Matrix for Evaluating CRS Performance in Frontal Vehicle Testing

		Type of Child Seat	
Vehicle Size	**Model**	**Left Rear**	**Right Rear**
Light	Sentra	No CRS	Triad-LAT
	Sentra	No CRS	Emb II-LAT
	Civic 4 dr	No CRS	Horizon V-NOLAT
Compact	Echo	No CRS	Triad-LAT*
	Echo	No CRS	Hoizon V-LAT
	Elantra	No CRS	Emb II-LAT
Medium	Stratus 4dr	Triad-LAT	Triad-LAT
	Volvo S60	STE	Horizon V
	Maxima	Horizon V-NOLAT	Horizon V-LAT
	Accord	HoizonV-LAT	Emb II-LAT
	Impala	STE	Roundabout
Heavy	Lincoln LS	Triad-NOLAT	Triad-LAT
SUV	Escape	Emb II-NOLAT	Emb II-LAT
	Escape	Triad-NOLAT	Triad-LAT
	Durango	STE	Horizon V
	Suburban	Emb II-NOLAT	Roundabout-NOLAT
Minivan	Grand Caravan	STE	Horizon V-LAT
	Grand Caravan	Emb II-LAT	Horizon V-LAT
	Windstar	Emb II-NOLAT	Emb II-LAT
	Windstar	Triad-NOLAT	Triad-LAT

Note:

	Frontal NCAP test
	Frontal test with with small stature dummies
Triad-LAT	Cosco Triad with LATCH configuration
Emb II-LAT	Safe Embrace II with LATCH configuration
Triad-NOLAT	Cosco Triad with no LATCH setup
Emb II-NOLAT	Safe Embrace II with no LATCH setup
Horizon V-LAT	EvenFlo Horizon V with LATCH
Roundabout-NOLAT	Britax Roundabout with no LATCH
Horizon V	Even Flo Horizon V with no LATCH configuration
STE	Century 1000 STE with no LATCH
No CRS	No child seat

* The top tether vehicle anchorage broke in this test.

Appendix A Dynamic Testing

Table A5: CRS Sled Tests, 29 MPH

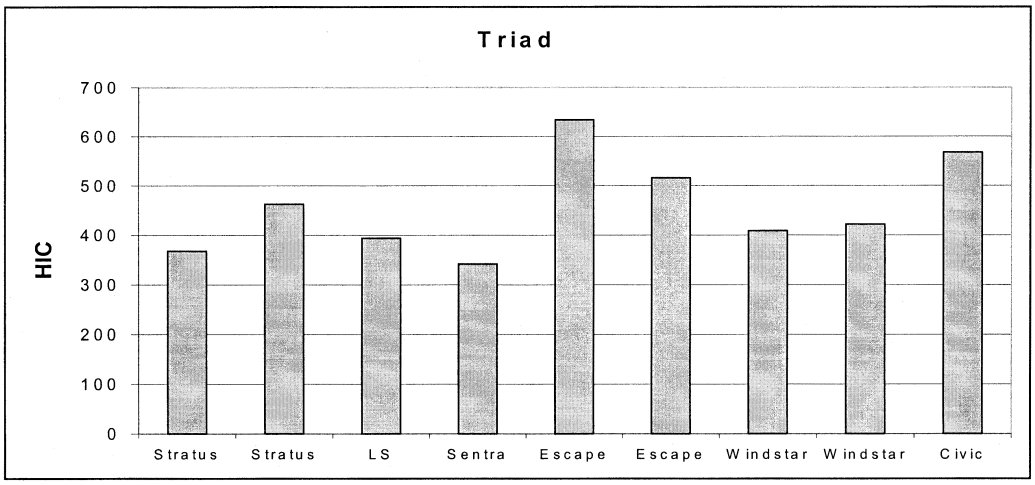
Child Restraint	HIC (15ms)	Chest G (3ms)
Britax Roundabout	160	33
Century Room-to-Grow OS	218	43
Century Smart Move	147	31
Century STE 1000	245	30
Cosco Olympian OS	170	35
Cosco Touriva	167	29
Evenflo Horizon V	168	31
Evenflo Medallion	173	36
Cosco Triad (LATCH)	165	33

