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Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30297; Amdt. No. 2095]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

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

Conclusion

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

List of Subjects in 49 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 1, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective April 18, 2002*

Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 6L, Orig
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 6R, Orig
Anchorage, AK, Ted Stevens Anchorage Intl, GPS RWY 6L, Orig-A CANCELLED
Anchorage, AK, Ted Stevens Anchorage Intl, GPS RWY 64, Orig CANCELLED
Midland, MI, Jack Barstow, VOR–A, Amdt 6
Midland, MI, Jack Barstow, RNAV (GPS) RWY 6, Orig
Midland, MI, Jack Barstow, RNAV (GPS) RWY 24, Orig

Note: The FAA published the following Instrument Approach Procedures in Docket No. 30295, Amdt No. 2093 to 14 CFR Part 97 of the Federal Aviation Regulations (Federal Register: Volume 67, Number 38 dated February 26, 2002, Page 8707–8709) under Section 97.27 and 97.39 effective 18 April 2002 which are hereby rescinded:

Santa Ana, CA, Santa Ana/John Wayne Airport-Orange County, NDB RWY 19R, Amdt 1A
San Luis Obispo, CA, San Luis Obispo Co-McChesney Field, ILS RWY 11, Amdt 1

[FR Doc. 02–5454 Filed 3–6–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30298; Amdt. No. 2096]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were

applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 1, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Agreement

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC No.	Subject
02/04/02	TX	Caddo Mills	Caddo Mills Muni	2/0950	NDB Rwy 35L, Amdt 2
02/13/02	MT	Billings	Billings Logan Intl	2/1238	ILS Rwy 28R, Orig
02/14/02	CA	Merced	Merced Muni-Macready Field	2/1247	LOC BC Rwy 12, Amdt 10B
02/14/02	KY	Bowling Green	Bowling Green-Warren County Regional	2/1269	GPS Rwy 21, Orig
02/14/02	KY	Bowling Green	Bowling Green-Warren County Regional	2/1270	VOR/DME Rwy 21, amdt 8
02/14/02	FL	Tampa	Vandenburg	2/1276	GPS Rwy 23, Orig-D
02/15/02	FL	Naples	Naples Muni	2/1321	RNAV (GPS Rwy 5, Orig
02/15/02	MD	Elkton	Cecil County	2/1325	VOR/DME Rwy 31, Orig
02/15/02	FL	Fort Pierce	St. Lucie County Intl	2/1551	NDB or GPS Rwy 27, Orig-A
02/15/02	FL	Fort Pierce	St. Lucie County Intl	2/1552	NDB–A Orig-A
02/19/02	NY	New York	La Guardia	2/1412	ILS Rwy 4 Amdt 34B
02/20/02	NJ	Newark	Newark Intl	2/1425	RNAV (GPS) Rwy 11, Orig
02/20/02	AZ	Yuma	Yuma MCAS-Yuma Intl	2/1426	ILS Rwy 21R, Amdt 5. This replaces FDC 2/1245 published in TL02–07 on 2/15/02
02/21/02	OR	Medford	Rogue Valley Intl-Medford	2/1439	RNAV (GPS)–D, Orig
02/21/02	AK	Dillingham	Dillingham	2/1458	RNAV (GPS) Rwy 19, Orig
02/21/02	KS	Hays	Hays Regional	2/1466	ILS Rwy 34, Orig-A
02/21/02	TX	McKinney	McKinney Muni	2/1471	GPS Rwy 17, Orig-A
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1473	Converging ILS Rwy 17C, Amdt 4C
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1474	Converging ILS Rwy 18L, Amdt 3B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1475	Converging ILS Rwy 18R, Amdt 3C
02/21/02	TX	Arlington	Arlington Muni	2/1476	Vor/DME Rwy 34, Orig
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1477	Converging ILS Rwy 36L, Amdt 3D
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1478	Converging ILS Rwy 36R, Amdt 1D
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1479	Converging ILS Rwy 13R, Amdt 4C
02/21/02	TX	Grand Prairie	Grand Prairie Muni	2/1481	VOR/DME Rwy 35, Org
02/21/02	TX	Dallas	Redbird	2/1482	VOR or GPS Rwy 31, Orig
02/21/02	TX	Dallas	Redbird	2/1483	VOR/DME or GPS Rwy 17, Orig-A
02/21/02	TX	Dallas	Dallas-Love Field	2/1484	ILS Rwy 31R, Amdt 3B
02/21/02	TX	Dallas	Dallas-Love Field	2/1486	ILS Rwy 31L, Amdt 19C
02/21/02	TX	Dallas	Dallas-Love Field	2/1487	ILS Rwy 13R, Amdt 4A
02/21/02	TX	Dallas	Dallas-Love Field	2/1488	ILS Rwy 13L, Amdt 31
02/21/02	TX	Dallas	Addison	2/1489	NDB or GPS Rwy 15, Amdt 5

FDC Date	State	City	Airport	FDC No.	Subject
02/21/02	TX	Dallas	Addison	2/1490	ILS Rwy 15, Amdt 9
02/21/02	TX	Dallas	Addison	2/1491	ILS Rwy 33, Amdt 1
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1493	NDB Rwy 17R, Amdt 8
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1494	ILS Rwy 13R, Amdt 5B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1495	ILS Rwy 17C (CAT I, II, III), Amdt 7B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1496	ILS Rwy 17L (CAT I, II, III)
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1497	ILS Rwy 18L, Amdt 17A
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1498	ILS Rwy 18R (CAT I, II, III), Amdt 5B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1499	ILS Rwy 36L, Amdt 6B
02/21/02	FL	Fort Lauderdale	Fort Lauderdale-Hollywood Intl	2/1507	VOR Rwy 27R, Amdt 11
02/21/02	WA	Seattle	Seattle-Tacoma Intl	2/1515	ILS Rwy 16L, Amdt 1B
02/21/02	MN	Duluth	Duluth Intl	2/1523	ILS Rwy 9 (CAT I, II), Amdt 20
02/21/02	IL	Chicago	Chicago-O'Hare Intl	2/1525	RNAV (GPS) Y Rwy 22L, Orig
02/21/02	IL	Chicago	Chicago-O'Hare Intl	2/1531	RNAV (GPS) Y Rwy 22R, Orig
02/21/02	CT	Danielson	Danielson	2/1534	VOR–A Amdt 6
02/21/02	TX	Temple	Temple/Draughon-Millier Central Texas Regional.	2/1538	VOR Rwy 15, Amdt 17
02/22/02	IL	De Kalb	De Kalb Taylor Muni	2/1545	VOR/DME or GPS Rwy 27, Admt 5B
02/22/02	IL	De Kalb	De Kalb Taylor Muni	2/1546	NDB Rwy 27, Amdt 1A
02/22/02	OH	Urbana	Grimes Field	2/1563	VOR or GPS–A, Amdt 5A
02/22/02	CA	Long Beach	Long Beach (Daugherty Field)	2/1569	NBD Rwy 30, Amdt 9B
02/22/02	IA	Centerville	Centerville Muni	2/1570	NDB or GPS Rwy 15, Amdt 1
02/22/02	IA	Centerville	Centerville Muni	2/1571	NDB or GPS Rwy 33, Amdt 1
02/22/02	TX	Amarillo	Tradewind	2/1576	VOR/DME RNAV Rwy 35, Orig-A
02/22/02	MI	Howell	Livingston Muni	2/1585	RNAV (GPS) Rwy 13, Orig-A
02/25/02	CA	Stockton	Stockton Metropolitan	2/1638	ILS Rwy 29R, Amdt 18C
02/25/02	CA	Stockton	Stockton Metropolitan	2/1639	GPS Rwy 29R, Orig-A
02/25/02	CA	Stockton	Stockton Metropolitan	2/1640	NDB Rwy 29R, Amdt 14C
02/26/02	OK	Enid	Enig Woodring Regional	2/1680	VOR/Rwy 17, Amdt 12A
02/26/02	CA	Chino	Chino	2/1681	VOR or GPS–B, Amdt 3B
02/26/02	KS	Olathe	Johnson County Executive	2/1703	NDB Rwy 36, Amdt 1
02/26/02	KS	Olathe	Johnson County Executive	2/1704	VOR Rwy 36, Amdt 11
02/22/02	WA	Yakima	Yakima Air Terminal/McAllister Field	2/1559	LOC/DME BC–B, Amdt 2

[FR Doc. 02–5455 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice: 3938]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Automatic Visa Revalidation; Interim Rule

AGENCY: Department of State.

ACTION: Interim rule; request for comments.

SUMMARY: Due to the need for greater security screening of visa applicants, the Department is amending the provision for automatic revalidation of expired visas for nonimmigrant aliens returning from short visits to other North American countries or adjacent islands to exclude from its benefits aliens who apply for new visas during such visits and aliens who are nationals of countries identified as state sponsors of terrorism.

DATES: This interim rule is effective on April 1, 2002. Written comments must be received on or before May 6, 2002.

ADDRESSES: Written comments may be submitted, in duplicate, to the Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, or by e-mail to *visaregs@state.gov.*

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Harper, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 663–1221, e-mail (*harperbj@state.gov*) or fax at (202) 663–3898.

SUPPLEMENTARY INFORMATION:

What Is the Background for This Action?

Section 42.112(d) of 22 CFR provides for the automatic revalidation of nonimmigrant visas of aliens who have been out of the United States for less than 30 days in contiguous territory and have an Arrival-Departure Record showing INS approval of an unexpired period of admission. Such aliens may be applying for readmission in the same classification or in a new classification authorized by the INS prior to their departure. In the latter case, the revalidation includes a conversion to the new classification. In the case of a qualified student or exchange visitor who has a remaining period of authorized stay, the not-more-than-30 day absence may have been in either contiguous territory or adjacent islands other than Cuba.

Why Is This Action Being Taken With Respect to Applicants for New Visas?

In some cases, persons who are abroad during an absence of 30 days or less in contiguous territory opt to apply for a new visa during that absence in lieu of relying on an automatic revalidation. Due to the need for greater security screening of visa applicants, which in some cases may mean delays in the issuance of new visas, the Department of State believes it is prudent to restrict the ability of such persons to return to the United States prior to the completion of all such checks and the issuance of a new visa.

Why Is it Being Taken With Regard to Visa Applicants From Countries That Sponsor Terrorism?

In light of recent terrorist actions undertaken by aliens, some or all of

whom had entered the United States with nonimmigrant visas, it has become clear that we cannot rely upon an assumption that a person who obtained a visa for one reason still has only that reason for wishing to return to the United States. We find a closer examination of certain aliens seeking to enter or reenter the United States must be undertaken. Thus, the Department finds the automatic revalidation of nonimmigrant visas should no longer be available to individuals whose home countries have been identified as sponsoring terrorism.

What Countries Have Been so Identified and Under What Authority?

Several laws require the Department to designate a foreign state as one sponsoring terrorism. They are: Section 620A of the foreign Assistance Act, Section 40 of the Arms Export Control Act, and Section 6(j) of the Export Administration Act. Consequently, the Department periodically publishes a report, Patterns of Global Terrorism, updating such designations. Currently, the designated countries are Iraq, Iran, Syria, Libya, Sudan, North Korea, and Cuba.

Is This Intended To Be a Permanent Tightening of the Entry of Visitors and Other Nonimmigrants?

We hope that the time will come when circumstances will permit the restoration of this privilege to all bona fide nonimmigrants but we do not anticipate that time being in the near future.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department is publishing this rule as an interim rule, with a 60-day provision for post-promulgation public comments, based on the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). It is dictated by the recent terrorist attacks on the United States and the necessity of additional controls over the entry of aliens at this time.

Regulatory Flexibility Act

Pursuant to § 605 of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule, and the Assistant Secretary for Consular Affairs hereby certifies that is not expected to have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

The Department of State does not consider this rule, to be a ''significant regulatory action'' under Executive Order 12866, section, section 3(f), Regulatory Planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

Executive Order 13132

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

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Passports and visas.

Accordingly, the Department of State amends 22 CFR Chapter I as set forth below.

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1181, 1201, 1202; Pub. L. 105–277, 112 Stat. 2681 et seq.

2. Revise § 41.112(d) to read as follows:

§ 41.112 Validity of visa.

* * * * *

(d) *Automatic extension of validity at ports of entry.* (1) Provided that the requirements set out in paragraph (d)(2) of this section are fully met, the following provisions apply to nonimmigrant aliens seeking readmission at ports of entry:

(i) The validity of an expired nonimmigrant visa issued under INA 101(a)(15) may be considered to be automatically extended to the date of application for readmission; and

(ii) In cases where the original nonimmigrant classification of an alien has been changed by INS to another nonimmigrant classification, the validity of an expired or unexpired nonimmigrant visa may be considered to be automatically extended to the date of application for readmission, and the visa may be converted as necessary to that changed classification.

(2) The provisions in paragraph (d)(1) of this section are applicable only in the case of a nonimmigrant alien who:

(i) Is in possession of a Form I–94, Arrival-Departure Record, endorsed by INS to show an unexpired period of initial admission or extension of stay, or, in the case of a qualified F or J student or exchange visitor or the accompanying spouse or child of such an alien, is in possession of a current Form I–20, Certificate of Eligibility for Nonimmigrant Student Status, or Form IAP-66, Certificate of Eligibility for Exchange Visitor Status, issued by the school the student has been authorized to attend by INS, or by the sponsor of the exchange program in which the alien has been authorized to participate by INS, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by INS;

(ii) Is applying for readmission after an absence not exceeding 30 days solely in contiguous territory, or, in the case of a student or exchange visitor or accompanying spouse or child meeting the stipulations of paragraph (d)(2)(i) of this section, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

(iii) Has maintained and intends to resume nonimmigrant status;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport;

(vi) Does not require authorization for admission under INA 212(d)(3); and

(vii) Has not applied for a new visa while abroad.

(3) The provisions in paragraphs (d)(1) and (d)(2) of this section shall not apply to the nationals of countries identified as supporting terrorism in the Department's annual report to Congress entitled Patterns of Global Terrorism.

* * * * *

Dated: February 7, 2002.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 02–5325 Filed 3–6–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP St. Louis–02–002]

RIN 2115–AA97

Security Zone; Missouri River, Mile Marker 532.9 to 532.5, Brownville, NE

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing all waters extending 250 feet from the shoreline of the right descending bank on the Missouri River, beginning from mile marker 532.9 and ending at mile marker 532.5. This security zone is necessary to protect the Nebraska Public Power District Brownville Cooper Nuclear Power Plant in Brownville, Nebraska from any and all subversive actions from any groups or individuals whose objective it is to cause disruption to the daily operations of the Brownville Cooper Nuclear Power Plant. Entry of vessels into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

DATES: This rule is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP St. Louis-02–002] and are available for inspection or copying at Marine Safety Office St. Louis, 1222 Spruce St., Rm. 8.104E, St. Louis, Missouri 63103–2835, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David Webb, Marine Safety Detachment Quad Cities, Rock Island, IL at (309) 782–0627.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The catastrophic nature of, and resulting devastation from, the September 11, 2001 attacks on the World Trade Center towers in New York City and the Pentagon in Washington DC, makes this rulemaking necessary for the protection of national security interests. National security and intelligence officials warn that future terrorist attacks against United States interests are likely. Any delay in making this regulation effective would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. In response to these terrorist acts, heightened awareness and security of our ports and harbors is necessary. To enhance security the Captain of the Port, St. Louis is establishing a temporary security zone.

This security zone includes all water extending 250 feet from the shoreline of the right descending bank on the Missouri River beginning from mile marker 532.9 to 532.5. This security zone is necessary to protect the public, facilities, and surrounding area from possible acts of sabotage or other subversive acts at the Brownville Cooper Nuclear Power Plant. All vessels and persons are prohibited from entering the zone without the permission of the Captain of the Port St. Louis or his designated representative.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

This security zone will not have an impact on a substantial number of small entities because this rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. If you are a small business entity and are significantly affected by this regulation please contact LT Dave Webb, U.S. Coast Guard Marine Safety Detachment Quad Cities, Rock Island Arsenal Bldg 218, Rock Island, IL 61299–0627 at (309) 782–0627.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T08–002 is added to read as follows:

§ 165.T08–002 Security Zone; Missouri River Miles 532.9 to 532.5, Brownville, NE.

(a) *Location.* The following area is a security zone: The waters of the Missouri River, extending 250 feet from the shoreline of the right descending bank beginning from mile marker 532.9 and ending at mile marker 532.5.

(b) *Effective date.* This section is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

(c) *Authority.* The authority for this section is 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05–1(g), and 49 CFR 1.46.

(d) *Regulations.* (1) Entry into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port St. Louis, or his designated representative. They may be contacted via VHF Channel 16 or via telephone at (309) 782–0627 or (314) 539–3091, ext. 540.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port St. Louis and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: January 7, 2002.

E.A. Washburn,

Commander, U.S. Coast Guard, Captain of the Port St. Louis.

[FR Doc. 02–5463 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP St. Louis–02–001]

RIN 2115–AA97

Security Zone; Missouri River, Mile Marker 646.0 to 645.6, Fort Calhoun, NE

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing all water extending 75 feet from the shoreline of the right descending bank on the Missouri River, beginning from mile marker 646.0 and ending at mile marker 645.6. This security zone is necessary to protect the Omaha Public Power District Fort Calhoun Nuclear Power Plant in Fort Calhoun, Nebraska from any and all subversive actions from any groups or individuals whose objective it is to cause disruption to the daily operations of the Fort Calhoun Nuclear Power Plant. Entry of vessels into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

DATES: This rule is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP St. Louis-02–001] and are available for inspection or copying at Marine Safety Office St. Louis, 1222 Spruce St., Rm. 8.104E, St. Louis, Missouri 63103–2835, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David Webb, Marine Safety Detachment

Quad Cities, Rock Island, IL at (309)782–0627.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The catastrophic nature of, and resulting devastation from, the September 11, 2001 attacks on the World Trade Center towers in New York City and the Pentagon in Washington DC, makes this rulemaking necessary for the protection of national security interests. National security and intelligence officials warn that future terrorist attacks against United States interests are likely. Any delay in making this regulation effective would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. In response to these terrorist acts, heightened awareness and security of our ports and harbors is necessary. To enhance that security the Captain of the Port, St. Louis is establishing a temporary security zone.

This security zone includes all water extending 75 feet from the shoreline of the right descending bank on the Missouri River beginning from mile marker 646.0 and ending at mile marker 645.6. This security zone is necessary to protect the public, facilities, and surrounding area from possible acts of sabotage or other subversive acts at the Fort Calhoun Nuclear Power Plant. All vessels and persons are prohibited from entering the zone without the permission of the Captain of the Port St. Louis or his designated representative.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

This security zone will not have an impact on a substantial number of small entities because this rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. If you are a small business entity and are significantly affected by this regulation please contact LT Dave Webb, U.S. Coast Guard Marine Safety Detachment Quad Cities, Rock Island Arsenal Bldg 218, Rock Island, IL 61299–0627 at (309) 782–0627.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because

it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T08–001 is added to read as follows:

§ 165.T08–001 Security Zone; Missouri River Miles 646.0 to 645.6, Fort Calhoun, NE.

(a) *Location.* The following area is a security zone: The waters of the Missouri River, extending 75 feet from the shoreline of the right descending bank beginning from mile marker 646.0 and ending at mile marker 645.6.

(b) *Effective date.* This section is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

(c) *Authority.* The authority for this section is 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05–1(g), and 49 CFR 1.46.

(d) *Regulations.* (1) Entry into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port St. Louis, or his designated representative. They may be contacted via VHF Channel 16 or via telephone at (309) 782–0627 or (314) 539–3091, ext. 540.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port St. Louis and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: January 7, 2002.

E.A. Washburn,

Commander, U.S. Coast Guard, Captain of the Port St. Louis.

[FR Doc. 02–5464 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Charleston–01–145]

RIN 2115–AA97

Security Zone; Port of Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is continuing for six more months a temporary, fixed security zone on the Cooper River in the vicinity of the U.S. Naval Weapons Station, Charleston, SC that we established in September 2001. The continuation of this security zone is needed for national security reasons following the recent events in New York City, Washington DC and Western Pennsylvania. No person or vessel may enter this zone unless specifically authorized by the Captain of the Port, Charleston, South Carolina or his designated representative.

DATES: This regulation becomes effective at 12:01 p.m. on December 17, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Charleston 1–145] and are available for inspection or copying at Marine Safety Office Charleston, 196 Tradd Street, Charleston, S.C. 29401 between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Erin Healey, Coast Guard Marine Safety Office Charleston, at (843) 747–7411.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Because of the events described below, publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and the U.S. Navy will place vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

On September 28, 2001, the Coast Guard published a temporary final rule in the **Federal Register** that established a temporary fixed security zone on the Cooper River in the vicinity of the U.S. Naval Weapons Station, Charleston, SC, that expires at 12 a.m. (noon) December 17, 2001. (66 FR 49533). This rulemaking will continue the security zone for six months because it is necessary to protect the significant national security interests in this area. The security zone encompasses all waters of the Cooper River between the Cooper River Lighted Buoy 62 (LLNR 2930) in the vicinity of the entrance to Goose Creek and Cooper River Light 87 (LLNR 3135) near the entrance to Foster Creek. Goose Creek is also covered by this security zone.

This security zone is needed for national security reasons following the September 11, 2001, terrorist attacks in New York City, Washington, DC, and Western Pennsylvania, particularly the attack on United States military interests in Washington, DC. Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely. There will be naval patrol vessels on scene to patrol and enforce this security zone. Entry into this security zone is prohibited unless specifically authorized by the Commanding Officer of Naval Weapons Station Charleston or the Captain of the Port, Charleston, South Carolina.

The Coast Guard has met with members of the waterway community to discuss this closure. Vessels may be allowed to enter the zone with the authorization of the Commanding

Officer Naval weapons Station Charleston or the Coast Guard Captain of the Port. Vessels wishing to transit the security zone are encouraged to contact the Commanding Officer Naval weapons Station Charleston or the Captain of the Port as soon as possible to request this authorization. This security zone continues our slight extension of the existing Army Corps of Engineers restricted area for this facility. The restricted area is described in section 334.460 of title 33 of the Code of Federal Regulations, 33 CFR 334.460.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule allows vessels to enter the zone upon approval of Commanding Officer Naval Weapons Station Charleston, the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. Requests will be evaluated on a case-by-case basis.

Small Entities

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a portion of the Cooper River in the vicinity of U.S. Naval Weapons Station, Charleston, SC. The Coast Guard preliminary review indicates this temporary rule will not have a significant economic impact on a substantial number of small entities under 5 U.S.C. 605(b) because small entities may be allowed to enter on a case-by-case basis with the authorization of the Commanding Officer Naval Weapons Station Charleston or the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under **ADDRESSES**.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T07–145 is added to read as follows:

§ 165.T07–145 Security Zone; Cooper River, Charleston, South Carolina.

(a) *Regulated area.* All waters of the Cooper River from Cooper River Lighted Buoy 62 (LLNR 2930) in the vicinity of the entrance to Goose Creek to Cooper River Light 87 (LLNR 3135) near the entrance to Foster Creek including Goose Creek.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Commanding Officer Naval Weapons Station Charleston or the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Dates.* This section becomes effective at 12:01 p.m. on December 17, 2001 and will terminate at 11:59 p.m. on June 15, 2002. The Coast Guard will publish a separate document in the **Federal Register** announcing any earlier termination of this rule.

Dated: December 17, 2001.

G.W. Merrick,

Commander, U.S. Coast Guard, Captain of the Port Charleston, SC.

[FR Doc. 02–5466 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 2002–2]

Registration of Claims to Copyright: Group Registration of Contributions to Periodicals

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: This amendment publishes as a final rule an existing practice which makes it easier for applicants to register a group of contributions to periodicals by expanding the number of acceptable deposits relating to registering on a single application groups of contributions to periodicals. The expanded number of acceptable deposits is both consistent with the intent of copyright law and the existing practices.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Kent Dunlap, Principal Legal Advisor for the General Counsel, Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 408(c)(2) of title 17 authorizes the Register of Copyrights to establish a procedure permitting a single registration for groups of contributions to periodicals published by the same author within a twelve month period. Current regulations designate the deposit as ''one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published.'' 37 CFR 202.3(b)(7)(i)(E).

The above designated deposit proved a hardship for many applicants who did not have immediate access to either the entire issue or the entire section in which each contribution was first published. As a result over the past several years, the Examining Division has permitted a number of alternative deposits under the special relief provision of the deposit regulation. Among the alternatives were photocopies of the contribution or copies of the contribution cut or torn from the collective work. These alternative deposits permitted under special relief were broadly consistent with the wide variety of deposits see, e.g. 66 FR 37142 (July 17, 2001), the Office has accepted since 1978 in compliance with the spirit of administrative flexibility Congress indicated the Register had in order to ensure that the deposit requirement was reasonable and non-burdensome for the applicant. *See generally* H.R. Rep. No. 94–1476 150–155 (1976). Permitting deposit without the entire issue or periodical will not diminish the public record since the application form used for these works elicits specific information on the periodical in which the contribution was published.

This regulation is issued without inviting public comment for these reasons: the regulation confers a positive benefit on the public affected; the regulation establishes an optional procedure only; and the Copyright Office prepared the regulation based on its past experience in administering the deposit provisions for this kind of works including its experience with the types of alternative deposits frequently submitted by applicants. By this **Federal Register** notice, the Copyright Office is merely incorporating these alternative deposits for group registration of contributions to periodicals into the relevant deposit regulation.

List of Subjects in 37 CFR Part 202

Claims to copyright, Copyright registration, Registration of claims to copyright.

Final Regulation

On consideration of the foregoing, the Copyright Office is amending part 202 of 37 CFR, chapter II in the manner set forth below.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 202.3(b)(7)(i)(E) is revised to read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b) * * *

(7) * * *

(i) * * *

(E) The deposit accompanying the application must consist of one of the following: one copy of the entire issue of the periodical, or, in the case of a newspaper, the entire section containing the contribution; tear sheets or proof copies of the contribution; a photocopy of the contribution itself, or a photocopy of the entire page containing the contribution; the entire page containing the contribution cut or torn from the collective work; the contribution cut or torn from the collective work; or photographs or photographic slides of the contribution or entire page containing the contribution as long as all contents of the contribution to be registered are clear and legible.

Dated: February 26, 2002.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

Librarian of Congress.

[FR Doc. 02–5456 Filed 3–6–02; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK00

Post-Traumatic Stress Disorder Claims Based on Personal Assault

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning the type of evidence that may be relevant in corroborating a veteran's statement regarding the occurrence of a stressor in claims for service connection of post-traumatic stress disorder (PTSD) resulting from personal assault. This amendment provides that evidence other than the veteran's service records may corroborate the occurrence of the stressor. This amendment also requires that VA not deny PTSD claims based on personal assault without first advising claimants that evidence from sources other than the veteran's service records may help prove the stressor occurred. These changes are necessary to ensure that VA does not deny such claims simply because the claimant did not realize that certain types of evidence may be relevant to substantiate his or her claim.

DATES: Effective Date: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Regulations Staff, Compensation and Pension Service (211), Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7211.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 16, 2000 (65 FR 61132–61133), VA proposed to amend its adjudication regulations to provide that evidence other than a veteran's service records may corroborate the veteran's assertion that a stressor occurred in claims of PTSD based on personal assault, and that VA may not deny such a claim without first advising the claimant that evidence other than the veteran's service records may be submitted to substantiate his or her claim. The comment period ended December 15, 2000. We received written comments from the Disabled American Veterans, the National Organization of Veterans' Advocates, the Vietnam Veterans of America, and two individuals. Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule with the changes discussed below.

Positive Response and Timely Efforts

One commenter stated that this amendment will be good for veterans and only wished that it had been done sooner.

Other Stressor Types

One commenter asserted that the regulations should be clarified to indicate that other types of in-service stressors (besides those listed in § 3.304(f)) could lead to PTSD. We agree and have made a clarifying change in the introductory paragraph of § 3.304(f).

Addition of Pregnancy Tests and Testing for Sexually Transmitted Diseases

One commenter recommended that evidence of pregnancy tests and testing for sexually transmitted diseases be included in the list of examples of sources other than the veteran's service records that may corroborate the veteran's assertion that a stressor occurred. The commenter stated that such testing is a logical result in the aftermath of a sexual assault and constitutes strong evidence that such an assault occurred. We agree that these types of records are relevant because they may indicate that a person has been recently assaulted. We have therefore revised the regulation to specifically mention pregnancy tests and tests for sexually transmitted diseases.

Review of Evidence by a Medical Professional

One commenter suggested adding the phrase ''mental health professional'' to the last sentence of the proposed rule, which stated, ''VA may submit any evidence that it receives to an appropriate medical professional for an opinion as to whether it indicates that a personal assault occurred.'' The commenter stated that often personal assaults, especially those of a sexual nature, go unreported. The commenter also stated that often physical injuries heal before the victim seeks assistance and that in these cases the only evidence of assault that remains lies within the victim's psyche and a mental health professional is more likely than a medical doctor to be able to discern it.

We agree that the term ''medical professional'' should include mental health professionals such as psychologists. We have therefore amended the regulation to include mental health professionals.

Another commenter asserted that whether or not a stressor occurred is a question of fact and not a medical question, and expressed concern that asking a medical professional for an opinion regarding whether a stressor occurred was in essence taking the fact-finding out of the hands of the VA decisionmaker.

We believe that a determination as to whether a stressor occurred is a factual question that must be resolved by VA adjudicators. Nonetheless, an opinion from an appropriate medical or mental health professional could be helpful in making that determination. Such an opinion could corroborate the claimant's account of the stressor incident. In certain cases, the opinion of such a professional could help interpret the evidence so that the VA decisionmaker can better understand it. Opinions given by such professionals are not binding upon VA, but instead are weighed along with all the evidence provided. Therefore, we make no change based on this comment.

Diagnosis of PTSD as Proof of Stressor

One commenter suggested that, given the nature of PTSD, a diagnostician's acceptance of a veteran's account of the claimed in-service stressor should be probative and sufficient evidence that the claimed in-service stressor occurred. The commenter also stated that if a diagnosis of PTSD is accepted by VA, the existence of the stressor identified by the diagnostician must also be accepted. Finally, the commenter urged VA to revise § 3.304(f) to provide ''that a competent and credible diagnosis of PTSD due to personal assault during service will be accepted as proof of service connection in the absence of evidence to the contrary.''

We believe that § 3.304(f)(3) is consistent with current case law. The U.S. Court of Appeals for Veterans Claims (CAVC) has held that VA is not ''bound to accept [the claimant's] uncorroborated account'' of a stressor, nor to ''accept the social worker's and psychiatrist's unsubstantiated * * * opinions that the alleged PTSD had its origins in appellant's [military service].'' *Wood* v. *Derwinski*, 1 Vet. App. 190, 192 (1991). More recently, the CAVC stated that VA ''is not required to accept doctors' opinions that are based upon the appellant's recitation of medical history.'' *Godfrey* v. *Brown*, 8 Vet. App. 113, 121 (1995). In diagnosing PTSD, doctors typically rely on the unverified stressor information provided by the patient. Therefore, a doctor's recitation of a veteran-patient's statements is no more probative than the veteran-patient's statements made to VA. Therefore, VA is not required to accept a doctor's diagnosis of PTSD due to a personal assault as proof that the stressor occurred or that the PTSD is

service connected. If, however, VA finds that a doctor's diagnosis of PTSD due to a personal assault is, as the commenter suggests, ''competent and credible'' and there is no evidence to the contrary in the record, in all likelihood, such an opinion would constitute competent medical evidence. For all of these reasons, we have made no change to the regulatory language based on these comments.

Corroboration of Stressor

One commenter also expressed belief that the proposed rule is contrary to 38 U.S.C. 1154(a) and 5107(b), 38 CFR 3.102, 3.303(a), and 3.304(b)(2), and *Cartright* v. *Derwinski,* 2 Vet. App. 24 (1991), because it requires corroboration of the claimed stressor. The commenter stated that, by statute, ''credible lay evidence alone is sufficient to meet a veteran's burden of proof if not rebutted by a preponderance of evidence.''

Section 1154(a) requires that VA regulations pertaining to service connection provide that ''due consideration shall be given to the places, types, and circumstances of [a] veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence.'' Section 5107(b) provides that VA must consider all information and lay and medical evidence of record in adjudicating a claim for veterans benefits and that ''[w]hen there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, the Secretary shall give the benefit of the doubt to the claimant.'' Section 3.102 states that ''[t]he reasonable doubt doctrine is also applicable even in the absence of official records, particularly if the basic incident allegedly arose under combat, or similarly strenuous conditions * * *.''

We do not agree with the commenter's conclusion that the referenced statutes and regulation support the proposition that a veteran's sworn statement is sufficient in all cases to establish that an alleged personal assault occurred. Section 501(a) of title 38, United States Code, authorizes the Secretary of Veterans Affairs to promulgate regulations with respect to the nature and extent of proof and evidence in order to establish entitlement to veterans benefits. Consistent with that authority, VA has promulgated 38 CFR 3.304(f) requiring corroborating evidence of the occurrence of the stressor in PTSD claims except in certain circumstances in which the claimed stressor is related to combat or to the veteran's prisoner-of-war experience. Further, the CAVC held in *Dizoglio* v. *Brown,* 9 Vet. App. 163, 166 (1996), that, if the claimed stressor is not related to combat, a ''[veteran's] testimony, by itself, cannot, as a matter of law, establish the occurrence of a noncombat stressor.'' While a veteran's statement regarding an assault is certainly evidence that must be considered by VA in adjudicating a PTSD claim, VA is obligated to ''review * * * the entire evidence of record,'' including ''all pertinent medical and lay evidence,'' when making a determination regarding service connection. 38 CFR 3.303(a); *see* 38 U.S.C. 1154(a); *see also* 38 CFR 3.304(b)(2). Therefore, VA must look to see whether other evidence in the record supports the occurrence of an in-service stressor. The reasonable doubt doctrine referenced in 38 U.S.C. 5107(b) and 38 CFR 3.102 comes into play when an approximate balance of positive and negative evidence exists that does not satisfactorily prove or disprove the claim. Thus, there must be a balance of positive and negative evidence on an issue, including the issue of whether an in-service stressor occurred, before the reasonable doubt doctrine is relevant to a claim.

Combat Claims

As noted above, this final rule retains existing provisions concerning the establishment of PTSD claims related to combat or prisoner-of-war experience. Two commenters suggested changes to the regulations concerning the establishment of PTSD claims related to combat. These comments are beyond the scope of this rulemaking proceeding since the proposed rule did not propose any substantive changes concerning the combat provisions.

Authority Cited

In the proposed rule, we cited 38 U.S.C. 501(a) and 1154(b) as authority for § 3.304(f). One commenter was concerned with the citation of 38 U.S.C. 1154(b), which relates to claims by veterans who have engaged in combat with the enemy, as authority for the proposed § 3.304(f). The commenter suggested that using section 1154(b) as authority for this regulation could have negative implications, such as misleading veterans into believing they can only file combat-related PTSD claims. The commenter suggested instead that 38 U.S.C. 1154(a) should serve as authority for the rulemaking.

As explained above, 38 U.S.C. 1154(a)(1) authorizes the Secretary to promulgate regulations requiring that in adjudicating a claim for service connection, consideration must ''be given to the places, types, and circumstances of [a] veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence.''

We believe that section 1154(a) provides sufficient authority for this rulemaking with regard to paragraph (f)(3) of § 3.304. However, the authority for paragraph (f)(1) of § 3.304 is 38 U.S.C. 1154(b). Therefore, in order to avoid any potential confusion, the citation of authority for the newly amended § 3.304(f) should be 38 U.S.C. 501(a) and 1154. Accordingly, we have made this change in the final rule.

In this final rule, we are also making in § 3.304(f)(3) other nonsubstantive changes from the proposed rule for purposes of clarity.

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would not directly affect any small entities. Only individuals would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

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

Approved: February 27, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

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

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

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

2. In § 3.304, paragraph (f) is revised to read as follows:

§ 3.304 Direct service connection; wartime and peacetime.

* * * * *

(f) *Post-traumatic stress disorder.* Service connection for post-traumatic stress disorder requires medical evidence diagnosing the condition in accordance with § 4.125(a) of this chapter; a link, established by medical evidence, between current symptoms and an in-service stressor; and credible supporting evidence that the claimed in-service stressor occurred. Although service connection may be established based on other in-service stressors, the following provisions apply for specified in-service stressors as set forth below:

(1) If the evidence establishes that the veteran engaged in combat with the enemy and the claimed stressor is related to that combat, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.

(2) If the evidence establishes that the veteran was a prisoner-of-war under the provisions of § 3.1(y) of this part and the claimed stressor is related to that prisoner-of-war experience, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.

(3) If a post-traumatic stress disorder claim is based on in-service personal assault, evidence from sources other than the veteran's service records may corroborate the veteran's account of the stressor incident. Examples of such evidence include, but are not limited to: records from law enforcement authorities, rape crisis centers, mental health counseling centers, hospitals, or physicians; pregnancy tests or tests for sexually transmitted diseases; and statements from family members, roommates, fellow service members, or clergy. Evidence of behavior changes following the claimed assault is one type of relevant evidence that may be found in these sources. Examples of behavior changes that may constitute credible evidence of the stressor include, but are not limited to: a request for a transfer to another military duty assignment; deterioration in work performance; substance abuse; episodes of depression, panic attacks, or anxiety without an identifiable cause; or unexplained economic or social behavior changes. VA will not deny a post-traumatic stress disorder claim that is based on in-service personal assault without first advising the claimant that evidence from sources other than the veteran's service records or evidence of behavior changes may constitute credible supporting evidence of the stressor and allowing him or her the opportunity to furnish this type of evidence or advise VA of potential sources of such evidence. VA may submit any evidence that it receives to an appropriate medical or mental health professional for an opinion as to whether it indicates that a personal assault occurred.