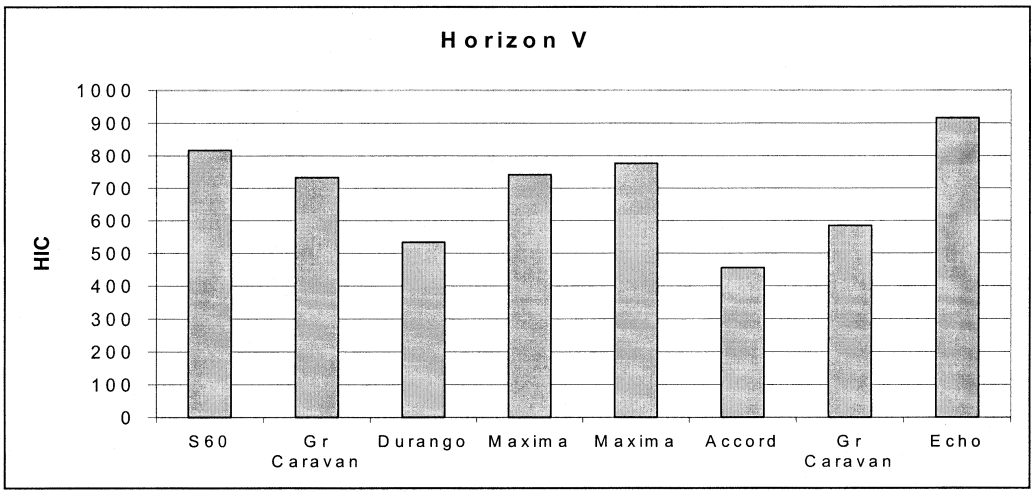
Table A6: CRS Sled Tests, 35 MPH

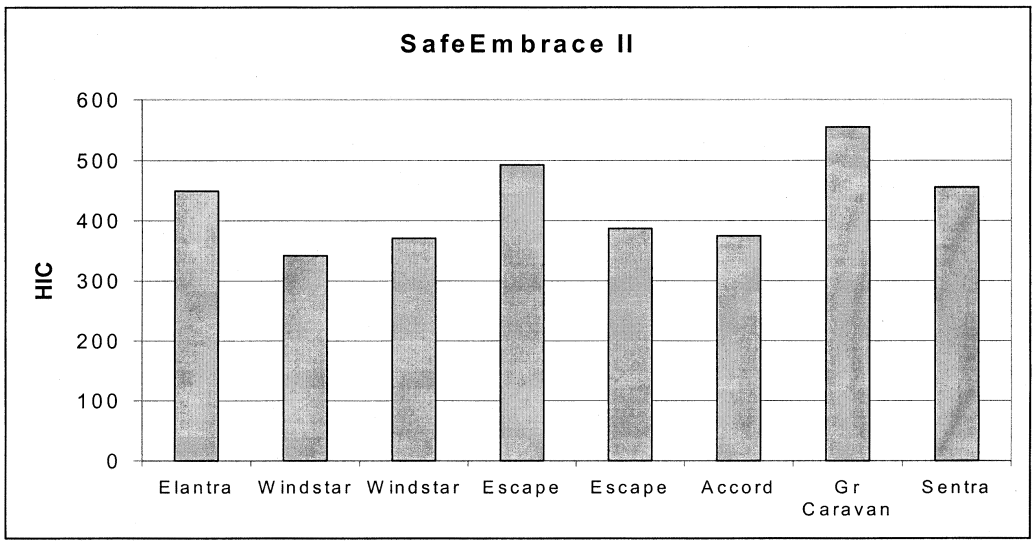
Child Restraint	HIC (15ms)	Chest G (3ms)
Britax Roundabout	307	43
Century Room-to-Grow OS	337	41
Century Smart Move	234	39
Century STE 1000	305	37
Cosco Olympian OS	321	39
Cosco Touriva	292	36
Evenflo Horizon V	261	35
Evenflo Medallion	335	40
Cosco Triad (LATCH)	269	36

Appendix A Dynamic Testing

Figure A1: Child Seat Results by Vehicle







Appendix B NHTSA Ease of Use Rating Form

NHTSA Child Restraint Usability Rating Form – 2001

Date _____ Evaluated by _____ Seat # (on tag)_____

Manufacturer_____ DOM_____

Make & Model_____ Model # (on CRS)_____

If optional base, model # on base _____ DOM on base_____

Style: ❑ Infant (RF) ❑ Convertible (RF/FF) ❑ Combination (FF harness/booster) ❑ Booster ❑ Other

Harness: ❑ 5-point ❑ "V" or 3-point ❑ T-shield ❑ OH shield ❑ Shield booster ❑ No shield booster

Measurements (imperial units for North American consumer guide) – *take out slack in seat cover*

Total number of crotch strap positions ❑ 1 ❑ 2 ❑ n/a (booster only)

Distance crotch strap opening on base to seat bight Position 1_____ Position 2_____ ❑ n/a

Lower harness slot height (bottom center slot to seat bight)_____ Upper harness slot height _____ ❑ n/a

Seat height (from seat bight) ❑ n/a (no back-booster)

Size range given in owner's manual: _____ **Date on manual:**_____

	WEIGHT (kg and lb)		HEIGHT (cm and inches)	
	Minimum	Maximum	Minimum	Maximum
RF				
FF				
Booster				

❑ Yes ❑ No, note any differences_____

_____

Infant restraint has optional base ❑ Yes ❑ No ❑ n/a (e.g. convertible)

Type: ❑ Booster Only
❑ Combination (harness/booster)