(Authority: 38 U.S.C. 501(a), 1154)

[FR Doc. 02–5376 Filed 3–6–02; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–132; FCC 01–314]

1998 Biennial Review—Multichannel Video and Cable Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of an amendment to our rules pertaining to the public file, notice, recordkeeping, and reporting requirements adopted in the Second Report and Order in CS Docket No. 98–132 in the Commission's biennial review of the public file and notice requirements concerning cable television. Section 76.1700(a) relieves cable systems serving 1000 or more, but fewer than 5000 subscribers, from certain recordkeeping requirements associated with maintaining the public file, requiring public file information to be provided only upon request. A summary of the Second Report and Order was published in the **Federal Register** at 66 FR 67115 on December 28, 2001.

DATES: Section 76.1700(a), published at 66 FR 67115 (December 28, 2001) became effective on January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Sonia Greenaway-Mickle, Cable Services Bureau, (202) 418–1419.

SUPPLEMENTARY INFORMATION: On March 26, 1999, the Commission released a Report and Order in CS Docket No. 98–132, 65 FR 53610, regarding the Commission's 1998 biennial regulatory review of its regulations conducted pursuant to section 11 of the Telecommunications Act of 1996 and streamlined and reorganized part 76 public file, recordkeeping, and notice requirements. In the Second Report and Order in CS Docket No. 98–132, the Commission adopted section 76.1700(a). Section 76.1700(a) relieves cable systems serving 1000 or more, but fewer than 5000 subscribers, from certain recordkeeping requirements associated with maintaining the public file, requiring public file information to be provided only upon request. A summary of the Second Report and Order was published in the **Federal Register** at 66 FR 67115 on December 28, 2001. On June 7, 2001, OMB approved the information collection contained in the part 76 rule. OMB 3060–0981. This publication satisfies the statement in the Second Report and Order that the Commission would publish a document in the **Federal Register** announcing the effective date of that rule.

List of Subjects in 47 CFR Part 76

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–5470 Filed 3–6–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub–No. 8)]

Regulations Governing Fees For Services Performed in Connection With Licensing and Related Services—2002 Update

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rules.

SUMMARY: The Board adopts its 2002 User Fee Update and revises its fee schedule at this time to recover the costs

associated with the January 2002 Government salary increases.

EFFECTIVE DATE: These rules are effective April 8, 2002.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 565–1551, or Anne Quinlan, (202) 565–1727. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations in 49 CFR 1002.3 require the Board's user fee schedule to be updated annually. The Board's regulation at 49 CFR 1002.3(a) provides that the entire fee schedule or selected fees can be modified more than once a year, if necessary. The Board's fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d). Also, in some previous years, selected fees were modified to reflect new cost study data or changes in agency fee policy.

Because Board employees received a salary increase of 4.77% in January 2002, we are updating our user fees to recover the increased personnel costs. With certain exceptions, all fees will be updated based on our cost formula contained in 49 CFR 1002.3(d).

The fee increases involved here result only from the mechanical application of the update formula in 49 CFR 1002.3(d), which was adopted through notice and comment procedures in *Regulations Governing Fees for Services-1987 Update*, 4 I.C.C.2d 137 (1987). In addition, no new fees are being proposed in this proceeding. Therefore, we find that notice and comment are unnecessary for this proceeding. *See Regulations Governing Fees For Services-1990 Update*, 7 I.C.C.2d 3 (1990); *Regulations Governing Fees For Services-1991 Update*, 8 I.C.C.2d 13 (1991); and *Regulations Governing Fees For Services-1993 Update*, 9 I.C.C.2d 855 (1993).

We conclude that the fee changes adopted here will not have a significant economic impact on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

Additional information is contained in the Board's decision. To obtain a copy of the full decision, write, call, or pick up in person from the Board's contractor, Da-To-Da Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. (Assistance for the hearing impaired is available through TDD services 1–800–877–8339.)

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

Decided: February 28, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

2. Section 1002.1 is amended by revising paragraphs (a) through (d) and (e)(1) and the table in paragraph (f)(6) to read as follows:

§ 1002.1 Fees for record search, review, copying, certification, and related services.

* * * * *

(a) Certificate of the Secretary, $12.00.

(b) Service involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of $30.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of $21.00 per hour.

(d) Photocopies of tariffs, reports, and other public documents, at the rate of $1.00 per letter or legal size exposure. A minimum charge of $5.00 will be made for this service.

(e) * * *

(1) A fee of $53.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

* * * * *

(f) * * *

(6) * * *

Grade	Rate	Grade	Rate
GS–1	$8.93	GS–9	$20.86
GS–2	9.72	GS–10	22.97
GS–3	10.96	GS–11	25.23
GS–4	12.30	GS–12	30.24
GS–5	13.76	GS–13	35.96
GS–6	15.34	GS–14	42.50
GS–7	17.05	GS–15 and over	49.99
GS–8	18.88		

* * * * *

2. In § 1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

(a) * * *

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic	$3,200
(2) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303	1,500
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	20,400
(4) An application for approval of an amendment to a non-rail rate association agreement:.	
(i) Significant amendment	3,400
(ii) Minor amendment	70
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	350

Type of proceeding	Fee
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family	1,300
(7)–(10) [Reserved]	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	5,300
(ii) Notice of exemption under 49 CFR 1150.31–1150.35	1,300
(iii) Petition for exemption under 49 U.S.C. 10502	9,300
(12) (i) An application involving the construction of a rail line	55,000
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	1,300
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	55,000
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	2,600
(14) (i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	4,600
(ii) Notice of exemption under 49 CFR 1150.41–1150.45	1,300
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902	4,900
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21–1150.24	1,200
(16)–(20) [Reserved]	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21)(i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments)	16,300
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	2,700
(iii) A petition for exemption under 49 U.S.C. 10502	4,700
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act	350
(23) Abandonments filed by bankrupt railroads	1,400
(24) A request for waiver of filing requirements for abandonment application proceedings	1,300
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment	1,100
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	16,700
(27) A request for a trail use condition in an abandonment proceeding under 16 U.S.C. 1247(d)	150
(28)–(35) [Reserved]	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 CFR 11102	14,000
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	7,500
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	1,300
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	1,000
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	900
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	1,000
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	4,900
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	1,800
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	51,400
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	9,500
(ii) Minor amendment	70

Type of proceeding	Fee
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	550
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered	5,900
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	150
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act	150
(49)–(55) [Reserved]	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1)	61,400
(ii) All other formal complaints (except competitive access complaints	6,000
(iii) Competitive access complaints	150
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705	6,500
(58) A petition for declaratory order:	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding	1,000
(ii) All other petitions for declaratory order	1,400
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	5,200
(60) Labor arbitration proceedings	150
(61) Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d)	150
(62) Motor carrier undercharge proceedings	150
(63)–(75) [Reserved]	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706	900
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	90
(78) (i) The filing of tariffs, including supplements, or contract summaries	1 per page ($18 minimum charge.)
(ii) Tariffs transmitted by fax	1 per page
(79) Special docket applications from rail and water carriers:	
(i) Applications involving $25,000 or less	50
(ii) Applications involving over $25,000	100
(80) Informal complaint about rail rate applications	450
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving $25,000 or less	50
(ii) Petitions involving over $25,000	100
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3)	150
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c).	30 per document
(84) Informal opinions about rate applications (all modes)	150
(85) A railroad accounting interpretation	800
(86) An operational interpretation	1,100
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint	75
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(iii) Third Party Complaint	75
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	150
(88)–(95) [Reserved]	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	23 per delivery
(97) Request for service or pleading list for proceedings	18 per list
(98) (i) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that does not require a Federal Register notice	200
(ii) Processing the paperwork related to a request for Carload Waybill Sample to be used for reasons other than a Surface Transportation Board or State proceeding that requires a Federal Register notice	450
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam	100
(ii) Practitioners' Exam Information Package	25
(100) Uniform Railroad Costing System (URCS) software and information:	
(i) Initial PC version URCS Phase III software program and manual	50
(ii) Updated URCS PC version Phase III cost file, if computer disk provided by requestor	10
(iii) Updated URCS PC version Phase III cost file, if computer disk provided by the Board	20
(iv) Public requests for *Source Codes* to the PC version URCS Phase III	500
(v) PC version or mainframe version URCS Phase II	400
(vi) PC version or mainframe version Updated Phase II databases	50
(vii) Public requests for *Source Codes* to PC version URCS Phase II	1,500
(101) Carload Waybill Sample data on recordable compact disk (R–CD):	
(i) Requests for Public Use File on R–CD–First Year	450
(ii) Requests for Public Use File on R–CD Each Additional Year	150
(iii) Waybill—Surface Transportation Board or State proceedings on R–CD—First Year	650
(iv) Waybill—Surface Transportation Board or State proceedings on R–CD—Second Year on same R–CD	450

Type of proceeding	Fee
(v) Waybill—Surface Transportation Board of State proceeding on R–CD—Second Year on different R–CD	500
(vi) User Guide for latest available Carload Waybill Sample	50

* * * * *

[FR Doc. 02–5332 Filed 3–6–02; 8:45 am]

BILLING CODE 4915–00–P

Rules and Regulations

Federal Register
Vol. 67, No. 45
Thursday, March 7, 2002

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30297; Amdt. No. 2095]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

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

Conclusion

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

List of Subjects in 49 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 1, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective April 18, 2002*

Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 6L, Orig
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 6R, Orig
Anchorage, AK, Ted Stevens Anchorage Intl, GPS RWY 6L, Orig-A CANCELLED
Anchorage, AK, Ted Stevens Anchorage Intl, GPS RWY 64, Orig CANCELLED
Midland, MI, Jack Barstow, VOR–A, Amdt 6
Midland, MI, Jack Barstow, RNAV (GPS) RWY 6, Orig
Midland, MI, Jack Barstow, RNAV (GPS) RWY 24, Orig

Note: The FAA published the following Instrument Approach Procedures in Docket No. 30295, Amdt No. 2093 to 14 CFR Part 97 of the Federal Aviation Regulations (Federal Register: Volume 67, Number 38 dated February 26, 2002, Page 8707–8709) under Section 97.27 and 97.39 effective 18 April 2002 which are hereby rescinded:

Santa Ana, CA, Santa Ana/John Wayne Airport-Orange County, NDB RWY 19R, Amdt 1A
San Luis Obispo, CA, San Luis Obispo Co-McChesney Field, ILS RWY 11, Amdt 1

[FR Doc. 02–5454 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30298; Amdt. No. 2096]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were

applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 1, 2002.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Agreement

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC No.	Subject
02/04/02	TX	Caddo Mills	Caddo Mills Muni	2/0950	NDB Rwy 35L, Amdt 2
02/13/02	MT	Billings	Billings Logan Intl	2/1238	ILS Rwy 28R, Orig
02/14/02	CA	Merced	Merced Muni-Macready Field	2/1247	LOC BC Rwy 12, Amdt 10B
02/14/02	KY	Bowling Green	Bowling Green-Warren County Regional	2/1269	GPS Rwy 21, Orig
02/14/02	KY	Bowling Green	Bowling Green-Warren County Regional	2/1270	VOR/DME Rwy 21, amdt 8
02/14/02	FL	Tampa	Vandenburg	2/1276	GPS Rwy 23, Orig-D
02/15/02	FL	Naples	Naples Muni	2/1321	RNAV (GPS Rwy 5, Orig
02/15/02	MD	Elkton	Cecil County	2/1325	VOR/DME Rwy 31, Orig
02/15/02	FL	Fort Pierce	St. Lucie County Intl	2/1551	NDB or GPS Rwy 27, Orig-A
02/15/02	FL	Fort Pierce	St. Lucie County Intl	2/1552	NDB–A Orig-A
02/19/02	NY	New York	La Guardia	2/1412	ILS Rwy 4 Amdt 34B
02/20/02	NJ	Newark	Newark Intl	2/1425	RNAV (GPS) Rwy 11, Orig
02/20/02	AZ	Yuma	Yuma MCAS-Yuma Intl	2/1426	ILS Rwy 21R, Amdt 5. This replaces FDC 2/1245 published in TL02–07 on 2/15/02
02/21/02	OR	Medford	Rogue Valley Intl-Medford	2/1439	RNAV (GPS)–D, Orig
02/21/02	AK	Dillingham	Dillingham	2/1458	RNAV (GPS) Rwy 19, Orig
02/21/02	KS	Hays	Hays Regional	2/1466	ILS Rwy 34, Orig-A
02/21/02	TX	McKinney	McKinney Muni	2/1471	GPS Rwy 17, Orig-A
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1473	Converging ILS Rwy 17C, Amdt 4C
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1474	Converging ILS Rwy 18L, Amdt 3B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1475	Converging ILS Rwy 18R, Amdt 3C
02/21/02	TX	Arlington	Arlington Muni	2/1476	Vor/DME Rwy 34, Orig
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1477	Converging ILS Rwy 36L, Amdt 3D
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1478	Converging ILS Rwy 36R, Amdt 1D
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1479	Converging ILS Rwy 13R, Amdt 4C
02/21/02	TX	Grand Prairie	Grand Prairie Muni	2/1481	VOR/DME Rwy 35, Org
02/21/02	TX	Dallas	Redbird	2/1482	VOR or GPS Rwy 31, Orig
02/21/02	TX	Dallas	Redbird	2/1483	VOR/DME or GPS Rwy 17, Orig-A
02/21/02	TX	Dallas	Dallas-Love Field	2/1484	ILS Rwy 31R, Amdt 3B
02/21/02	TX	Dallas	Dallas-Love Field	2/1486	ILS Rwy 31L, Amdt 19C
02/21/02	TX	Dallas	Dallas-Love Field	2/1487	ILS Rwy 13R, Amdt 4A
02/21/02	TX	Dallas	Dallas-Love Field	2/1488	ILS Rwy 13L, Amdt 31
02/21/02	TX	Dallas	Addison	2/1489	NDB or GPS Rwy 15, Amdt 5

FDC Date	State	City	Airport	FDC No.	Subject
02/21/02	TX	Dallas	Addison	2/1490	ILS Rwy 15, Amdt 9
02/21/02	TX	Dallas	Addison	2/1491	ILS Rwy 33, Amdt 1
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1493	NDB Rwy 17R, Amdt 8
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1494	ILS Rwy 13R, Amdt 5B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1495	ILS Rwy 17C (CAT I, II, III), Amdt 7B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1496	ILS Rwy 17L (CAT I, II, III)
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1497	ILS Rwy 18L, Amdt 17A
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1498	ILS Rwy 18R (CAT I, II, III), Amdt 5B
02/21/02	TX	Dallas-Fort Worth	Dallas-Fort Worth Intl	2/1499	ILS Rwy 36L, Amdt 6B
02/21/02	FL	Fort Lauderdale	Fort Lauderdale-Hollywood Intl	2/1507	VOR Rwy 27R, Amdt 11
02/21/02	WA	Seattle	Seattle-Tacoma Intl	2/1515	ILS Rwy 16L, Amdt 1B
02/21/02	MN	Duluth	Duluth Intl	2/1523	ILS Rwy 9 (CAT I, II), Amdt 20
02/21/02	IL	Chicago	Chicago-O'Hare Intl	2/1525	RNAV (GPS) Y Rwy 22L, Orig
02/21/02	IL	Chicago	Chicago-O'Hare Intl	2/1531	RNAV (GPS) Y Rwy 22R, Orig
02/21/02	CT	Danielson	Danielson	2/1534	VOR–A Amdt 6
02/21/02	TX	Temple	Temple/Draughon-Millier Central Texas Regional.	2/1538	VOR Rwy 15, Amdt 17
02/22/02	IL	De Kalb	De Kalb Taylor Muni	2/1545	VOR/DME or GPS Rwy 27, Admt 5B
02/22/02	IL	De Kalb	De Kalb Taylor Muni	2/1546	NDB Rwy 27, Amdt 1A
02/22/02	OH	Urbana	Grimes Field	2/1563	VOR or GPS–A, Amdt 5A
02/22/02	CA	Long Beach	Long Beach (Daugherty Field)	2/1569	NBD Rwy 30, Amdt 9B
02/22/02	IA	Centerville	Centerville Muni	2/1570	NDB or GPS Rwy 15, Amdt 1
02/22/02	IA	Centerville	Centerville Muni	2/1571	NDB or GPS Rwy 33, Amdt 1
02/22/02	TX	Amarillo	Tradewind	2/1576	VOR/DME RNAV Rwy 35, Orig-A
02/22/02	MI	Howell	Livingston Muni	2/1585	RNAV (GPS) Rwy 13, Orig-A
02/25/02	CA	Stockton	Stockton Metropolitan	2/1638	ILS Rwy 29R, Amdt 18C
02/25/02	CA	Stockton	Stockton Metropolitan	2/1639	GPS Rwy 29R, Orig-A
02/25/02	CA	Stockton	Stockton Metropolitan	2/1640	NDB Rwy 29R, Amdt 14C
02/26/02	OK	Enid	Enig Woodring Regional	2/1680	VOR/Rwy 17, Amdt 12A
02/26/02	CA	Chino	Chino	2/1681	VOR or GPS–B, Amdt 3B
02/26/02	KS	Olathe	Johnson County Executive	2/1703	NDB Rwy 36, Amdt 1
02/26/02	KS	Olathe	Johnson County Executive	2/1704	VOR Rwy 36, Amdt 11
02/22/02	WA	Yakima	Yakima Air Terminal/McAllister Field	2/1559	LOC/DME BC–B, Amdt 2

[FR Doc. 02–5455 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice: 3938]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Automatic Visa Revalidation; Interim Rule

AGENCY: Department of State.

ACTION: Interim rule; request for comments.

SUMMARY: Due to the need for greater security screening of visa applicants, the Department is amending the provision for automatic revalidation of expired visas for nonimmigrant aliens returning from short visits to other North American countries or adjacent islands to exclude from its benefits aliens who apply for new visas during such visits and aliens who are nationals of countries identified as state sponsors of terrorism.

DATES: This interim rule is effective on April 1, 2002. Written comments must be received on or before May 6, 2002.

ADDRESSES: Written comments may be submitted, in duplicate, to the Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, or by e-mail to *visaregs@state.gov.*

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Harper, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 663–1221, e-mail (*harperbj@state.gov*) or fax at (202) 663–3898.

SUPPLEMENTARY INFORMATION:

What Is the Background for This Action?

Section 42.112(d) of 22 CFR provides for the automatic revalidation of nonimmigrant visas of aliens who have been out of the United States for less than 30 days in contiguous territory and have an Arrival-Departure Record showing INS approval of an unexpired period of admission. Such aliens may be applying for readmission in the same classification or in a new classification authorized by the INS prior to their departure. In the latter case, the revalidation includes a conversion to the new classification. In the case of a qualified student or exchange visitor who has a remaining period of authorized stay, the not-more-than-30 day absence may have been in either contiguous territory or adjacent islands other than Cuba.

Why Is This Action Being Taken With Respect to Applicants for New Visas?

In some cases, persons who are abroad during an absence of 30 days or less in contiguous territory opt to apply for a new visa during that absence in lieu of relying on an automatic revalidation. Due to the need for greater security screening of visa applicants, which in some cases may mean delays in the issuance of new visas, the Department of State believes it is prudent to restrict the ability of such persons to return to the United States prior to the completion of all such checks and the issuance of a new visa.

Why Is it Being Taken With Regard to Visa Applicants From Countries That Sponsor Terrorism?

In light of recent terrorist actions undertaken by aliens, some or all of

whom had entered the United States with nonimmigrant visas, it has become clear that we cannot rely upon an assumption that a person who obtained a visa for one reason still has only that reason for wishing to return to the United States. We find a closer examination of certain aliens seeking to enter or reenter the United States must be undertaken. Thus, the Department finds the automatic revalidation of nonimmigrant visas should no longer be available to individuals whose home countries have been identified as sponsoring terrorism.

What Countries Have Been so Identified and Under What Authority?

Several laws require the Department to designate a foreign state as one sponsoring terrorism. They are: Section 620A of the foreign Assistance Act, Section 40 of the Arms Export Control Act, and Section 6(j) of the Export Administration Act. Consequently, the Department periodically publishes a report, Patterns of Global Terrorism, updating such designations. Currently, the designated countries are Iraq, Iran, Syria, Libya, Sudan, North Korea, and Cuba.

Is This Intended To Be a Permanent Tightening of the Entry of Visitors and Other Nonimmigrants?

We hope that the time will come when circumstances will permit the restoration of this privilege to all bona fide nonimmigrants but we do not anticipate that time being in the near future.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department is publishing this rule as an interim rule, with a 60-day provision for post-promulgation public comments, based on the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). It is dictated by the recent terrorist attacks on the United States and the necessity of additional controls over the entry of aliens at this time.

Regulatory Flexibility Act

Pursuant to § 605 of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule, and the Assistant Secretary for Consular Affairs hereby certifies that is not expected to have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

The Department of State does not consider this rule, to be a ''significant regulatory action'' under Executive Order 12866, section, section 3(f), Regulatory Planning and Review. Therefore, in accordance with the letter to the Department of State of February 4, 1994 from the Director of the Office of Management and Budget, it does not require review by the Office of Management and Budget.

Executive Order 13132

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

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Passports and visas.

Accordingly, the Department of State amends 22 CFR Chapter I as set forth below.

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1181, 1201, 1202; Pub. L. 105–277, 112 Stat. 2681 et seq.

2. Revise § 41.112(d) to read as follows:

§ 41.112 Validity of visa.

* * * * *

(d) *Automatic extension of validity at ports of entry.* (1) Provided that the requirements set out in paragraph (d)(2) of this section are fully met, the following provisions apply to nonimmigrant aliens seeking readmission at ports of entry:

(i) The validity of an expired nonimmigrant visa issued under INA 101(a)(15) may be considered to be automatically extended to the date of application for readmission; and

(ii) In cases where the original nonimmigrant classification of an alien has been changed by INS to another nonimmigrant classification, the validity of an expired or unexpired nonimmigrant visa may be considered to be automatically extended to the date of application for readmission, and the visa may be converted as necessary to that changed classification.

(2) The provisions in paragraph (d)(1) of this section are applicable only in the case of a nonimmigrant alien who:

(i) Is in possession of a Form I–94, Arrival-Departure Record, endorsed by INS to show an unexpired period of initial admission or extension of stay, or, in the case of a qualified F or J student or exchange visitor or the accompanying spouse or child of such an alien, is in possession of a current Form I–20, Certificate of Eligibility for Nonimmigrant Student Status, or Form IAP-66, Certificate of Eligibility for Exchange Visitor Status, issued by the school the student has been authorized to attend by INS, or by the sponsor of the exchange program in which the alien has been authorized to participate by INS, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by INS;

(ii) Is applying for readmission after an absence not exceeding 30 days solely in contiguous territory, or, in the case of a student or exchange visitor or accompanying spouse or child meeting the stipulations of paragraph (d)(2)(i) of this section, after an absence not exceeding 30 days in contiguous territory or adjacent islands other than Cuba;

(iii) Has maintained and intends to resume nonimmigrant status;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport;

(vi) Does not require authorization for admission under INA 212(d)(3); and

(vii) Has not applied for a new visa while abroad.

(3) The provisions in paragraphs (d)(1) and (d)(2) of this section shall not apply to the nationals of countries identified as supporting terrorism in the Department's annual report to Congress entitled Patterns of Global Terrorism.

* * * * *

Dated: February 7, 2002.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 02–5325 Filed 3–6–02; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP St. Louis–02–002]

RIN 2115–AA97

Security Zone; Missouri River, Mile Marker 532.9 to 532.5, Brownville, NE

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing all waters extending 250 feet from the shoreline of the right descending bank on the Missouri River, beginning from mile marker 532.9 and ending at mile marker 532.5. This security zone is necessary to protect the Nebraska Public Power District Brownville Cooper Nuclear Power Plant in Brownville, Nebraska from any and all subversive actions from any groups or individuals whose objective it is to cause disruption to the daily operations of the Brownville Cooper Nuclear Power Plant. Entry of vessels into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

DATES: This rule is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP St. Louis-02–002] and are available for inspection or copying at Marine Safety Office St. Louis, 1222 Spruce St., Rm. 8.104E, St. Louis, Missouri 63103–2835, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David Webb, Marine Safety Detachment Quad Cities, Rock Island, IL at (309) 782–0627.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The catastrophic nature of, and resulting devastation from, the September 11, 2001 attacks on the World Trade Center towers in New York City and the Pentagon in Washington DC, makes this rulemaking necessary for the protection of national security interests. National security and intelligence officials warn that future terrorist attacks against United States interests are likely. Any delay in making this regulation effective would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. In response to these terrorist acts, heightened awareness and security of our ports and harbors is necessary. To enhance security the Captain of the Port, St. Louis is establishing a temporary security zone.

This security zone includes all water extending 250 feet from the shoreline of the right descending bank on the Missouri River beginning from mile marker 532.9 to 532.5. This security zone is necessary to protect the public, facilities, and surrounding area from possible acts of sabotage or other subversive acts at the Brownville Cooper Nuclear Power Plant. All vessels and persons are prohibited from entering the zone without the permission of the Captain of the Port St. Louis or his designated representative.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

This security zone will not have an impact on a substantial number of small entities because this rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. If you are a small business entity and are significantly affected by this regulation please contact LT Dave Webb, U.S. Coast Guard Marine Safety Detachment Quad Cities, Rock Island Arsenal Bldg 218, Rock Island, IL 61299–0627 at (309) 782–0627.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T08–002 is added to read as follows:

§ 165.T08–002 Security Zone; Missouri River Miles 532.9 to 532.5, Brownville, NE.

(a) *Location.* The following area is a security zone: The waters of the Missouri River, extending 250 feet from the shoreline of the right descending bank beginning from mile marker 532.9 and ending at mile marker 532.5.

(b) *Effective date.* This section is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

(c) *Authority.* The authority for this section is 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05–1(g), and 49 CFR 1.46.

(d) *Regulations.* (1) Entry into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port St. Louis, or his designated representative. They may be contacted via VHF Channel 16 or via telephone at (309) 782–0627 or (314) 539–3091, ext. 540.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port St. Louis and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: January 7, 2002.

E.A. Washburn,

Commander, U.S. Coast Guard, Captain of the Port St. Louis.

[FR Doc. 02–5463 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP St. Louis–02–001]

RIN 2115–AA97

Security Zone; Missouri River, Mile Marker 646.0 to 645.6, Fort Calhoun, NE

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing all water extending 75 feet from the shoreline of the right descending bank on the Missouri River, beginning from mile marker 646.0 and ending at mile marker 645.6. This security zone is necessary to protect the Omaha Public Power District Fort Calhoun Nuclear Power Plant in Fort Calhoun, Nebraska from any and all subversive actions from any groups or individuals whose objective it is to cause disruption to the daily operations of the Fort Calhoun Nuclear Power Plant. Entry of vessels into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

DATES: This rule is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP St. Louis-02–001] and are available for inspection or copying at Marine Safety Office St. Louis, 1222 Spruce St., Rm. 8.104E, St. Louis, Missouri 63103–2835, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David Webb, Marine Safety Detachment

Quad Cities, Rock Island, IL at (309)782–0627.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The catastrophic nature of, and resulting devastation from, the September 11, 2001 attacks on the World Trade Center towers in New York City and the Pentagon in Washington DC, makes this rulemaking necessary for the protection of national security interests. National security and intelligence officials warn that future terrorist attacks against United States interests are likely. Any delay in making this regulation effective would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. In response to these terrorist acts, heightened awareness and security of our ports and harbors is necessary. To enhance that security the Captain of the Port, St. Louis is establishing a temporary security zone.

This security zone includes all water extending 75 feet from the shoreline of the right descending bank on the Missouri River beginning from mile marker 646.0 and ending at mile marker 645.6. This security zone is necessary to protect the public, facilities, and surrounding area from possible acts of sabotage or other subversive acts at the Fort Calhoun Nuclear Power Plant. All vessels and persons are prohibited from entering the zone without the permission of the Captain of the Port St. Louis or his designated representative.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

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

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

This security zone will not have an impact on a substantial number of small entities because this rule will not obstruct the regular flow of vessel traffic and will allow vessel traffic to pass safely around the security zone. If you are a small business entity and are significantly affected by this regulation please contact LT Dave Webb, U.S. Coast Guard Marine Safety Detachment Quad Cities, Rock Island Arsenal Bldg 218, Rock Island, IL 61299–0627 at (309) 782–0627.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because

it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T08–001 is added to read as follows:

§ 165.T08–001 Security Zone; Missouri River Miles 646.0 to 645.6, Fort Calhoun, NE.

(a) *Location.* The following area is a security zone: The waters of the Missouri River, extending 75 feet from the shoreline of the right descending bank beginning from mile marker 646.0 and ending at mile marker 645.6.

(b) *Effective date.* This section is effective from 12 p.m. on January 7, 2002 through 8 a.m. on June 15, 2002.

(c) *Authority.* The authority for this section is 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05–1(g), and 49 CFR 1.46.

(d) *Regulations.* (1) Entry into this security zone is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port St. Louis, or his designated representative. They may be contacted via VHF Channel 16 or via telephone at (309) 782–0627 or (314) 539–3091, ext. 540.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port St. Louis and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: January 7, 2002.

E.A. Washburn,

Commander, U.S. Coast Guard, Captain of the Port St. Louis.

[FR Doc. 02–5464 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Charleston–01–145]

RIN 2115–AA97

Security Zone; Port of Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is continuing for six more months a temporary, fixed security zone on the Cooper River in the vicinity of the U.S. Naval Weapons Station, Charleston, SC that we established in September 2001. The continuation of this security zone is needed for national security reasons following the recent events in New York City, Washington DC and Western Pennsylvania. No person or vessel may enter this zone unless specifically authorized by the Captain of the Port, Charleston, South Carolina or his designated representative.

DATES: This regulation becomes effective at 12:01 p.m. on December 17, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Charleston 1–145] and are available for inspection or copying at Marine Safety Office Charleston, 196 Tradd Street, Charleston, S.C. 29401 between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Erin Healey, Coast Guard Marine Safety Office Charleston, at (843) 747–7411.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Because of the events described below, publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and the U.S. Navy will place vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

On September 28, 2001, the Coast Guard published a temporary final rule in the **Federal Register** that established a temporary fixed security zone on the Cooper River in the vicinity of the U.S. Naval Weapons Station, Charleston, SC, that expires at 12 a.m. (noon) December 17, 2001. (66 FR 49533). This rulemaking will continue the security zone for six months because it is necessary to protect the significant national security interests in this area. The security zone encompasses all waters of the Cooper River between the Cooper River Lighted Buoy 62 (LLNR 2930) in the vicinity of the entrance to Goose Creek and Cooper River Light 87 (LLNR 3135) near the entrance to Foster Creek. Goose Creek is also covered by this security zone.

This security zone is needed for national security reasons following the September 11, 2001, terrorist attacks in New York City, Washington, DC, and Western Pennsylvania, particularly the attack on United States military interests in Washington, DC. Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely. There will be naval patrol vessels on scene to patrol and enforce this security zone. Entry into this security zone is prohibited unless specifically authorized by the Commanding Officer of Naval Weapons Station Charleston or the Captain of the Port, Charleston, South Carolina.

The Coast Guard has met with members of the waterway community to discuss this closure. Vessels may be allowed to enter the zone with the authorization of the Commanding

Officer Naval weapons Station Charleston or the Coast Guard Captain of the Port. Vessels wishing to transit the security zone are encouraged to contact the Commanding Officer Naval weapons Station Charleston or the Captain of the Port as soon as possible to request this authorization. This security zone continues our slight extension of the existing Army Corps of Engineers restricted area for this facility. The restricted area is described in section 334.460 of title 33 of the Code of Federal Regulations, 33 CFR 334.460.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule allows vessels to enter the zone upon approval of Commanding Officer Naval Weapons Station Charleston, the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. Requests will be evaluated on a case-by-case basis.

Small Entities

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

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a portion of the Cooper River in the vicinity of U.S. Naval Weapons Station, Charleston, SC. The Coast Guard preliminary review indicates this temporary rule will not have a significant economic impact on a substantial number of small entities under 5 U.S.C. 605(b) because small entities may be allowed to enter on a case-by-case basis with the authorization of the Commanding Officer Naval Weapons Station Charleston or the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The Categorical Exclusion Determination will be made available in the docket for inspection or copying where indicated under **ADDRESSES**.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T07–145 is added to read as follows:

§ 165.T07–145 Security Zone; Cooper River, Charleston, South Carolina.

(a) *Regulated area.* All waters of the Cooper River from Cooper River Lighted Buoy 62 (LLNR 2930) in the vicinity of the entrance to Goose Creek to Cooper River Light 87 (LLNR 3135) near the entrance to Foster Creek including Goose Creek.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Commanding Officer Naval Weapons Station Charleston or the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Dates.* This section becomes effective at 12:01 p.m. on December 17, 2001 and will terminate at 11:59 p.m. on June 15, 2002. The Coast Guard will publish a separate document in the **Federal Register** announcing any earlier termination of this rule.

Dated: December 17, 2001.

G.W. Merrick,

Commander, U.S. Coast Guard, Captain of the Port Charleston, SC.

[FR Doc. 02–5466 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 2002–2]

Registration of Claims to Copyright: Group Registration of Contributions to Periodicals

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: This amendment publishes as a final rule an existing practice which makes it easier for applicants to register a group of contributions to periodicals by expanding the number of acceptable deposits relating to registering on a single application groups of contributions to periodicals. The expanded number of acceptable deposits is both consistent with the intent of copyright law and the existing practices.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Kent Dunlap, Principal Legal Advisor for the General Counsel, Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 408(c)(2) of title 17 authorizes the Register of Copyrights to establish a procedure permitting a single registration for groups of contributions to periodicals published by the same author within a twelve month period. Current regulations designate the deposit as ''one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published.'' 37 CFR 202.3(b)(7)(i)(E).

The above designated deposit proved a hardship for many applicants who did not have immediate access to either the entire issue or the entire section in which each contribution was first published. As a result over the past several years, the Examining Division has permitted a number of alternative deposits under the special relief provision of the deposit regulation. Among the alternatives were photocopies of the contribution or copies of the contribution cut or torn from the collective work. These alternative deposits permitted under special relief were broadly consistent with the wide variety of deposits see, e.g. 66 FR 37142 (July 17, 2001), the Office has accepted since 1978 in compliance with the spirit of administrative flexibility Congress indicated the Register had in order to ensure that the deposit requirement was reasonable and non-burdensome for the applicant. *See generally* H.R. Rep. No. 94–1476 150–155 (1976). Permitting deposit without the entire issue or periodical will not diminish the public record since the application form used for these works elicits specific information on the periodical in which the contribution was published.

This regulation is issued without inviting public comment for these reasons: the regulation confers a positive benefit on the public affected; the regulation establishes an optional procedure only; and the Copyright Office prepared the regulation based on its past experience in administering the deposit provisions for this kind of works including its experience with the types of alternative deposits frequently submitted by applicants. By this **Federal Register** notice, the Copyright Office is merely incorporating these alternative deposits for group registration of contributions to periodicals into the relevant deposit regulation.

List of Subjects in 37 CFR Part 202

Claims to copyright, Copyright registration, Registration of claims to copyright.

Final Regulation

On consideration of the foregoing, the Copyright Office is amending part 202 of 37 CFR, chapter II in the manner set forth below.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 202.3(b)(7)(i)(E) is revised to read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b) * * *

(7) * * *

(i) * * *

(E) The deposit accompanying the application must consist of one of the following: one copy of the entire issue of the periodical, or, in the case of a newspaper, the entire section containing the contribution; tear sheets or proof copies of the contribution; a photocopy of the contribution itself, or a photocopy of the entire page containing the contribution; the entire page containing the contribution cut or torn from the collective work; the contribution cut or torn from the collective work; or photographs or photographic slides of the contribution or entire page containing the contribution as long as all contents of the contribution to be registered are clear and legible.

Dated: February 26, 2002.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

Librarian of Congress.

[FR Doc. 02–5456 Filed 3–6–02; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK00

Post-Traumatic Stress Disorder Claims Based on Personal Assault

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning the type of evidence that may be relevant in corroborating a veteran's statement regarding the occurrence of a stressor in claims for service connection of post-traumatic stress disorder (PTSD) resulting from personal assault. This amendment provides that evidence other than the veteran's service records may corroborate the occurrence of the stressor. This amendment also requires that VA not deny PTSD claims based on personal assault without first advising claimants that evidence from sources other than the veteran's service records may help prove the stressor occurred. These changes are necessary to ensure that VA does not deny such claims simply because the claimant did not realize that certain types of evidence may be relevant to substantiate his or her claim.

DATES: Effective Date: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Regulations Staff, Compensation and Pension Service (211), Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7211.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 16, 2000 (65 FR 61132–61133), VA proposed to amend its adjudication regulations to provide that evidence other than a veteran's service records may corroborate the veteran's assertion that a stressor occurred in claims of PTSD based on personal assault, and that VA may not deny such a claim without first advising the claimant that evidence other than the veteran's service records may be submitted to substantiate his or her claim. The comment period ended December 15, 2000. We received written comments from the Disabled American Veterans, the National Organization of Veterans' Advocates, the Vietnam Veterans of America, and two individuals. Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule with the changes discussed below.