Style: ❑ No-back with non-removable shield
❑ No-back with removable shield
❑ No-back NO shield
❑ High back with soft back
❑ High back with hard back

Booster recommended for use with: Lap/torso ❑ Yes ❑ No ❑ not shown on seat

Lap belt ❑ Yes ❑ No ❑ not shown on seat

If shield booster, recommended t/belt position: ❑ front of child ❑ behind child ❑ not shown on seat ❑ n/a

Appendix B NHTSA Ease of Use Rating Form

NHTSA CHILD RESTRAINT USABILITY RATING FORM – 2001

Assembly *(When first out of box)*

	A	B	C	Notes
All functional parts including seat pad or cover attached and ready to use	Yes*		No	*parent may still need to adjust system to fit child
Tether attached to child restraint	Yes		No	n/a
Owner's manual easy to find	Attached to child restraint in a clearly location visible	Attached to child restraint but not clearly visible	In box, not attached	
Obvious storage (pocket) for manual	Easily accessible when installed in all modes and manual can be removed and replaced easily	Easily accessible When installed in all modes but manual cannot be removed and replaced easily (any use of plastic clips as the sole means of storing the instructions will not be higher than "acceptable")	Not accessible when installed in all modes	

Evaluation of Labels/Instructions

	A	B	C	Notes
Clear indication of child's size range	Separate clear text with illustrations of child in upper range	Separate clear text Independent paragraph	Size range buried in other text	
All mode/s of use clearly indicated e.g., rear-facing only or forward-and rear-facing if convertible	CRS illustration in complete vehicle seat (not FSP) Mode/s clear, no need to read text	CRS illustration in outline vehicle seat (could be front seat) Need to read text	No illustration, text only May be illustrated, but not all modes shown	*Infant restraint = RF* *Convertible = RH and FF (+tether could be separate illustration)* *Combination = FF (+harness/tether and booster)*
Air bag warning in written instructions	Separate, highlighted & illustrated	Separate &highlighted	Buried in other text or no warning	
Show harness slots okay to use for occupant size	Clear illustration or markings –no need to read text	Markings of top slot – need to read text	Other, includes text only or in manual only	n/a, all harness slots can be used
Instructions for routing for both lap belt and lap/shoulder belt in all modes	All modes illustrated clearly with CR in seat S/belt (tether) in illustration with s/b ***No need to read***	All modes illustrated with CR in seat (tether may have own illustration of s/belted CRS in seat) ***Need*** to read text	Not all illustrated (e.g. tether not shown)	*All modes = RF/FF & lap, lap/torso and for* ***infant restraint*** *if torso belt shown behind CRS, alternative if torso belt not long enough* *and for* ***FF harness systems*** *+ tether* and for **booster** – whether or not okay for both lap and lap/torso seat belt

Appendix B NHTSA Ease of Use Rating Form

NHTSA CHILD RESTRAINT USABILITY RATING FORM – 2001

Evaluation of Labels/Instructions *(Continued)*

		A	B	C	Notes
Visibility of seat belt routing (for lap belt and lap/torso) when CRS in position in vehicle	Without base	Clear routing illustration or clear contrast belt path marking ***both*** sides No need to read text	Markings or some form of routing illustration ***both*** sides Need to read text	Other incl illustration only ***one*** side or illustrations do not match CRS or belt direction or hidden by seat cover	
i.e. is seat belt routing obvious	Installing add-on base (alone) or n/a	Clear routing illustration or clear contrast belt path marking ***both*** sides No need to read text	Markings or some form of routing illustration ***both*** sides Need to read text	Other incl illustration only ***one*** side or illustrations do not match CRS or belt direction or hidden by seat cover	
Visibility of tether use		Yes		No	
Information in written instructions and on labels match		Yes		No	
Durability of labels		All labels molded or embossed	Sticky label	Sticky label if one or more are already peeling when restraint removed from box	

Securing the Child

	A	B	C	Notes
Buckle can be secured in reverse	No, or yes but usual release works with same degree of effort	Yes, but usual release requires more effort	Yes, but can't use release mechanism	
Harness adjustment easy to tighten or loosen when child restraint installed	One had to tighten Max 2 to loosen	Two hands to tighten, but easy No re-threading	Other	*Do not count one hand to support CRS*
Number of harness slots/ usable slots	3	2*	Top only	*2nd slot okay to 30 lb then top only
Ease of attaching/removing base (infant restraint systems only)	One had to attach Max two to release –handle easy to access	One hand to attach Max two to release –handle not easy access	Other includes need to tilt or tip to release	n/a, not an infant restraint n/a, no base offered with this infant restraint
Ease of conversion rear-facing to forward-facing or forward-facing to booster and back again	One had to change Easy to access	1-2 hands to change – not easy access or binds	Other	n/a, single mode
Visibility of harness slots	Clear view of both slots (slots aligned)	Clear view cloth slots, not aligned with plastic slots	Something in way when sold, e.g. pad, head hugger	n/a, no harness slots (booster only)