Positive Response and Timely Efforts

One commenter stated that this amendment will be good for veterans and only wished that it had been done sooner.

Other Stressor Types

One commenter asserted that the regulations should be clarified to indicate that other types of in-service stressors (besides those listed in § 3.304(f)) could lead to PTSD. We agree and have made a clarifying change in the introductory paragraph of § 3.304(f).

Addition of Pregnancy Tests and Testing for Sexually Transmitted Diseases

One commenter recommended that evidence of pregnancy tests and testing for sexually transmitted diseases be included in the list of examples of sources other than the veteran's service records that may corroborate the veteran's assertion that a stressor occurred. The commenter stated that such testing is a logical result in the aftermath of a sexual assault and constitutes strong evidence that such an assault occurred. We agree that these types of records are relevant because they may indicate that a person has been recently assaulted. We have therefore revised the regulation to specifically mention pregnancy tests and tests for sexually transmitted diseases.

Review of Evidence by a Medical Professional

One commenter suggested adding the phrase ''mental health professional'' to the last sentence of the proposed rule, which stated, ''VA may submit any evidence that it receives to an appropriate medical professional for an opinion as to whether it indicates that a personal assault occurred.'' The commenter stated that often personal assaults, especially those of a sexual nature, go unreported. The commenter also stated that often physical injuries heal before the victim seeks assistance and that in these cases the only evidence of assault that remains lies within the victim's psyche and a mental health professional is more likely than a medical doctor to be able to discern it.

We agree that the term ''medical professional'' should include mental health professionals such as psychologists. We have therefore amended the regulation to include mental health professionals.

Another commenter asserted that whether or not a stressor occurred is a question of fact and not a medical question, and expressed concern that asking a medical professional for an opinion regarding whether a stressor occurred was in essence taking the fact-finding out of the hands of the VA decisionmaker.

We believe that a determination as to whether a stressor occurred is a factual question that must be resolved by VA adjudicators. Nonetheless, an opinion from an appropriate medical or mental health professional could be helpful in making that determination. Such an opinion could corroborate the claimant's account of the stressor incident. In certain cases, the opinion of such a professional could help interpret the evidence so that the VA decisionmaker can better understand it. Opinions given by such professionals are not binding upon VA, but instead are weighed along with all the evidence provided. Therefore, we make no change based on this comment.

Diagnosis of PTSD as Proof of Stressor

One commenter suggested that, given the nature of PTSD, a diagnostician's acceptance of a veteran's account of the claimed in-service stressor should be probative and sufficient evidence that the claimed in-service stressor occurred. The commenter also stated that if a diagnosis of PTSD is accepted by VA, the existence of the stressor identified by the diagnostician must also be accepted. Finally, the commenter urged VA to revise § 3.304(f) to provide ''that a competent and credible diagnosis of PTSD due to personal assault during service will be accepted as proof of service connection in the absence of evidence to the contrary.''

We believe that § 3.304(f)(3) is consistent with current case law. The U.S. Court of Appeals for Veterans Claims (CAVC) has held that VA is not ''bound to accept [the claimant's] uncorroborated account'' of a stressor, nor to ''accept the social worker's and psychiatrist's unsubstantiated * * * opinions that the alleged PTSD had its origins in appellant's [military service].'' *Wood* v. *Derwinski*, 1 Vet. App. 190, 192 (1991). More recently, the CAVC stated that VA ''is not required to accept doctors' opinions that are based upon the appellant's recitation of medical history.'' *Godfrey* v. *Brown*, 8 Vet. App. 113, 121 (1995). In diagnosing PTSD, doctors typically rely on the unverified stressor information provided by the patient. Therefore, a doctor's recitation of a veteran-patient's statements is no more probative than the veteran-patient's statements made to VA. Therefore, VA is not required to accept a doctor's diagnosis of PTSD due to a personal assault as proof that the stressor occurred or that the PTSD is

service connected. If, however, VA finds that a doctor's diagnosis of PTSD due to a personal assault is, as the commenter suggests, ''competent and credible'' and there is no evidence to the contrary in the record, in all likelihood, such an opinion would constitute competent medical evidence. For all of these reasons, we have made no change to the regulatory language based on these comments.

Corroboration of Stressor

One commenter also expressed belief that the proposed rule is contrary to 38 U.S.C. 1154(a) and 5107(b), 38 CFR 3.102, 3.303(a), and 3.304(b)(2), and *Cartright* v. *Derwinski,* 2 Vet. App. 24 (1991), because it requires corroboration of the claimed stressor. The commenter stated that, by statute, ''credible lay evidence alone is sufficient to meet a veteran's burden of proof if not rebutted by a preponderance of evidence.''

Section 1154(a) requires that VA regulations pertaining to service connection provide that ''due consideration shall be given to the places, types, and circumstances of [a] veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence.'' Section 5107(b) provides that VA must consider all information and lay and medical evidence of record in adjudicating a claim for veterans benefits and that ''[w]hen there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, the Secretary shall give the benefit of the doubt to the claimant.'' Section 3.102 states that ''[t]he reasonable doubt doctrine is also applicable even in the absence of official records, particularly if the basic incident allegedly arose under combat, or similarly strenuous conditions * * *.''

We do not agree with the commenter's conclusion that the referenced statutes and regulation support the proposition that a veteran's sworn statement is sufficient in all cases to establish that an alleged personal assault occurred. Section 501(a) of title 38, United States Code, authorizes the Secretary of Veterans Affairs to promulgate regulations with respect to the nature and extent of proof and evidence in order to establish entitlement to veterans benefits. Consistent with that authority, VA has promulgated 38 CFR 3.304(f) requiring corroborating evidence of the occurrence of the stressor in PTSD claims except in certain circumstances in which the claimed stressor is related to combat or to the veteran's prisoner-of-war experience. Further, the CAVC held in *Dizoglio* v. *Brown,* 9 Vet. App. 163, 166 (1996), that, if the claimed stressor is not related to combat, a ''[veteran's] testimony, by itself, cannot, as a matter of law, establish the occurrence of a noncombat stressor.'' While a veteran's statement regarding an assault is certainly evidence that must be considered by VA in adjudicating a PTSD claim, VA is obligated to ''review * * * the entire evidence of record,'' including ''all pertinent medical and lay evidence,'' when making a determination regarding service connection. 38 CFR 3.303(a); *see* 38 U.S.C. 1154(a); *see also* 38 CFR 3.304(b)(2). Therefore, VA must look to see whether other evidence in the record supports the occurrence of an in-service stressor. The reasonable doubt doctrine referenced in 38 U.S.C. 5107(b) and 38 CFR 3.102 comes into play when an approximate balance of positive and negative evidence exists that does not satisfactorily prove or disprove the claim. Thus, there must be a balance of positive and negative evidence on an issue, including the issue of whether an in-service stressor occurred, before the reasonable doubt doctrine is relevant to a claim.

Combat Claims

As noted above, this final rule retains existing provisions concerning the establishment of PTSD claims related to combat or prisoner-of-war experience. Two commenters suggested changes to the regulations concerning the establishment of PTSD claims related to combat. These comments are beyond the scope of this rulemaking proceeding since the proposed rule did not propose any substantive changes concerning the combat provisions.

Authority Cited

In the proposed rule, we cited 38 U.S.C. 501(a) and 1154(b) as authority for § 3.304(f). One commenter was concerned with the citation of 38 U.S.C. 1154(b), which relates to claims by veterans who have engaged in combat with the enemy, as authority for the proposed § 3.304(f). The commenter suggested that using section 1154(b) as authority for this regulation could have negative implications, such as misleading veterans into believing they can only file combat-related PTSD claims. The commenter suggested instead that 38 U.S.C. 1154(a) should serve as authority for the rulemaking.

As explained above, 38 U.S.C. 1154(a)(1) authorizes the Secretary to promulgate regulations requiring that in adjudicating a claim for service connection, consideration must ''be given to the places, types, and circumstances of [a] veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence.''

We believe that section 1154(a) provides sufficient authority for this rulemaking with regard to paragraph (f)(3) of § 3.304. However, the authority for paragraph (f)(1) of § 3.304 is 38 U.S.C. 1154(b). Therefore, in order to avoid any potential confusion, the citation of authority for the newly amended § 3.304(f) should be 38 U.S.C. 501(a) and 1154. Accordingly, we have made this change in the final rule.

In this final rule, we are also making in § 3.304(f)(3) other nonsubstantive changes from the proposed rule for purposes of clarity.

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would not directly affect any small entities. Only individuals would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

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

Approved: February 27, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

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

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

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

2. In § 3.304, paragraph (f) is revised to read as follows:

§ 3.304 Direct service connection; wartime and peacetime.

* * * * *

(f) *Post-traumatic stress disorder.* Service connection for post-traumatic stress disorder requires medical evidence diagnosing the condition in accordance with § 4.125(a) of this chapter; a link, established by medical evidence, between current symptoms and an in-service stressor; and credible supporting evidence that the claimed in-service stressor occurred. Although service connection may be established based on other in-service stressors, the following provisions apply for specified in-service stressors as set forth below:

(1) If the evidence establishes that the veteran engaged in combat with the enemy and the claimed stressor is related to that combat, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.

(2) If the evidence establishes that the veteran was a prisoner-of-war under the provisions of § 3.1(y) of this part and the claimed stressor is related to that prisoner-of-war experience, in the absence of clear and convincing evidence to the contrary, and provided that the claimed stressor is consistent with the circumstances, conditions, or hardships of the veteran's service, the veteran's lay testimony alone may establish the occurrence of the claimed in-service stressor.

(3) If a post-traumatic stress disorder claim is based on in-service personal assault, evidence from sources other than the veteran's service records may corroborate the veteran's account of the stressor incident. Examples of such evidence include, but are not limited to: records from law enforcement authorities, rape crisis centers, mental health counseling centers, hospitals, or physicians; pregnancy tests or tests for sexually transmitted diseases; and statements from family members, roommates, fellow service members, or clergy. Evidence of behavior changes following the claimed assault is one type of relevant evidence that may be found in these sources. Examples of behavior changes that may constitute credible evidence of the stressor include, but are not limited to: a request for a transfer to another military duty assignment; deterioration in work performance; substance abuse; episodes of depression, panic attacks, or anxiety without an identifiable cause; or unexplained economic or social behavior changes. VA will not deny a post-traumatic stress disorder claim that is based on in-service personal assault without first advising the claimant that evidence from sources other than the veteran's service records or evidence of behavior changes may constitute credible supporting evidence of the stressor and allowing him or her the opportunity to furnish this type of evidence or advise VA of potential sources of such evidence. VA may submit any evidence that it receives to an appropriate medical or mental health professional for an opinion as to whether it indicates that a personal assault occurred.

(Authority: 38 U.S.C. 501(a), 1154)

[FR Doc. 02–5376 Filed 3–6–02; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–132; FCC 01–314]

1998 Biennial Review—Multichannel Video and Cable Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of an amendment to our rules pertaining to the public file, notice, recordkeeping, and reporting requirements adopted in the Second Report and Order in CS Docket No. 98–132 in the Commission's biennial review of the public file and notice requirements concerning cable television. Section 76.1700(a) relieves cable systems serving 1000 or more, but fewer than 5000 subscribers, from certain recordkeeping requirements associated with maintaining the public file, requiring public file information to be provided only upon request. A summary of the Second Report and Order was published in the **Federal Register** at 66 FR 67115 on December 28, 2001.

DATES: Section 76.1700(a), published at 66 FR 67115 (December 28, 2001) became effective on January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Sonia Greenaway-Mickle, Cable Services Bureau, (202) 418–1419.

SUPPLEMENTARY INFORMATION: On March 26, 1999, the Commission released a Report and Order in CS Docket No. 98–132, 65 FR 53610, regarding the Commission's 1998 biennial regulatory review of its regulations conducted pursuant to section 11 of the Telecommunications Act of 1996 and streamlined and reorganized part 76 public file, recordkeeping, and notice requirements. In the Second Report and Order in CS Docket No. 98–132, the Commission adopted section 76.1700(a). Section 76.1700(a) relieves cable systems serving 1000 or more, but fewer than 5000 subscribers, from certain recordkeeping requirements associated with maintaining the public file, requiring public file information to be provided only upon request. A summary of the Second Report and Order was published in the **Federal Register** at 66 FR 67115 on December 28, 2001. On June 7, 2001, OMB approved the information collection contained in the part 76 rule. OMB 3060–0981. This publication satisfies the statement in the Second Report and Order that the Commission would publish a document in the **Federal Register** announcing the effective date of that rule.

List of Subjects in 47 CFR Part 76

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–5470 Filed 3–6–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub–No. 8)]

Regulations Governing Fees For Services Performed in Connection With Licensing and Related Services—2002 Update

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rules.

SUMMARY: The Board adopts its 2002 User Fee Update and revises its fee schedule at this time to recover the costs

associated with the January 2002 Government salary increases.

EFFECTIVE DATE: These rules are effective April 8, 2002.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 565–1551, or Anne Quinlan, (202) 565–1727. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations in 49 CFR 1002.3 require the Board's user fee schedule to be updated annually. The Board's regulation at 49 CFR 1002.3(a) provides that the entire fee schedule or selected fees can be modified more than once a year, if necessary. The Board's fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d). Also, in some previous years, selected fees were modified to reflect new cost study data or changes in agency fee policy.

Because Board employees received a salary increase of 4.77% in January 2002, we are updating our user fees to recover the increased personnel costs. With certain exceptions, all fees will be updated based on our cost formula contained in 49 CFR 1002.3(d).

The fee increases involved here result only from the mechanical application of the update formula in 49 CFR 1002.3(d), which was adopted through notice and comment procedures in *Regulations Governing Fees for Services-1987 Update*, 4 I.C.C.2d 137 (1987). In addition, no new fees are being proposed in this proceeding. Therefore, we find that notice and comment are unnecessary for this proceeding. *See Regulations Governing Fees For Services-1990 Update*, 7 I.C.C.2d 3 (1990); *Regulations Governing Fees For Services-1991 Update*, 8 I.C.C.2d 13 (1991); and *Regulations Governing Fees For Services-1993 Update*, 9 I.C.C.2d 855 (1993).

We conclude that the fee changes adopted here will not have a significant economic impact on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

Additional information is contained in the Board's decision. To obtain a copy of the full decision, write, call, or pick up in person from the Board's contractor, Da-To-Da Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. (Assistance for the hearing impaired is available through TDD services 1–800–877–8339.)

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

Decided: February 28, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

2. Section 1002.1 is amended by revising paragraphs (a) through (d) and (e)(1) and the table in paragraph (f)(6) to read as follows:

§ 1002.1 Fees for record search, review, copying, certification, and related services.

* * * * *

(a) Certificate of the Secretary, $12.00.

(b) Service involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of $30.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of $21.00 per hour.

(d) Photocopies of tariffs, reports, and other public documents, at the rate of $1.00 per letter or legal size exposure. A minimum charge of $5.00 will be made for this service.

(e) * * *

(1) A fee of $53.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

* * * * *

(f) * * *

(6) * * *

Grade	Rate	Grade	Rate
GS–1	$8.93	GS–9	$20.86
GS–2	9.72	GS–10	22.97
GS–3	10.96	GS–11	25.23
GS–4	12.30	GS–12	30.24
GS–5	13.76	GS–13	35.96
GS–6	15.34	GS–14	42.50
GS–7	17.05	GS–15 and over	49.99
GS–8	18.88		

* * * * *

2. In § 1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

(a) * * *

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic	$3,200
(2) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303	1,500
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	20,400
(4) An application for approval of an amendment to a non-rail rate association agreement:.	
(i) Significant amendment	3,400
(ii) Minor amendment	70
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	350

Type of proceeding	Fee
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family	1,300
(7)–(10) [Reserved]	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	5,300
(ii) Notice of exemption under 49 CFR 1150.31–1150.35	1,300
(iii) Petition for exemption under 49 U.S.C. 10502	9,300
(12) (i) An application involving the construction of a rail line	55,000
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	1,300
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	55,000
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	2,600
(14) (i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	4,600
(ii) Notice of exemption under 49 CFR 1150.41–1150.45	1,300
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902	4,900
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21–1150.24	1,200
(16)–(20) [Reserved]	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21)(i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments)	16,300
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	2,700
(iii) A petition for exemption under 49 U.S.C. 10502	4,700
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act	350
(23) Abandonments filed by bankrupt railroads	1,400
(24) A request for waiver of filing requirements for abandonment application proceedings	1,300
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment	1,100
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	16,700
(27) A request for a trail use condition in an abandonment proceeding under 16 U.S.C. 1247(d)	150
(28)–(35) [Reserved]	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 CFR 11102	14,000
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	7,500
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	1,300
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	1,000
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	900
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	6,900
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	1,099,800
(ii) Significant transaction	219,900
(iii) Minor transaction	5,800
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	1,000
(v) Responsive application	5,800
(vi) Petition for exemption under 49 U.S.C. 10502	4,900
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	1,800
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	51,400
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	9,500
(ii) Minor amendment	70

Type of proceeding	Fee
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	550
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered	5,900
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	150
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act	150
(49)–(55) [Reserved]	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1)	61,400
(ii) All other formal complaints (except competitive access complaints	6,000
(iii) Competitive access complaints	150
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705	6,500
(58) A petition for declaratory order:	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding	1,000
(ii) All other petitions for declaratory order	1,400
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	5,200
(60) Labor arbitration proceedings	150
(61) Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d)	150
(62) Motor carrier undercharge proceedings	150
(63)–(75) [Reserved]	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706	900
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	90
(78) (i) The filing of tariffs, including supplements, or contract summaries	1 per page ($18 minimum charge.)
(ii) Tariffs transmitted by fax	1 per page
(79) Special docket applications from rail and water carriers:	
(i) Applications involving $25,000 or less	50
(ii) Applications involving over $25,000	100
(80) Informal complaint about rail rate applications	450
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving $25,000 or less	50
(ii) Petitions involving over $25,000	100
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3)	150
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c).	30 per document
(84) Informal opinions about rate applications (all modes)	150
(85) A railroad accounting interpretation	800
(86) An operational interpretation	1,100
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint	75
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(iii) Third Party Complaint	75
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	75
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	150
(88)–(95) [Reserved]	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	23 per delivery
(97) Request for service or pleading list for proceedings	18 per list
(98) (i) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that does not require a Federal Register notice	200
(ii) Processing the paperwork related to a request for Carload Waybill Sample to be used for reasons other than a Surface Transportation Board or State proceeding that requires a Federal Register notice	450
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam	100
(ii) Practitioners' Exam Information Package	25
(100) Uniform Railroad Costing System (URCS) software and information:	
(i) Initial PC version URCS Phase III software program and manual	50
(ii) Updated URCS PC version Phase III cost file, if computer disk provided by requestor	10
(iii) Updated URCS PC version Phase III cost file, if computer disk provided by the Board	20
(iv) Public requests for *Source Codes* to the PC version URCS Phase III	500
(v) PC version or mainframe version URCS Phase II	400
(vi) PC version or mainframe version Updated Phase II databases	50
(vii) Public requests for *Source Codes* to PC version URCS Phase II	1,500
(101) Carload Waybill Sample data on recordable compact disk (R–CD):	
(i) Requests for Public Use File on R–CD–First Year	450
(ii) Requests for Public Use File on R–CD Each Additional Year	150
(iii) Waybill—Surface Transportation Board or State proceedings on R–CD—First Year	650
(iv) Waybill—Surface Transportation Board or State proceedings on R–CD—Second Year on same R–CD	450

Type of proceeding	Fee
(v) Waybill—Surface Transportation Board of State proceeding on R–CD—Second Year on different R–CD	500
(vi) User Guide for latest available Carload Waybill Sample	50

* * * * *

[FR Doc. 02–5332 Filed 3–6–02; 8:45 am]

BILLING CODE 4915–00–P

Proposed Rules

Federal Register
Vol. 67, No. 45
Thursday, March 7, 2002

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.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 966

[No. 2002–04]

RIN 3069–AB10

Federal Home Loan Bank Consolidated Obligations—Definition of the Term ''Non-Mortgage Assets''

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation on Federal Home Loan Bank (Bank) consolidated obligations in order to redefine the term ''non-mortgage assets,'' as used in the provision on Bank leverage limits. The effect of this amendment would be to allow a Bank to qualify more easily to maintain a 25-to-1 assets-to-capital leverage ratio instead of the general 21-to-1 ratio. In addition, the rule makes several technical changes to the definition of ''non-mortgage assets.''