Appendix B NHTSA Ease of Use Rating Form

NHTSA CHILD RESTRAINT USABILITY RATING FORM – 2001

Securing the Child *(Continued)*

	A	B	C	Notes
Ease of changing harness slot position	No need to rethread Possible for one person to do	Possible for one person to do, easy to attach/remove Large slots easy to thread	Other, slot size too small for easy threading Loose mandatory pieces Could misroute through buckle	
Ease of reassembly if pad/cover removed for cleaning	No loose parts Easy to attach/remove – clear slots No realignment necessary	No loose parts Slots maybe misaligned	Loose parts, need hand tool Slot size too small for easy threading Could misroute through buckle	
Ease of adjusting/removing shield	Clear illustration simple action shield marked	Need to read text, simple action, shield not marked	Other tool/s required	n/a, no shield n/a, shield not adjustable

Installing in Vehicle

		A	B	C	Notes
Separation of vehicle belt path	Without base	No contact possible	Cover to avoid contact	Possible contact including crotch strap	
	Installing add-on base (alone) or n/a	No contact possible	Cover	Possible contact	
Ease of vehicle belt routing (hand clearance)	**Without base**	Male hand can route s/b through including flap in seat, nothing in way	Male hand fit but need to move CRS (no x-tilt), or move padding	Hand does not fit	
	Installing add-on base (alone) or n/a	Male hand can route s/b through including flap in seat	Male hand fit but need to move CRS (no x-tilt)	Hand does not fit	
Ease of seat belt routing (boosters)		Single action (could be done by child in seat)	Includes2 hands to operate belt positioning hardware	Detachable or multiple steps	
Ease of use of any belt-positioning hardware on CRS including lock-off		One hand to use	Two hands to use	Detachable or multiple steps	n/a, no belt positioning hardware
Tether easy to tighten (& release)		One hand to tighten	Two hands but easy	Other	
Does belt-positioning device allow excessive slack to occur including lock off		Guides only		Slack could be introduced	n/a, no belt positioning hardware
Ease of tightening belt around CRS		???	???	???	

Appendix C NHTSA Ease of Use Rating Sample

Evaluation Category	Feature	Possible Points for Feature	Example Rating	Example Rating: Points for Each Feature	Feature Weight	Example Rating: Weighted Points for Each Feature	Category Point Range for C Rating	Category Point Range for B Rating	Category Point Range for A Rating	Example Rating: Result for this Category
Assembly										
	All functional parts including seat pad or cover attached and ready to use	1, 3	C	1	2	2				
	Tether attached to child restraint	1, 3	C	1	2	2				
	Owner's manual easy to find	1, 2, 3	A	3	1	3				
	Obvious storage (pocket) for manual	1, 2, 3	C	1	2	2				
	Total					9	7 to 11	12 to 16	17 to 21	C
Labels/ Instructions										
	Clear indication of child's size range	1, 2, 3	A	3	2	6				
	All mode/s of use clearly indicated e.g., rear-facing only or forward- and rear-facing if convertible	1, 2, 3	A	3	2	6				
	Air bag warning in written instructions	1, 2, 3	A	3	2	6				
	Show harness slots okay to use for occupant size	1, 2, 3	C	1	3	3				
	Instructions for routing for both lap belt and lap/shoulder belt in all modes	1, 2, 3	A	3	2	6				
	Visibility of seat belt routing (for lap belt and lap/torso) when CRS in position in vehicle i.e., is seat belt routing obvious	1, 2, 3	C	1	3	3				
	Visibility of tether use	1, 3	A	3	2	6				
	Information in written instructions and on labels match	1, 3	A	3	2	6				
	Durability of labels	1, 2, 3	B	2	2	4				
	Total					46	20 to 33	34 to 47	48 to 60	B
Securing the Child										
	Buckle can be secured in reverse	1, 2, 3	C	1	3	3				
	Harness adjustment easy to tighten or loosen when child restraint installed	1, 2, 3	B	2	3	6				
	Number of harness slots/usable slots	1, 2, 3	B	2	1	2				
	Ease of attaching/removing base (infant restraint systems only)	1, 2, 3	C	1	3	3				
	Ease of conversion rear-facing to forward-facing or forward-facing to booster and back again	1, 2, 3	A	3	3	9				
	Visibility of harness slots	1, 2, 3	A	3	2	6				
	Ease of changing harness slot positions	1, 2, 3	A	3	2	6				
	Ease of reassembly if pad/cover removed for cleaning	1, 2, 3	C	1	3	3				
	Ease of adjusting/removing shield	1, 2, 3	A	3	1	3				
	Total					41	21 to 35	36 to 49	50 to 63	B
Installing in Vehicle										
	Separation of vehicle belt path	1, 2, 3	B	2	3	6				
	Ease of vehicle belt routing (hand clearance)	1, 2, 3	B	2	2	4				
	Ease of seat belt routing (boosters)	1, 2, 3	B	2	2	4				
	Ease of use of any belt-positioning hardware on CRS, including lock-off	1, 2, 3	A	3	1	3				
	Tether easy to tighten (& release)	1, 2, 3	C	1	3	3				
	Does belt-positioning device allow slack to occur	1, 3	C	1	3	3				
	Ease of tightening belt around CRS	1, 2, 3	A	3	2	6				
	Total					29	16 to 26	27 to 37	38 to 48	B
Overall Rating										B
Qualifiers:										
To be rated B, no more than one out of four categories can be rated C										
To be rated A, no more than one out of four categories can be rated less than A										