DATES: The Finance Board will accept written comments on the proposed rule on or before April 8, 2002.

ADDRESSES: Mail comments to Elaine L. Baker, Secretary to the Board, by electronic mail at *bakere@fhfb.gov*, or by regular mail at Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Scott L. Smith, Acting Director, Office of Policy, Research and Analysis (202) 408–2991; Eric M. Raudenbush, Senior Attorney-Advisor, Office of General Counsel (202) 408–2932; Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Summary of the Rule

A. Background

Section 966.3(a) of the Finance Board's regulations sets forth the assets-to-capital leverage limit that will apply to each Bank until: (1) That Bank's capital structure plan required under part 933 of the regulations becomes effective; and (2) the Bank is in compliance with the new leverage limit set forth in § 932.2 of the regulations. *See* 12 CFR 931.9(b)(1) (governing transition from old to new leverage limit); *see also* 66 FR 8262, 8280 (Jan. 30, 2001) (transition discussed in preamble to rule adopting new capital regulations). Under § 966.3(a)(1), each Bank generally is required to maintain a leverage ratio not in excess of 21-to-1. However, § 966.3(a)(2) provides that a Bank may maintain a leverage ratio of up to 25-to-1 if the amount of its ''non-mortgage assets'' (after deducting deposits and capital held by the Bank) does not exceed 11 percent of the Bank's total assets.

Under § 966.3(a)(2), ''non-mortgage assets'' are defined to include a Bank's total assets after deduction of core mission activity (CMA) assets described in § 940.3 of the regulations and assets described in sections II.B.8 through II.B.11 of the Federal Home Loan Bank System Financial Management Policy (FMP),[1] which include: Mortgage-backed securities (MBS) or collateralized mortgage obligations (CMOs) issued by U.S. government-sponsored enterprises; AAA-rated MBS or CMOs issued by private entities; AAA-rated asset-backed securities backed by manufactured housing loans or home equity loans; and certain obligations of state and local housing finance agencies rated AA or higher. This proposed rule would amend § 966.3(a)(2) to: (1) Exclude from the scope of the definition of ''non-mortgage assets'' United States government-insured mortgages acquired by Banks as part of their acquired member asset (AMA) programs established under part 955 of the regulations; and (2) clarify the definition by eliminating the CMA and FMP cross-references and replacing them with direct descriptions of the assets in question. The Finance Board welcomes comments regarding these regulatory changes.

[1] The FMP is a Finance Board policy that governs Banks' investments and other issues of financial management. The policy currently is being phased out as the Banks transition to their new capital structures in compliance with the Finance Board's new regulations on Bank capital. *See* 12 CFR Parts 930–933.

B. Government-insured or -guaranteed mortgages

Section 940.3 of the regulations enumerates the Bank activities that qualify as CMA—*i.e.,* activities that the Finance Board has determined are most central to the fulfillment of the Banks' statutory mission and upon which the Banks must focus when preparing their strategic business plans as required by § 917.5 of the regulations. Under § 940.3(b), most AMA qualify as CMA. However, in order to provide incentive for Banks to focus upon the acquisition of conventional mortgages, in which market the Finance Board believes that the involvement of the Banks provides greater benefit, *see* 65 FR 43969, 43972 (July 17, 2000), § 940.3(b) provides that U.S. government-insured or -guaranteed mortgages acquired under commitments entered into after April 12, 2000 qualify as CMA only in an amount up to 33 percent of total AMA acquired after that date, less U.S. government-insured or -guaranteed mortgages acquired after April 12, 2000 under commitments entered into on or before April 12, 2000. Any government-insured or -guaranteed mortgages held by a Bank in excess of this benchmark do not qualify as CMA and therefore are ''non-mortgage assets'' for purposes of the calculation to be made under § 966.3(a)(2).

Notwithstanding its efforts to focus the Banks upon conventional—as opposed to government-insured or -guaranteed—AMA, the Finance Board has consistently favored Bank investment in markets (including those for all types of AMA) in which Bank participation is likely to have a measurable positive impact over investment in MBS. *See* 65 FR 43969, 43971–72 (July 17, 2000) (explaining Finance Board preference for AMA over MBS). Thus, most AMA qualify as CMA, while no MBS qualify as CMA (except to the extent that a particular MBS investment qualifies under the ''targeted investment'' language of § 940.3(e)) and each Bank's investment in MBS is limited to 300 percent of that Bank's capital. *See* FMP at II.C.2.

In light of the emphasis that the Finance Board has asked the Banks to place upon AMA, as opposed to MBS, it is counterintuitive to designate all MBS for favorable treatment in making the leverage limit calculation, while denying such favorable treatment to a category of AMA. Accordingly, the

Finance Board is proposing to amend § 966.3(a)(2) to add ''acquired member assets, including all United States government-insured or guaranteed whole single-family residential mortgage loans'' to the list of assets to be subtracted from a Bank's total assets to obtain the amount of ''non-mortgage assets'' on a Bank's balance sheet for purposes of the leverage limit calculation.

C. Elimination of Cross-References

In addition to the above-described revision, this proposed rule also would eliminate the reference in § 966.3(a)(2) to ''core mission activity assets'' and ''assets described in sections II.B.8 through II.B.11 of the FMP'' and replace them with an explicit enumeration of the assets in question. The FMP is being gradually phased-out and will no longer govern Bank operations once all Banks are in compliance with the Finance Board's new capital regulations. As such, the Finance Board finds it prudent to begin eliminating regulatory references to this policy (except in the case of transition provisions) so that all relevant information can be found in the published regulatory text. Although the Finance Board has revised some of the language used in the FMP to describe these assets so as to conform to the conventions used in its regulations, no substantive change is intended.

In the same vein, the Finance Board also is proposing to eliminate the cross-reference to CMA assets and, instead, substitute an explicit enumeration of all of the other assets that are to be subtracted from a Bank's total assets in calculating the percentage of non-mortgage assets. With the inclusion of government-insured or -guaranteed mortgages—which do not qualify as CMA—in the list of items to be subtracted from total assets to derive the amount of a Bank's non-mortgage assets, the Finance Board believes that it is not appropriate to tie § 966.3(a)(2) to the CMA definition. In addition, this change would make the definition of non-mortgage assets clearer and more transparent.

II. Regulatory Flexibility Act

The proposed rule applies only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, *see id.* at 605(b), the Finance Board hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

III. Paperwork Reduction Act

The proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 966

Federal home loan banks, Securities.

Accordingly, the Finance Board hereby proposes to amend title 12, chapter IX, Code of Federal Regulations as follows:

PART 966—CONSOLIDATED OBLIGATIONS

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

Authority: 12 U.S.C. 1422a, 1422b, and 1431.

2. Amend § 966.3 by revising paragraph (a)(2) to read as follows:

§ 966.3 Leverage limit and credit rating requirements.

(a) * * *

(2) The aggregate amount of assets of any Bank may be up to 25 times the total paid-in capital stock, retained earnings, and reserves of that Bank, provided that non-mortgage assets, after deducting the amount of deposits and capital, do not exceed 11 percent of such total assets. For the purposes of this section, the amount of non-mortgage assets equals total assets after deduction of:

(i) Advances;

(ii) Acquired member assets, including all United States government-insured or guaranteed whole single-family residential mortgage loans;

(iii) Standby letters of credit;

(iv) Intermediary derivative contracts;

(v) Debt or equity investments:

(A) That primarily benefit households having a targeted income level, a significant proportion of which must benefit households with incomes at or below 80 percent of area median income, or areas targeted for redevelopment by local, state, tribal or Federal government (including Federal Empowerment Zones and Enterprise and Champion Communities), by providing or supporting one or more of the following activities:

(*1*) Housing;

(*2*) Economic development;

(*3*) Community services;

(*4*) Permanent jobs; or

(*5*) Area revitalization or stabilization;

(B) In the case of mortgage- or asset-backed securities, the acquisition of which would expand liquidity for loans that are not otherwise adequately provided by the private sector and do not have a readily available or well established secondary market; and

(C) That involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank;

(vi) Investments in SBICs, where one or more members or housing associates of the Bank also make a material investment in the same activity;

(vii) SBIC debentures, the short term tranche of SBIC securities, or other debentures that are guaranteed by the Small Business Administration under title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 681 *et seq.*);

(viii) Section 108 Interim Notes and Participation Certificates guaranteed by the Department of Housing and Urban Development under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308);

(ix) Investments and obligations issued or guaranteed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*);

(x) Securities representing an interest in pools of mortgages (MBS) issued, guaranteed, or fully insured by the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or the Federal National Mortgage Association (Fannie Mae), or Collateralized Mortgage Obligations (CMOs), including Real Estate Mortgage Investment Conduits (REMICs), backed by such securities;

(xi) Other MBS, CMOs, and REMICs rated in the highest rating category by a NRSRO;

(xii) Asset-backed securities collateralized by manufactured housing loans or home equity loans and rated in the highest rating category by a NRSRO; and

(xiii) Marketable direct obligations of state or local government units or agencies, rated in one of the two highest rating categories by a NRSRO, where the purchase of such obligations by a Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community development.

* * * * *

Dated: February 13, 2002.

By the Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 02–5459 Filed 3–6–02; 8:45 am]

BILLING CODE 6725–01–U

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 985

[No. 2002–06]

RIN 3069–AB15

Office of Finance Board of Directors Meetings

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation governing the minimum number of meetings that the board of directors of the Office of Finance must hold each year. The proposed rule would require at least six in-person meetings per year.

DATES: The Finance Board will consider written comments on the proposed rule that are received on or before April 8, 2002.

ADDRESSES: Send comments to: Elaine L. Baker, Secretary to the Board, by electronic mail at *bakere@fhfb.gov,* or by regular mail to the Board, at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Office of Policy, Research and Analysis, 202/408-2872, *sweeneyp@fhfb.gov,* or Charlotte A. Reid, Special Counsel, Office of General Counsel, 202/408–2510, *reidc@fhfb.gov.* Staff also can be reached by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

The Office of Finance (OF) is a joint office of the Federal Home Loan Banks (Banks) under section 2B of the Federal Home Loan Bank Act (Act). 12 U.S.C. 1422b(b)(2). The principal function of the OF is to offer, issue, and service consolidated obligations (COs) on which the Banks are jointly and severally liable. *See* 12 U.S.C. 1431(c). Until recently, OF issued debt as agent for the Finance Board, which was the statutory issuer of the debt under section 11(c) of the Act. On June 7, 2000, the Finance Board authorized the Banks to issue COs under section 11(a) of the Act, 12 U.S.C. 1431(a), and authorized the OF to act as the agent of the Banks in issuing and servicing those COs. 65 FR 36290 (June 7, 2000). That regulatory action also broadened the OF's functions, expanded the duties, responsibilities, and powers of the OF board of directors (OF board), and set a minimum number of annual board meetings, as discussed below. As part of that rulemaking, the Finance Board assigned to the OF (as part of its debt issuance function) the responsibility for preparing the combined Federal Home Loan Bank System (Bank System) annual and quarterly financial reports.[1] 12 CFR 985.3(b), 985.6(b). The Finance Board also required the OF to obtain annual independent audits, gave OF the exclusive authority to select the independent outside auditor for the combined financial statements, and mandated that the Banks provide the necessary financial information within timeframes set by the Finance Board or the OF. *See* 12 CFR part 989.

Under the existing rules, the OF board is responsible for the oversight of every aspect of the operations of the OF and has broad powers to carry out its responsibilities. *See generally* 12 CFR part 985. In executing these duties, the OF board is subject to many of the same regulations that apply to the boards of directors of the Banks. In particular, the Finance Board rules require the OF board to conform to certain governance standards that apply to the boards of directors of the Banks under part 917 of the Finance Board regulations. *See* 12 CFR 985.8. One effect of that rule is that certain provisions in part 917 that apply to the Banks have been made equally applicable to the OF board. Specifically, the OF board must adopt bylaws in accordance with the requirements of section 917.10, and must establish policies for the management and operation of the OF, and approve a strategic business plan, in accordance with section 917.5. *See* 12 CFR 985.8(a)(2), (d)(1), (2). The OF board also must review, adopt, and monitor annual operating and capital budgets, in accordance with section 917.8 of the Finance Board regulations, *see* 12 CFR 985.8(d)(3), and must establish and perform the duties of an audit committee consistent with the requirements of § 917.7 and applicable SEC regulations governing audit reports. *See* 12 CFR 985.8(d)(4).

To discharge these duties the Finance Board constituted the OF board with three part-time members, each of whom is appointed by the Finance Board. The OF board includes two Bank presidents and one private citizen member, the latter of whom serves as the chair. *See* 12 CFR 985.8(a). Section 985.8(b) of the Finance Board regulations currently requires the OF board to hold no fewer than nine meetings annually. When the Finance Board adopted this requirement in June 2000, it established a minimum meeting requirement for the OF board, which previously had been required to meet quarterly. Although this action was independent of the Finance Board's regulatory treatment of the Banks, it was consistent with the regulations applicable to the Banks, which at that time were required to hold a minimum of nine meetings each year.[2] Since that time, the Finance Board has reduced the minimum number of board meeting required of the Banks to no fewer than six in-person board meetings annually, which reflects the actual operations practices of the Banks. 12 CFR 918.7(a).

II. Analysis of Proposed Rule

The OF board has asked the Finance Board to reduce the minimum number of meetings for the OF board, noting that ''[t]he OF is a small organization whose business activities, while substantial in terms of debt issued, are largely routine in nature.'' The OF board also noted that its staff is experienced, and its operations are subject to periodic review by the examiners of the Finance Board, as well as by external auditors, and that the OF board has in place sufficient guidelines, policies, and procedures to monitor the day-to-day business affairs of the OF. Moreover, the OF board establishes the debt issuance parameters and ratifies debt issuance activity at regularly scheduled meetings, and the activities of the OF are closely monitored by various Bank officials through a variety of formal and ad hoc committees.

The OF board believes that it can continue to carry out its responsibilities while holding fewer meetings, without disruption of office functions or board

[1] Previously, the Finance Board was responsible for preparing those financial reports. As amended, § 985.6(b) also sets forth the standards under which the OF is required to prepare Bank System annual and quarterly financial reports. The rule requires that the scope, form and content of the disclosures in such financial reports be consistent with the requirements of the applicable Securities Exchange Commission's (SEC) regulations governing various disclosure requirements, and be presented in accordance with the Statement Of Financial Accounting Standards No. 131, ''Disclosures about Segments of an Enterprise and Related Information'' (FAS 131). The rule also requires that OF comply with the filing and distribution schedule applicable to corporate registrants under the Securities Exchange Act of 1934.

[2] *See* 65 FR 13663, 13664 (March 14, 2000), citing 64 FR 71275 (December 21, 1999).

oversight, noting that there are sufficient checks and balances in place to ensure continued adequate review by the OF board. For example, an internal audit function headed by the OF's director of internal audit and compliance performs regular reviews of the debt issuance and servicing functions, and reports to the OF board on a quarterly basis. Additionally, the OF board reviews the OF's budget-to-actual expenses quarterly, and OF senior staff regularly reports on all actions taken under a delegation of authority. The OF board further notes that ''[g]iven the stable nature of the OF's operation, the number of matters that must be brought for the Board's consideration at a formal meeting are limited.'' By regulation, the OF board serves as the audit committee, which meets each quarter, usually by telephone, to approve the publication of the quarterly and annual financial reports. These meetings generally do not coincide with the regular meeting of the board of directors.

The proposed rule would reduce the minimum number of meetings that the OF board must hold each year from nine to six in-person meetings. The Finance Board believes that reducing the minimum number of meetings would not affect the ability of the OF board to monitor the operations of the OF, or the ability of the Finance Board to oversee the OF. Moreover, the proposed rule would be consistent with earlier actions by the Finance Board to reduce to six the minimum number of annual in-person board meetings required of the Banks. The Finance Board's experience with the reduced number of meetings for the Banks suggests that the boards of directors have been able to discharge their oversight duties notwithstanding the lesser number of meetings.

In relation to this issue, the Finance Board has conducted a survey of large financial intermediaries regarding the number of board meetings held each year. The survey included 12 bank holding companies (with total assets ranging from $11 billion to $99 billion), 4 thrift holding companies (with total assets ranging from $35 billion to $186.5 billion), and the Fannie Mae and Freddie Mac (with total assets of $575.2 billion and $386.7 billion, respectively). The number of board meetings held each year by the boards of the bank holding companies ranged from 4 to 12 (averaging 7.33); for the thrift institution holding companies, the range was 4 to 9, (averaging 7.00) meetings annually. Fannie Mae held 8 board meetings in 1999, and Freddie Mac held five 5 meetings in that year.[3] That information tends to confirm the view that requiring at least six in-person OF board meetings annually would be consistent with the practices at institutions of comparable size and with similar responsibilities.

The Finance Board believes that setting the minimum number of in-person board meetings at six per year strikes an appropriate balance between the needs of the Finance Board as the safety and soundness regulator of the Banks and the desire of the OF board to determine the optimal number of meetings to hold each year. The Finance Board further expects that notwithstanding the proposed reduction of the minimum number of meetings to be held each year, the OF board of directors will continue to maintain its level of oversight of the OF and its operations.

III. Regulatory Flexibility Act

The proposed rule would apply only to the OF, which does not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that this proposed rule, if promulgated as a final rule, will not have significant economic impact on a substantial number of small entities under the RFA.

Paperwork Reduction Act

This proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 33 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 985

Federal Home Loan Banks.

Accordingly, the Finance Board hereby proposes to amend part 985, title 12, chapter IX, Code of Federal Regulations, as follows:

PART 985—THE OFFICE OF FINANCE

1. The authority citation for part 985 continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1).

2. Revise § 985.8(b) to read as follows:

§ 985.8 General duties of the OF board of directors.

* * * * *

(b) *Meetings and quorum.* The OF board of directors shall conduct its business by majority vote of its members at meetings convened in accordance with its bylaws, and shall hold no fewer than six in-person meetings annually. Due notice shall be given to the Finance Board by the Chair prior to each meeting. A quorum, for purposes of meetings of the OF board of directors, shall be not less than two members.

* * * * *

Dated: February 13, 2002.

By the Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 02–5469 Filed 3–6–02; 8:45 am]

BILLING CODE 6725–01–P

[3] *See* 66 FR 24263, 24264 (May 14, 2001).

POSTAL SERVICE

39 CFR Part 111

Proposed Domestic Mail Manual Changes To Clarify the Method Used To Determine Postal Zones

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: The Postal Service is proposing to amend Domestic Mail Manual (DMM) G030, Postal Zones, to clarify the language describing the method used to determine postal zones. This change also removes redundant eligibility information in G030 that is currently in the DMM eligibility standards for Parcel Post and Periodicals mail. Effective with the implementation date of the Docket No. R2001–1 omnibus rate case, the Postal Service will update zone chart coordinates for all 3-digit ZIP Code prefixes in L005, Column A, that do not match the corresponding coordinates for L005, Column B.

DATES: Comments must be received on or before April 8, 2002.

ADDRESSES: Mail written comments to Manager, National Customer Support Center (NCSC), ATTN: J. Stefaniak, 1735 North Lynn Street, Room 3025, Arlington VA 22201–6038 or submit via fax to 703–292–4058, ATTN: J. Stefaniak. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Library, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, DC 20260–1540.

FOR FURTHER INFORMATION CONTACT: Angie White, 901–681–4525.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to clarify the language in DMM G030 which describes the method used to determine postal zones 1 through 8. This clarification does not propose to change the method used to calculate postal zones.

Postal rates for certain subclasses of mail are based on the weight of the

individual piece and the distance that the piece travels from origin to destination (i.e., the number of postal zones crossed). For the administration of the system of postal zones, the sphere of the earth is geometrically divided into units of area 30 minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. Postal zones are based on the distance between these units of area. The distance is measured from the center of the unit of area containing the sectional center facility (SCF) serving the origin post office to the SCF serving the destination post office. The SCF's serving the origin and destination post offices are determined by the appropriate SCF in L005, Column B.

Effective with the implementation of the Docket No. R2001–1 omnibus rate case, the longitude and latitude of 130 3-digit ZIP Code prefixes for SCF coordinates in L005, Column A, will be updated to reflect the parent SCF in L005, Column B. This update will align the 3-digit ZIP Code prefixes with current postal processing and distribution networks.

DMM G030.3.0 will be deleted because it repeats eligibility information for intra-BMC, inter-BMC, SCF, and delivery unit rates contained in other portions of the DMM.

The Postal Service Official National Zone Chart Data Program is administered from the National Customer Support Center (NCSC) in Memphis, TN. Single-page zone charts for originating mail are available online through Postal Explorer at *http://pe.usps.gov.* Zone chart data for the entire nation can be purchased in two formats: printed (about 500 pages) and electronic (3.5-inch diskettes). For more information, or to purchase zone charts, call the Zone Chart Program Administrator at 800–238–3150. The single-page zone chart program available online through Postal Explorer has been updated with a link to the updated zone chart data that would be effective, if this proposed rule is adopted, with the implementation date of the Docket No. R2001–1 omnibus rate case.

Comments are solicited on the proposed implementation date for this revision. The method of determining postal zones and the data coordinates for the SCFs are outside the scope of this rulemaking.

Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the DMM, incorporated by reference into the Code of Federal Regulations. (See 39 CFR part 111.)

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as set forth below:

G General Information

G000 The USPS and Mailing Standards

* * * * *

G030 Postal Zones

Summary

[Amend Summary text by removing the references to BMCs, SCF, and delivery unit zones to read as follows:]

G030 describes how postal zones are used to compute postage for zoned mail. It also defines local and nonlocal zones.

1.0 BASIC INFORMATION

[Amend 1.0 by removing the last sentence and adding the following two sentences to read as follows:]

* * * The distance is measured from the center of the unit of area containing the SCF serving the origin post office to the SCF serving the destination post office. The SCFs serving the origin and destination post offices are determined by using L005, Column B.

* * * * *

2.0 SPECIFIC ZONES

* * * * *

2.2 Nonlocal Zones

Nonlocal zones are defined as follows:

[Amend item 2.2a to read as follows:]

a. The zone 1 rate applies to pieces not eligible for the local zone in 2.1 that are mailed between two post offices with the same 3-digit ZIP Code prefix identified in L005, Column A. Zone 1 includes all units of area outside the local zone lying in whole or in part within a radius of about 50 miles from the center of a given unit of area.

[Remove 3.0 in its entirety.]

* * * * *

An appropriate amendment to 39 CFR part 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–5486 Filed 3–6–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7153–3]

Hazardous Waste Management System; Proposed Exclusions for Identifying and Listing Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules and request for comment.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is proposing to exclude (or ''delist'') wastewater treatment plant sludge (from conversion coating on aluminum) generated by 11 automobile assembly facilities in the State of Michigan from the lists of hazardous wastes. The facilities include three plants owned and operated by General Motors Corporation (GM)(Pontiac East-Pontiac, Hamtramck-Detroit, Flint Truck-Flint), one plant owned and operated by GM with an onsite wastewater treatment plant owned by the City of Lansing and operated by Trigen/Cinergy-USFOS of Lansing LLC (Lansing Grand River-Lansing), three plants owned and operated by Ford Motor Company (Wixom Assembly Plant-Wixom, Michigan Truck/Wayne Integrated Stamping and Assembly Plant-Wayne, Dearborn Assembly-Dearborn), one plant owned and operated by Auto Alliance International Inc. (AAI), a Ford/Mazda joint venture company (Auto Alliance International Inc.-Flat Rock), and three plants owned and operated by DaimlerChrysler Corporation (Sterling Heights Assembly Plant-Sterling Heights, Warren Truck Plant-Warren, Jefferson North Assembly Plant-Jefferson).

The Agency is proposing to use an expedited process to evaluate these wastes under a pilot project developed with the Michigan Department of Environmental Quality (MDEQ). EPA requests comments on the pilot project. Each of these 11 facilities voluntarily requested to participate in the pilot project. Based on its evaluation of historical data, the Agency has

tentatively decided to grant an exclusion for each of these facilities, conditioned in part upon the facility's demonstration that the waste is nonhazardous. These proposed decisions, if finalized, will conditionally exclude these wastes from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: We will accept public comments on these proposed decisions until April 22, 2002. We will stamp comments postmarked after the close of the comment period as ''late.'' These ''late'' comments may not be considered in formulating a final decision. Comments which are meant to relate to a single facility or a subset of the 11 facilities must identify the facility(s) to which the comment applies.

Any person may request a hearing on any of these proposed decisions by filing a request with Robert Springer, Director, Waste, Pesticides and Toxics Division (D–8J), EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois 60604. Your request for a hearing must reach EPA by March 22, 2002. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Please send two copies of your comments to Todd Ramaly, Waste Management Branch (DW–8J), EPA Region 5, 77 W. Jackson Blvd., Chicago, IL, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: The docket for these proposed rules is located at 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. The public may copy material from the docket at $0.15 per page. For technical information concerning this document or to make appointment to view the docket, contact Todd Ramaly at the address above or at 312–353–9317.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview
A. What action is EPA proposing?
B. Why is EPA proposing to grant, on an expedited basis, these delistings?
C. What is unique about today's proposals?
II. Background
A. What is the history of the delisting program?
B. What is a delisting petition, and what does it require of a petitioner?
C. What factors must EPA consider in deciding whether to grant a delisting petition?
D. How will these actions affect the States?
III. The Expedited Delisting Project
A. What is the Expedited Delisting Project?
B. Does the project amend EPA's delisting petition regulations?
C. Who is eligible to participate in the project?
D. How does the project address wastes not yet generated?
E. What is the standard automotive assembly plant process that generates F019 waste?
F. What information will each facility submit under the project?
G. What is required by the project's sampling and analysis plan?
H. When would EPA finalize the proposed delistings?
I. What support is MDEQ providing EPA in implementing the project?
IV. EPA's Evaluation of Waste Information and Data
A. What information and analyses did EPA consider in developing these proposed delistings?
B. How did EPA establish risk levels for these wastes?
C. What are the maximum allowable concentrations of hazardous constituents in the waste?
D. How will EPA evaluate the exclusion demonstration?
V. Conditions for Exclusion
A. How will the petitioners manage the waste if it is delisted?
B. How frequently must each facility test the waste?
C. What must the facility do if the process changes?
D. What happens if a facility's waste fails to meet the conditions of the exclusion?
VI. Regulatory Impact
VII. Regulatory Flexibility Act
VIII. Paperwork Reduction Act
IX. Unfunded Mandates Reform Act
X. Executive Order 12875
XI. Executive Order 13045
XII. Executive Order 13084
XIII. National Technology Transfer And Advancement Act

I. Overview

A. What Action Is EPA Proposing?

The EPA is tentatively proposing to grant petitions to exclude, or delist, from the definition of hazardous waste, wastewater treatment sludge generated at 11 automotive assembly facilities in Michigan. As a pilot project, the EPA proposes to exclude these wastes using an expedited process. Prior to finalizing our decision, we will compare constituent levels in the waste to maximum allowable concentration levels established by a fate and transport model.

B. Why Is EPA Proposing To Grant, on an Expedited Basis, These Delistings?

Automobile manufacturers are adding aluminum to automobiles, which may result in increased fuel economy. However, when aluminum is conversion coated in the automobile assembly process, the resulting wastewater treatment sludge must be managed as hazardous waste (listed as ''F019''). Previously, EPA granted has petitions to delist F019 waste at automobile assembly plants. Based on available historical data and other information, EPA believes that a number of automotive assembly plants use a similar manufacturing process which generates a similar F019 waste likely to be nonhazardous. This similarity of manufacturing processes and the resultant wastes provides an opportunity for the automobile industry to be more efficient in submitting delisting petitions and EPA in evaluating them. Efficiency may be gained and time saved by using standardized approaches for gathering, submitting and evaluating data. Therefore, EPA, in conjunction with MDEQ, developed a pilot project to expedite the delisting process. EPA believes that the project will be a more efficient way of making delisting determinations for this group of facilities. At the same time, EPA believes that these delisting determinations will be consistent with current laws and regulations and will be protective of human health and the environment.

C. What Is Unique About Today's Proposals?

Today's proposals, while consistent with the delisting petition regulations at 40 CFR 260.20 and 260.22, are unique in several important ways. Specifically, we are taking a standardized approach for the evaluation of petitions from multiple automotive assembly plants. In addition, EPA is identifying constituents of concern based on available historical data from waste generated at automotive assembly plants. Once the petitioner submits the analytical results of demonstration samples under § 260.22, EPA will determine whether the waste meets the maximum allowable concentration levels set forth in this proposal. Generally, EPA identifies constituents of concern for a particular facility from an analysis of its waste rather than relying on industry-wide historical data. By participating in the project, facilities agree that, if their waste is excluded, it must be disposed in a Subtitle D landfill with a liner and a leachate collection system. Typically, EPA only requires that excluded waste be disposed in a Subtitle D landfill, which may include older facilities that are unlined and without a leachate collection system. Finally, while we usually propose delistings one at a time, today we are proposing to simultaneously grant delistings for multiple facilities.

In addition to the proposed delistings, EPA is requesting comment on the pilot

project to expedite these delistings, which is described in section III, below.

II. Background

A. What Is the History of the Delisting Program?

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. The EPA has amended this list several times and published it in 40 CFR 261.31 and 261.32.

We list these wastes as hazardous because: (1) they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in § 261.11(a)(2) or (3).

Individual waste streams may vary depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility that meets the listing description may not be.

For this reason, §§ 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows a person to demonstrate that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What Is a Delisting Petition, and What Does It Require of a Petitioner?

A delisting petition is a request from a facility to EPA or an authorized state to exclude wastes from the list of hazardous wastes. The petitioner must show that the waste generated at a particular facility does not meet any of the criteria for listed wastes. The criteria for which EPA lists a waste are in 40 CFR 261.11 and in the background documents for the listed wastes.

In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (40 CFR 260.22, 42 U.S.C. 6921(f) and the background documents for a listed waste.)

Once a waste has been delisted, a generator remains obligated under RCRA to confirm that its waste remains nonhazardous.

C. What Factors Must EPA Consider in Deciding Whether To Grant a Delisting Petition?

Besides considering the criteria in 40 CFR 260.22(a), 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA must consider any factors (including additional constituents) other than those for which we listed the waste if these additional factors could cause the waste to be hazardous. (See The Hazardous and Solid Waste Amendments (HSWA) of 1984.)

EPA must also consider mixtures containing listed hazardous wastes and wastes derived from treatment of listed hazardous waste as hazardous wastes. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion but remain hazardous wastes until excluded.

D. How Will These Actions Affect States?

Because EPA is proposing today's exclusions under the federal RCRA delisting program, only states subject to federal RCRA delisting provisions would be affected. These exclusions may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements, or in states which have received our authorization to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge the petitioners to contact the state regulatory authority to establish the status of its waste under the state law.

EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states. If a facility transports the petitioned waste to or manages the waste in any state with delisting authorization, it must obtain a delisting from that state before the facility can manage the waste as nonhazardous in that state.

III. The Expedited Delisting Project

A. What Is the Expedited Delisting Project?

On December 21, 2001, EPA signed a Memorandum of Understanding with the MDEQ to implement the pilot project titled: ''Expedited Delisting of Aluminum Phosphating Sludge for Automobile Assembly Operations'' (hereinafter the ''Expedited Delisting Project'' or ''project''). In February 2002, the Agencies amended the Memorandum of Understanding to modify the eligibility requirements. A copy of the Amended Memorandum of Understanding (MOU) is available in the docket for these proposed rules. The Agencies agreed to implement the terms of the MOU as a five-year project. The purpose of the project is to more efficiently process delisting petitions from automobile assembly plants that generate F109 waste without using the hazardous constituents for which F019 was originally listed. The similarity of waste at these automotive assembly plants gives EPA and industry an opportunity to be more efficient.

EPA and MDEQ developed the project under the ''Joint EPA/State Agreement to Pursue Regulatory Innovation'' which encourages states to propose innovative approaches to environmental regulation to ''find new, better, and more efficient and effective ways to improve environmental protection.'' See, 63 FR 24785, May 5, 1998. Consistent with the joint agreement, the project was developed with the input of ''stakeholders,'' i.e., representatives of the automobile industry (Ford Motor Company and General Motors Corporation) and an environmental organization (The Ecology Center). In December 2001, MDEQ notified the stakeholders that the agencies had signed the MOU.

As described in section I.C, above, the Expedited Delisting Project takes a new approach in the way EPA implements its delisting regulations for a group of similar facilities. Because of the availability of historical data and the similarities among these facilities, EPA and MDEQ developed, under the Expedited Delisting Project, a uniform approach for the submission and evaluation of petitions made by automotive assembly plants to delist F019 waste. First, EPA usually requires the petitioner to submit a manufacturing process description specific to its facility. However, under the Expedited Delisting Project, each facility must certify that it uses the standard automotive assembly manufacturing process that generates F019 waste. Second, EPA requires a petitioner to

submit analytical results of demonstration samples. Generally, petitioners work separately with EPA to develop a sampling and analysis plan to comply with this section. Under the project, each petitioner will use the same pre-approved sampling and analysis plan. Third, EPA identifies constituents of concern and sets maximum allowable concentrations for those constituents in the waste separately for each facility. Under the project, EPA is establishing a set constituents of concern and corresponding maximum allowable concentrations that are the same for a group of automotive assembly facilities.

Another significant innovation is that the facilities participating in the project will dispose of excluded waste in a lined landfill with a leachate collection system. Generally, under previous exclusions, wastes may be sent to any Subtitle D landfill, including older facilities that may not be lined or have a leachate collection system.

Finally, today EPA is simultaneously proposing multiple delistings. Typically, EPA proposes delistings one at a time.

EPA requests comments on the Expedited Delisting Project described in this section.

B. Does the Project Amend EPA's Delisting Petition Regulations?

The Expedited Delisting Project is not an amendment to the delisting petition regulations at 40 CFR 260.20 and 260.22. Rather, the project represents a new approach in EPA's implementation of these delisting petition regulations. Participation in the project is voluntary. Automobile assembly plants not participating may follow the usual process for delisting.

Today's description of the Expedited Delisting Project (apart from the proposed delistings themselves) provides guidance to EPA, facilities participating in the project, and the general public on how EPA intends to exercise its discretion in implementing the statutory and regulatory provisions that concern the delisting of F019 waste generated by automotive assembly plants in Michigan. The statutory provisions and EPA regulations described in this project contain legally binding requirements. This project does not substitute for those provisions or regulations, nor is it a regulation itself. However, the proposed delistings, if finalized, will be rules imposing legally binding requirements. EPA retains the discretion to adopt approaches on a case-by-case basis that differ from the project where appropriate. Any decisions regarding a particular facility's waste will be made based on the statute and regulations. EPA will consider whether or not the project is appropriate in a particular situation. The project will be subject to periodic evaluation and may be revised without public notice.

C. Who Is Eligible To Participate in the Project?

The MOU states the eligibility requirements for the project, which are summarized in this section. Subject to approval, Michigan automobile or light duty truck assembly facilities, which use, or intend to use, the zinc phosphating process on aluminum described in the MOU, are eligible to participate in the Expedited Delisting Project. Consistent with the MOU, the facility must submit to the EPA and the MDEQ a letter requesting to participate in the Expedited Delisting Project to delist its F019 wastewater treatment sludge.