Appendix D ICBC Ease of Use Rating System

Date _____ Evaluated by _____ Seat # (on tag) _____

Manufacturer _____ DOM _____

Make & model _____ Model # (on CRS) _____

If optional base, model # on base _____ DOM on base _____

Style: ❑ Infant (RF) ❑ Convertible (RF/FF) ❑ Combination (FF harness/booster) ❑ Booster ❑ Other

Harness: ❑ 5-point ❑ "V" or 3-point ❑ T-shield ❑ OH shield ❑ Shield booster ❑ No-shield booster

Ready to use (i.e. when first out of box)

	Good	Acceptable	Poor	Notes
All functional parts incl. seat pad or cover attached and ready to use	yes*		no	*parent may still need to adjust system to fit child
Any other add-ons in box (not installed at point of sale)	no add-ons	independent canopy (not on carrying handle) optional booster shield, cup holder, head pad (can see slots)	belt positioning guide, canopy on handle, head-hugger/pad could/does cover harness slots	❑ n/a seat not assembled
Total time taken to assemble CRS				❑ n/a CRS already assembled
Tether attached to CRS	yes		no	❑ n/a
Owner's manual easy to find	yes attached to CRS	in box	no	
Obvious storage (pocket) for manual	easy access when CRS installed in all modes	easy access not accessible when CRS installed in all modes	none found or not easy access/storage (incl. plastic tabs)	

Measurements (imperial units for N. American consumer guide) – *take out slack in seat cover*

Total no. of crotch strap positions ❑ 1 ❑ 2 ❑ n/a (booster only)

Distance crotch strap opening on base to seat bight Position 1 _____ Position 2 _____ ❑ n/a

Lower harness slot hgt (bottom centre slot to seat bight) _____ Upper harness slot hgt _____ _____ ❑ n/a

Seat height (from seat bight) _____ ❑ n/a (no-back booster)

Size range given in owner's manual: **Date on manual:**

	Weight (kg and lb)		Height (cm and inches)	
	Minimum	Maximum	Minimum	Maximum
RF				
FF				
Booster				

Is size range in owner's manual same as labels on CRS itself ❑ Yes ❑ No, note any differences

Appendix D ICBC Ease of Use Rating System

Instructions for use (owner's manual)

	Good	Acceptable	Poor	Notes
Clear indication of child's size range in owner's manual	separate clear text with illus. in manual of child in upper range	separate clear text independent paragraph	size range buried in other text or different to CRS labels	
All mode/s of use clearly indicated e.g. RF only or if convertible RF & FF	CRS illus. in complete vehicle seat (not FSP) mode/s clear, no need to read text	CRS illus. in outline vehicle seat (could be front seat) need to read text	no illus, text only may be illus, but not all modes shown	*infant restraint = RF* *Convertible =RF and FF (+tether could be separate illustration)* *Combination=FF (+harness/tether) and booster)*
Airbag warning	separate, highlighted & illustrated	separate & highlighted	buried in other text or no warning	
Instructions for routing for both lap belt and lap/torso – all modes	all modes illustrated clearly with CR in seat s/belt (tether) in illus with s/b no need to read	all modes illus. with CR in seat (tether may have own illus. of s/belted CRS in seat) need to read text	not all illustrated (eg tether not shown)	*All modes = RF/FF & lap, lap/torso* *and for infant restraint if torso belt shown behind CRS, alternative if torso belt not long enough* *and for FF harness systems + tether* *and for booster – whether or not OK for both lap and lap/torso seat belt*

Ease of Conversion

	Good	Acceptable	Poor	Notes
Ease of attaching/removing base (infant restraint systems only)	one hand to attach max. two to release –handle easy to access	one hand to attach max two to release handle not easy access	other includes need to tilt or tip to release	❑ n/a not an infant restraint ❑ n/a no base offered with this infant restraint
Ease of conversion RF to FF or FF to booster	one hand to change easy to access	1-2 hands to change - not easy access or binds	other	❑ n/a, single mode
Ease of converting back FF to RF or booster to FF	one hand to change easy to access	1-2 hands to change - not easy access or binds	other	❑ n/a, single mode
Visibility of harness slots	clear view of both slots (slots aligned)	clear view cloth slots, not aligned with plastic slots	something in way when sold, e.g. pad, head hugger	❑ n/a, no harness slots (booster only)
Ease of changing harness slot position	easy to attach/remove clear slots, easy to thread easy to attach to hardware	possible for one person to do slots may be misaligned/pad in way/in slots hardware slot shared	other, slot size too small for easy threading loose mandatory pieces could misroute through buckle	❑ n/a, no harness slots (booster only) ❑ n/a, only one set of slots
Ease of re-assembly if pad removed for cleaning	no loose parts easy to attach/remove - clear slots no realignment necessary	no loose parts slots may be misaligned	loose parts, need hand tool slot size too small for easy threading could misroute through buckle	
Ease of adjusting/removing shield	clear illus. simple action shield marked	need to read text, simple action, shield not marked	other, tool/s required	❑ n/a, no shield ❑ n/a, shield not adjustable

Appendix D ICBC Ease of Use Rating System

COMPLETE IF INFANT RESTRAINT or CONVERTIBLE RF MODE Seat # (on tag) _____

Make & model _____

Infant restraint has optional base ❑ yes ❑ no ❑ n/a (eg convertible)

Evaluation of labelling on CRS without base (labels may or may not be visible when CRS in vehicle)

	Good	Acceptable	Poor	Notes
Clear indication of child's size range	separate clear text with illus. of child in upper range/s	separate clear text independent paragraph	size range buried in other text	

Securing the child

	Good	Acceptable	Poor	Notes
Number of steps to secure child	No. of steps =			*Assume harness open/loose, child in CRS, harness tightens OK 1st attempt*
Can buckle be secured in reverse	no	yes, but usual release works	yes & difficult to release/access	
Harness adjustment easy to tighten and loosen	one hand to tighten max 2 to loosen	two hands to tighten, but easy no re-threading	other	*Do not count one hand to support CRS*
No. of harness slots in pad	3	2	1	*❑ same # slots & reasonably aligned*
No. of harness slots in plastic	3	2	1	

Visibility of labels when installing CRS in vehicle

	Without base			*Installing add-on base (alone) or ❑ n/a*		
	Good	Acceptable	Poor	*Good*	*Acceptable*	*Poor*
Mode of use clearly indicated i.e. shows RF only or if convertible RF (v FF) and not in FSP or by airbag	CRS illus. in vehicle seat (not FSP) BOTH sides no need to read text	illus. or arrow BOTH sides need to read text (eg to know not with airbag/FSP)	no illus, text only or illus ONE side only	*CRS illus. in vehicle seat (not FSP) BOTH sides* *no need to read text*	*illus. or arrow BOTH sides* *need to read text (eg to know not with airbag/FSP)*	*no illus, text only or illus* *ONE side only*
Visibility of seat belt routing (for lap belt and lap/torso) when CRS in position in vehicle i.e. is seat belt routing obvious	clear routing illus. or clear contrast belt path markings BOTH sides no need to read text	markings or some form of routing illus. BOTH sides need to read text	other incl illus. only ONE side or illus. do not match CRS or belt direction or hidden by seat cover	*clear routing illus. or clear contrast belt path markings BOTH sides* *no need to read text*	*markings or some form of routing illus. BOTH sides* *need to read text*	*other incl illus. only ONE side or illus. do not match CRS or belt direction or hidden by seat cover*
Is airbag warning visible no matter where CRS being installed	clear illus. with interaction & warning in contrast BOTH sides or on seat pad		other, includes text only, poor illustration, ONE side only	*clear illus. with interaction and warning in contrast BOTH sides or on top*		*other, includes text only, poor illustration, ONE side only*

Installation in vehicle

	Without base			*Installing add-on base (alone) or ❑ n/a*		
	Good	Acceptable	Poor	*Good*	*Acceptable*	*Poor*
Separation of vehicle belt path from harness	no contact possible	cover to avoid contact	possible contact incl. crotch strap	*no contact possible*	*cover*	*possible contact*
Ease of vehicle belt routing Check hand clearance	male hand can route s/b through incl. flap in seat, nothing in way	male hand fit but need to move CRS (no x-tilt), or move padding	hand does not fit	*male hand can route s/b through incl. flap in seat*	*male hand fit but need to move CRS (no x-tilt)*	*hand does not fit*

Appendix D ICBC Ease of Use Rating System

COMPLETE IF CONVERTIBLE FF MODE or COMBINATION IN CR MODE Seat # (on tag) _____

Make & model _____

Evaluation of labelling on CRS outside vehicle (labels may or may not be visible when CRS in vehicle)

	Good	Acceptable	Poor	Notes
Clear indication of child's size range	separate, clear text + illus. child in upper range/s	separate clear text independent paragraph	size range buried in other text	*If CRS has more than one mode, evaluate mode which applies to this data sheet*
Mode of use clearly indicated i.e. shows FF plus tether	CRS illus. in vehicle rear seat no need to read text	illus/arrows but need to read text	other includes no illus. or text only and no tether info'	*If CRS has more than one mode, evaluate mode which applies to this data sheet*
Shows harness slots OK to use	clear illus. or markings – no need to read text	markings of top slot -need to read text	other, includes text only or in manual only	*❑ n/a, all harness slots can be used*

Visibility of labels when CRS IN POSITION IN VEHICLE

	Good	*Acceptable*	*Poor*	*Notes*
Visibility of seat belt routing (for lap belt and lap/torso) plus tether need when CRS is in position in vehicle i.e. is s/b routing + tether obvious	clear routing illus. or contrast belt path markings BOTH sides - no need to read text	markings or some form of routing illus. BOTH sides - need to read text	other includes illus. only ONE side or illus. do not match CRS or belt direction or hidden by seat cover	
Is airbag warning visible no matter where CRS being installed	clear illus. with interaction and contrast warning - BOTH sides or ON seat cover		other, includes text only, poor illustration, ONE side only	

Installation in vehicle

	Good	Acceptable	Poor	Notes
Separation of vehicle belt path from harness	no contact possible	cover to avoid contact	possible contact	Note if cover could give s/b slack
Ease of vehicle belt routing Check hand clearance	male hand can route s/ b (incl. flap in seat), nothing in way	male hand fit but need to move CRS (no x-tilt) or move padding	hand does not fit	
Ease of use of any belt-positioning hardware on CRS including lock-off	one hand to use	two hands to use	detachable or multiple steps	❑ n/a no belt positioning hardware
Does belt-positioning device allow excessive slack to occur incl. lock off	guides only		slack could be introduced	❑ n/a no belt positioning hardware
Tether easy to tighten (& release)	one hand to tighten	two hands but easy	other	

Securing the child

	Good	Acceptable	Poor	Notes
Number of steps to secure child	No. of steps =			*Assume harness open/loose and child in CRS and assume harness tightens OK 1st attempt*
Can buckle be secured in reverse	no	yes, but usual release works	yes, other or difficult release	
Harness easy to tighten & loosen when CRS installed	one hand to tighten max 2 to loosen	two hands to tighten, but easy no re-threading	other	*Do not count one hand to support CRS*
No. of usable harness slots-FF mode	3	2*	top only	** ❑2nd slot OK to 30 lb then top only*

Appendix D ICBC Ease of Use Rating System

COMPLETE IF BOOSTER or COMBINATION IN BOOSTER MODE Seat # (on tag) _____

Make & model _____

Type: ❑ Booster only ❑ Combination (harness/booster)

Style: ❑ No-back with non-removable shield ❑ No-back with removable shield ❑ No-back NO shield
❑ High back with soft back ❑ High back with hard back

Evaluation of labelling on CRS outside vehicle (labels may or may not be visible when CRS in vehicle)

	Good	Acceptable	Poor	Notes
Clear indication of child's size range	separate, clear text with illus. of child in upper range/s	separate clear text independent paragraph	size range buried in other text	*If CRS has more than one mode, evaluate mode which applies to this data sheet*
Mode of use clearly indicated i.e. with lap belt or lap/torso belt, and if combination seat, booster (v FF with harness)	CRS illus. in vehicle seat no need to read text	illus. but mode not clear need to read text	no illus. text only	*If CRS has more than one mode, evaluate mode which applies to this data sheet*

Booster recommended for use with: Lap/torso ❑ yes ❑ no ❑ not shown on seat
Lap belt ❑ yes ❑ no ❑ not shown on seat

If shield booster, recommended t/belt position: ❑ front of child ❑ behind child ❑ not shown on seat ❑ n/a

Visibility of labels when CRS IN POSITION IN VEHICLE

	Good	Acceptable	Poor	Notes
Visibility of seat belt routing (for lap belt and lap/torso) when CRS is in position in vehicle i.e. is seat belt routing obvious	clear routing illus. or clear contrast belt path markings BOTH sides no need to read text	markings or some form of routing illus. BOTH sides need to read text	other includes illus. only ONE side or illus. do not match CRS or belt direction	*To rate good or acceptable must include what to do with lap belt AND lap/torso belt*
Is airbag warning visible no matter where CRS being installed	clear illus. with interaction and warning in contrast BOTH sides OR ON seat cover		other, includes text only, poor illustration, ONE side only	

Installation in vehicle

	Good	Acceptable	Poor	Notes
Ease of seat belt routing	single action (could be done by child in seat)	includes 2 hands to operate belt positioning hardware	detachable or multiple steps	
Does belt-positioning hardware allow excessive slack to occur	guides only		slack could be introduced	❑ n/a no belt positioning hardware

Belt-positioning hardware: ❑ integral (non-removable) ❑ add-on/removable

Number of separate positions: _____

[FR Doc. 01–27547 Filed 10–31–01; 9:55 am]
BILLING CODE 4910–59–C

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Departmental Offices, Office of Procurement within the Department of the Treasury is soliciting comments concerning the OMB Control Number 1505–0107, Regulation on Agency Protests.

DATES: Written comments should be received on or before January 7, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW., c/o 1310 G Street, NW., Suite 4W101, Washington, DC 20220 (202) 622–0245; *angelie.jackson@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW., c/o 1310 G Street, NW., Suite 4W101, Washington, DC 20220 (202) 622–0245; *angelie.jackson@do.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulation on Agency Protests.

OMB Number: 1505–0107.

Abstract: This notice provides a request to continue including the designated OMB Control Number on information requested from contractors. The information is requested from contractors so that the Government will be able to evaluate protests effectively and provide prompt resolution of issues in dispute when contractors file agency level protests.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and individuals seeking and who are currently contracting with the Department of the Treasury.

Estimated Number of Respondents: 17.

Estimated Total Annual Burden Hours: 34.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 23, 2001.

Angelie Jackson,

Procurement Analyst.

[FR Doc. 01–27268 Filed 11–5–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Departmental Offices, Office of Procurement within the Department of the Treasury is soliciting comments concerning the OMB Control Number 1505–0080, Post-Contract Award Information.

DATES: Written comments should be received on or before January 7, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW., c/o 1310 G Street, NW., Suite 4W101, Washington, DC 20220 (202) 622–0245; *angelie.jackson@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW., c/o 1310 G Street, NW., Suite 4W101, Washington, DC 20220 (202) 622–0245; *angelie.jackson@do.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: Post-Contract Award Information.

OMB Number: 1505–0080.

Abstract: This notice provides a request to continue including the designated OMB Control Number on information requested from contractors. The information requested is specific to each contract, and is required for Treasury to evaluate properly the progress made and/or management controls used by contractors providing supplies or services to the Government and to determine contractors' compliance with the contracts, in order to protect the Government's interest.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and individuals contracting with the Department of the Treasury.

Estimated Number of Respondents: 5,023.

Estimated Time Per Respondent: 14 hours, 46 minutes.

Estimated Total Annual Burden Hours: 70,493.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 23, 2001.

Angelie Jackson,

Procurement Analyst.

[FR Doc. 01–27266 Filed 11–5–01; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Departmental Offices, Office of Procurement within the Department of the Treasury is soliciting comments concerning the OMB Control Number 1505–0081, Solicitation of Proposal Information for Award of Public Contracts.

DATES: Written comments should be received on or before January 7, 2002 to be assured of consideration.

ADDRESS: Direct all written comments to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW., c/o 1310 G Street, NW., Suite 4W101, Washington, DC 20220 (202) 622–0245; *angelie.jackson@do.treas.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW., c/o 1310 G Street, NW., Suite 4W101, Washington, DC 20220 (202) 622–0245; *angelie.jackson@do.treas.gov*.

SUPPLEMENTARY INFORMATION:

Title: Solicitation of Proposal Information for Award of Public Contracts.

OMB Number: 1505–0081.

Abstract: This notice provides a request to continue including the designated OMB Control Number on information requested from prospective contractors. The information requested is specific to each acquisition solicitation, and is required for Treasury to evaluate properly the capabilities and experiences of potential contractors who desire to provide the supplies and/or services to be acquired. Evaluation will be used to determine which proposals most benefit the Government.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and individuals seeking contracting opportunities with the Department of the Treasury.

Estimated Number of Respondents: 26,338.

Estimated Time Per Respondent: 31 hours, 2 minutes.

Estimated Total Annual Burden Hours: 176,561.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 23, 2001.

Angelie Jackson,

Procurement Analyst.

[FR Doc. 01–27267 Filed 11–5–01; 8:45 am]

BILLING CODE 4810–31–M

UNITED STATES INSTITUTE OF PEACE

Sunshine Act Meeting

AGENCY: United States Institute of Peace.

DATE/TIME: Thursday, November 15, 2001, 9:30 a.m–5:30 p.m.

LOCATION: 1200 17th Street, NW., Suite 200—Conference Room, Washington, DC 20036.

STATUS: Open Session—Portions may be closed pursuant to Subseciton (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: November 2001 Board Meeting; Approval of Minutes of the One Hundred First Meeting (September 20, 2001) of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Other General Issues.

CONTACT: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: October 30, 2001.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 01–27929 Filed 11–2–01; 11:36 a.m.]

BILLING CODE 6820–AR–M

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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DEFENSE DEPARTMENT

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DEFENSE DEPARTMENT

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ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:

State operating permits programs—

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ENVIRONMENTAL PROTECTION AGENCY

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ENVIRONMENTAL PROTECTION AGENCY

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.J. Res. 70/P.L. 107–58

Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Oct. 31, 2001; 115 Stat. 406)

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