In January 2002, a total of 14 facilities requested to participate in the project. In February of 2002, MDEQ, with EPA approval, notified 11 plants [1] that they are eligible to participate in the Expedited Delisting Project. Of the 11 participating facilities, the following are currently using aluminum and are generating F019 waste: Ford Motor Company—Michigan Truck Plant and Wayne Integrated Stamping and Assembly Plant, 38303 Michigan Avenue/37625 Michigan Avenue, Wayne, MI 48184, RCRA ID No. MID 000809228/MID 0005379706; Ford Motor Company—Wixom Assembly Plant, 28801 Wixom Road, Wixom, MI 48393, RCRA ID No. MID 005379714; General Motors—Flint Truck, G–3100 Van Slyke Road, Flint, MI 48551, RCRA ID No. MID005356951; General Motors—Hamtramck, 2500 E. General Motors Blvd., Detroit, MI 48211, RCRA ID No. MID980795488; General Motors—Pontiac East, 2100 S. Opdyke Road, Pontiac, MI 48341, RCRA ID No. MID0053546902; Trigen/Cinergy-USFOS of Lansing LLC at General Motors Corporation—Lansing Grand River, 920 Townsend Ave., Lansing, MI 48921, RCRA ID No. MIK211915624. The following participating facilities are not yet using aluminum and do not generate F019 at this time: Ford Motor Company—Dearborn Assembly Plant, 3001 Miller Road, Dearborn, MI 48121, RCRA ID No. MID 000809764; Auto Alliance International Inc. (Ford/Mazda Joint Venture Company), 1 International Drive, Flat Rock, MI 84134–9498, RCRA ID No. MID 981953912; DaimlerChrysler—Jefferson North Assembly Plant, 2101 Conner Avenue, Detroit, MI 84215, RCRA ID No. MID985569987; DaimlerChrysler—Warren Truck Assembly Plant, 21500 Mound Round, Warren, MI 48091, RCRA ID No. MID005358007; DaimlerChrysler—Sterling Heights Assembly Plant, 38111 Van Dyke, Sterling Heights, MI 48312, RCRA ID No. MID980896690.

[1] Three facilities withdrew their requests to participate at this time, but may request to participate in the future.

D. How Does the Project Address Wastes Not Yet Generated?

The project will include some facilities which do not yet perform the conversion coating on aluminum resulting in F019. We grant up-front delistings for wastes that have not yet been generated, but will be generated in the future, based on available data (e.g. pilot scale system data). Consistent with previous up-front delistings, the up-front delistings proposed today will be contingent upon verification testing of the waste water treatment sludge once the facility begins conversion coating on aluminum (see section V.A., Conditions for Exclusion).

E. What Is the Standard Automotive Assembly Plant Process That Generates F019 Waste?

F019 is a wastewater treatment sludge generated from rinses and overflows from the conversion coating of aluminum. Wastewaters from other automobile assembly operations, including electrocoating and spray booth operations, are commingled with the conversion coating wastewater prior to treatment. The conversion coating, electrocoating and spray booth operations which may contribute constituents of concern in the sludge are summarized in this section.

Prior to the zinc phosphating process, fully assembled metal car bodies, parts, and spaceframe assemblies are cleaned with various alkaline cleaners, surfactants, and/or organic detergents. Following cleaning, rinse conditioners are employed to create nucleation sites prior to conversion coating. In the conversion coating step, parts are sprayed with or immersed in a zinc phosphate solution to create a uniform surface for painting. A sealer may be applied after conversion coating and a buffer is sometimes added during this step. Rinses and overflows from the conversion coating process are likely to contain trivalent chromium, nickel, and zinc. The zinc phosphating process used at these facilities today does not use hexavalent chromium or cyanide, for which F019 was originally listed.

Following the phosphating process, the metal parts are immersed in a bath where an electrocoating of paint is applied. Any undeposited paint is rinsed and recovered in subsequent stages prior to oven baking.

After conversion coating and electrocoating, various paints and top coats are applied to the automobile bodies/parts in spray booths. Some facilities use a water curtain to control emissions which is discharged to the wastewater treatment plant.

Overflows and rinse water from the electrocoating process and wastewater from the paint booths can contain hazardous constituents such as metals, organic solvents or formaldehyde.

Typical wastewater treatment plant operations begin with separation of large particles. The wastewater is then sent to various thickeners and clarifiers where water and solids are further separated. The pH of the wastewater might be adjusted and flocculents and coagulants may be added to facilitate the thickening process. The sludge from the thickeners and clarifiers is dewatered in a filter press.

F. What Information Will Each Facility Submit Under the Project?

Each facility participating in the project must submit a brief written application, consistent with the MOU, demonstrating that its waste qualifies for exclusion or delisting (the ''exclusion demonstration'').[2] The exclusion demonstration must show the following on the basis of sampling data consistent with the approved sampling and analysis plan: (1) That the wastewater treatment sludge meets the criteria set forth in the Table of Maximum Allowable Concentrations; (2) that the wastewater treatment sludge is not characteristically hazardous waste under 40 CFR part 261, subpart C; and (3) that the wastewater treatment sludge does not contain other hazardous waste listed under part 261, subpart D.

Each exclusion demonstration shall also include the following: (1) All sampling data required by and consistent with the approved sampling and analysis plan; (2) a description of the waste, including, but not limited to, (i) any factors which may cause the waste to be a hazardous waste, and (ii) the maximum annual quantities of waste covered by the demonstration; (3) a statement that the facility is an automobile assembly facility using the standard manufacturing processes as stated in the MOU;[3] (4) an assertion that the F019 waste does not meet the criteria for which this type of waste was listed as a hazardous waste; (5) the certification as required by § 260.22(i)(12).

G. What Is Required by the Project's Sampling and Analysis Plan?

The sampling and analysis plan describes the sampling objectives, sampling strategy, collection procedures, and quality assurance/quality control (QA/QC) procedures in detail. The plan also discusses the procedures that all facilities participating in the project will use for sample labeling and documentation, equipment preparation and cleaning, and sample shipment. Each facility will collect composite samples from each of six roll-off boxes of wastewater treatment sludge over at least six weeks at each facility.

When aluminum is first conversion coated at a facility which does not currently use aluminum, the facility will collect initial verification samples from each of four roll-off boxes and will analyze them for the constituents of concern. When production using conversion coating on aluminum first reaches 50 units a day, additional samples from each of four roll-off boxes will be collected and analyzed for the constituents of concern.

Each facility will also conduct quarterly verification sampling.

All data collected must include the appropriate QA/QC information and be subject to data validation as described in the approved sampling and analysis plan. Each facility will submit the analytical methods and detection levels to be used prior to sampling.

The sampling and analysis plan is an appendix to the MOU for the Expedited Delisting Project and is available in the docket.

H. When Would EPA Finalize the Proposed Delistings?

HSWA specifically requires EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has considered and addressed all timely public comments on today's proposal, including any comments made at public hearings. For those facilities named in today's proposal which submit their exclusion demonstrations in a timely manner, EPA Region 5 will decide whether or not to exclude their waste within 128 days after the close of the public comment period. The exclusions will become effective on the publication date of the final rule in the **Federal Register**.

Since these rules would reduce the existing requirements, the regulated community does not need a six-month period to come into compliance in accordance with section 3010 of RCRA as amended by HSWA.

I. What Support Is MDEQ Providing EPA in Implementing the Project?

MDEQ will be providing important assistance to EPA during the life of the project. MDEQ will provide technical support in reviewing exclusion demonstrations and all verification sampling data and will participate in periodic evaluations of the project.

IV. EPA's Evaluation of Waste Information and Data

A. What Information and Analyses Did EPA Consider in Developing These Proposed Delistings?

The EPA reviewed existing data submitted in support of five petitions to delist automotive assembly plant F019 sludge. Three were granted by EPA: GM in Lake Orion, Michigan (62 FR 55344, October 24, 1997); GM in Lansing, Michigan (65 FR 31096, May 16, 2000); and BMW Manufacturing Corporation in Greer, South Carolina (66 FR 21877, May 2, 2001). Petitions to exclude F019 at GM plants located in Lordstown, Ohio and Oklahoma City, Oklahoma have not been acted upon by EPA. The F019 waste from these facilities was sampled in accordance with approved sampling and analysis plans and analyzed for a comprehensive list of constituents. These analyses included total and Toxicity Characteristic Leaching Procedure (TCLP) analysis for volatile and semivolatile organic compounds and metals. These wastes were also analyzed for cyanide, sulfide, fluoride, formaldehyde, pH, and other parameters.

EPA also considered an industry database submitted jointly by the Aluminum Association and the Alliance of Automobile Manufacturers. This database contained waste data generated

[2] Trigen/Cinergy-USFOS of Lansing LLC (Trigen) must submit its exclusion demonstration jointly with GM. Trigen must also certify, in accordance with 40 CFR 260.22(i)(12), that (1) the Trigen wastewater treatment plant is located on the GM Lansing Grand River facility property and (2) the Trigen wastewater treatment plant does not receive any waste or wastewater from sources other than the GM Lansing Grand River facility.

[3] To the extent that a participating facility's process differs from the process set forth in the MOU, the facility shall describe any such differences that might result in a hazardous constituent being present in the wastewater treatment sludge that is not covered by the demonstration, i.e., not included in the Table of Maximum Allowable Concentrations. Facilities that identify differences that the EPA believes will not materially impact wastewater treatment sludge quality may still be considered for delisting consistent with the time frame set forth in section III.H, below.

over ten years and included a range of analyses of F019 and non-F019 wastewater treatment plant sludge generated at some automotive assembly plants. The analytes and number of samples collected varied by plant and the database did not include QA/QC information.

EPA used the available historical data in conjunction with a fate and transport model to define a list of approximately 70 constituents of concern for the exclusion demonstration analysis. Specifically, EPA compared the maximum observed concentration of any hazardous constituent detected at least once in any of the historical data to the most conservative delisting levels developed for the project. EPA identified a constituent for analysis if the observed value was within three orders of magnitude of this delisting level. The list of 70 constituents of concern also included the non-pesticide constituents in 40 CFR 261.24 and constituents associated with painting operations.

B. How Did EPA Establish Risk Levels for These Wastes?

In developing this proposal, we considered the original listing criteria and the additional factors required by the HSWA. See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(2)–(4). We evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11(a)(2) and (3). These factors include: (1) Whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the hazardous constituents to migrate and to bioaccumulate; (5) its persistence in the environment once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

Consistent with previous proposed delistings, EPA identified plausible exposure routes (ground water, surface water, air) for hazardous constituents present in the petitioned waste based on improper management of a Subtitle D landfill. To evaluate the waste, we used the Delisting Risk Assessment Software program (DRAS), a Windows based software tool, to estimate the potential release of hazardous constituents from the waste and to predict the risk associated with those releases. For a detailed description of the DRAS program and revisions see 65 FR 58015, September 27, 2000; 65 FR 59000, November 7, 2000; and 65 FR 75879, December 5, 2000.

Today's proposal contains one proposed revision to the DRAS program. Previously, the Henry's Law Constant used to estimate the volatilization rate of formaldehyde in groundwater for the shower-inhalation scenario was estimated using a relationship based on molecular weight, solubility, and pure vapor pressure taken from the *Handbook of Chemical Property Estimation Methods,* W.J. Lyman, W.F. Reehl, and D.H. Rosenblatt, 1982, McGraw-Hill Book Company, New York, New York. In 1988, Eric A. Betterton and Michael R. Hoffman published *Henry's Law Constants of Some Environmentally Important Aldehydes* in *Environmental Science and Technology,* Volume 22, Number 12, in which observed Henry's Law constants for low concentrations of aldehydes in water were lower than those expected using the earlier relationship. These empirical results reflect the increased affinity for water by formaldehyde. We believe these empirical results more accurately reflect the conditions modeled in the DRAS groundwater inhalation scenario and we are using the revised Henry's Law constant for this proposal. A technical support document for the DRAS program, as well as documentation of the formaldehyde references, are available in the docket.

C. What Are the Maximum Allowable Concentrations of Hazardous Constituents in the Waste?

The following table gives the maximum allowable concentration levels for the 70 constituents of concern based on a target cancer risk of 1×10^{-6} and a target hazard quotient of one. The levels are expressed both as total constituent concentrations and TCLP concentrations. Since the allowable levels are dependent on the annual volume generated, the table includes allowable levels at three different volumes which span the typical range of waste generated. The table also includes the maximum allowable groundwater concentration expected at the disposal site.

TABLE OF MAXIMUM ALLOWABLE CONCENTRATIONS EXPEDITED DELISTING PROJECT

Constituent	CAS #	Maximum allowable concentrations in the waste						Maximum allowable groundwater concentration (µg/L)
		1000 cubic yards		2000 cubic yards		3000 cubic yards		
		Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	
Volatile Organic Compounds								
acetone	67–64–1	NA	375	NA	228	NA	171	3,750
acetonitrile	75–05–8	NA	64.2	NA	39.2	NA	29.3	643
acrylonitrile	107–13–1	6,370	0.0128	4,120	0.0078	3,200	0.00584	0.135
allyl chloride	107–05–1	2,540	0.563	1,640	0.344	1,270	0.257	10.7
benzene	71–43–2	NA	0.238	NA	0.145	NA	0.109	2.50
carbon tetrachloride	56–23–5	NA	0.0738	NA	0.045	NA	0.0337	0.562
chlorobenzene	108–90–7	NA	9.98	NA	6.08	NA	4.56	100
chloroform	67–66–3	NA	0.128	6,530	0.0779	5,080	0.0583	1.35
1,1 dichloroethane	75–34–3	NA	19.7	NA	12	NA	9	3,750
1,2 dichloroethane	107–06–2	NA	0.00422	NA	0.00257	9,800	0.00193	0.800
1,1-dichloroethylene	75–35–4	1,340	0.015	867	0.00702	674	0.00526	0.122
cis-1,2 dichloroethylene	156–59–2	NA	6.98	NA	4.26	NA	3.19	70.0
trans-1,2 dichloroethylene	156–60–5	NA	9.98	NA	6.08	NA	4.56	100
ethylbenzene	100–41–4	NA	69.8	NA	42.6	NA	31.9	700
formaldehyde	50–00–0	1,070	138	689	84.2	535	63	1,380
methyl chloride (chloromethane)	74–87–3	5,760	0.295	3,720	0.180	2,890	0.135	5.63
methyl ethyl ketone	78–93–3	NA	200	NA	200	NA	200	22,600
methyl isobutyl ketone	108–10–1	NA	300	NA	183	NA	137	3,000

TABLE OF MAXIMUM ALLOWABLE CONCENTRATIONS EXPEDITED DELISTING PROJECT—Continued

Constituent	CAS #	Maximum allowable concentrations in the waste						Maximum allowable groundwater concentration (µg/L)
		1000 cubic yards		2000 cubic yards		3000 cubic yards		
		Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	
methyl methacrylate	80–62–6	NA	NA	NA	NA	NA	7,690	52,700
methylene chloride	75–09–2	NA	0.473	NA	0.288	NA	0.216	5
n-butyl alcohol	71–36–3	NA	375	NA	228	NA	171	3,750
styrene	100–42–5	NA	9.98	NA	6.08	NA	4.56	100
1,1,1,2-tetrachloroethane	630–20–6	NA	0.399	NA	0.243	NA	0.182	2.81
1,1,2,2-tetrachloroethane	79–34–5	274	0.720	152	0.439	108	0.329	0.366
tetrachloroethylene	127–18–4	NA	0.14	NA	0.0855	NA	0.064	1.40
toluene	108–88–3	NA	99.8	NA	60.8	NA	45.6	1,000
1,1,1-trichloroethane	71–55–6	NA	20	NA	12.2	NA	9.11	200
1,1,2-trichloroethane	79–00–5	NA	0.128	NA	0.078	NA	0.0584	1.28
trichloroethylene	79–01–6	NA	0.5	NA	0.304	NA	0.228	5.00
vinyl acetate	108–05–4	NA	1,440	NA	879	NA	658	15,200
vinyl chloride	75–01–4	178 0.00384	115	0.00234	89.4	0.00175	0.0384	
xylene	95–47–6 108–38–3 106–42–3	NA	998	NA	608	NA	456	10,000
Semivolatile Organic Compounds								
acrylamide	79–06–1	2,940	0.00196	2,710	0.0012	2,580	0.0009	0.0163
bis(2-ethylhexyl) phthalate	117–81–7	NA	0.147	NA	0.0896	NA	0.0671	1.47
butyl benzyl phthalate	85–68–7	NA	152	NA	92.9	NA	69.6	1,450
o-cresol	95–48–7	NA	187	NA	114	NA	85.5	1,875
m-cresol	108–39–4	NA	187	NA	114	NA	85.5	1,875
p-cresol	106–44–5	NA	18.7	NA	11.4	NA	8.55	188
1,4-dichlorobenzene	106–46–7	NA	0.227	NA	0.139	NA	0.104	2.40
2,4-dimethylphenol	105–67–9	NA	74.9	NA	45.7	NA	34.2	750
2,4-dinitrotoluene	121–14–2	NA	0.0107	NA	0.00654	NA	0.0049	0.107
di-n-octyl phthalate	117–84–0	NA	0.184	NA	0.112	NA	0.0839	1.30
hexachlorobenzene	118–74–1	2.84	0.000159	1.58	9.67×10^{-5}	1.12	7.24×10^{-5}	0.00168
hexachlorobutadiene	87–68–3	537	0.0158	299	0.00961	212	0.0072	0.167
hexachloroethane	67–72–1	NA	0.289	NA	0.176	NA	0.132	3.06
naphthalene	91–20–3	NA	24.5	NA	15	NA	11.2	246
nitrobenzene	98–95–3	NA	1.87	NA	1.14	NA	0.855	18.8
pentachlorophenol	87–86–5	4,980	0.00672	2,770	0.004	1,960	0.00307	0.0711
pyridine	110–86–1	NA	3.75	NA	2.28	NA	1.71	37.4
2,4,5-trichlorophenol	95–95–4	NA	150	NA	91.6	NA	68.6	1,500
2,4,6-trichlorophenol	88–06–2	NA	0.453	NA	0.276	NA	0.207	4.79
Metals								
antimony	7440–36–0	NA	1.08	NA	0.659	NA	0.494	6.00
arsenic	7440–38–2	8,820	0.492	8,140	0.3	7,740	0.224	4.87
barium	7440–39–3	NA	100	NA	100	NA	100	2,000
beryllium	7440–41–7	NA	2.18	NA	1.33	NA	0.998	4.00
cadmium	7440–43–9	NA	0.788	NA	0.48	NA	0.36	5.00
chromium	7440–47–3	NA	5	NA	4.95	NA	3.71	100
cobalt	7440–48–4	NA	118	NA	72.1	NA	54	2,250
lead	7439–92–1	NA	5	NA	5	NA	5	15.0
mercury	7439–97–6	16	0.2	8.92	0.2	6.34	0.2	2.00
nickel	7440–02–0	NA	148	NA	90.5	NA	67.8	750
selenium	7782–49–2	NA	1.0	NA	1.0	NA	1.0	50.0
silver	7440–22–4	NA	5.0	NA	5.0	NA	5.0	187
thallium	7440–28–0	NA	0.462	NA	0.282	NA	0.211	2.00
tin	7440–31–5	NA	1,180	NA	721	NA	540	22,500
vanadium	7440–62–2	NA	111	NA	67.6	NA	50.6	263
zinc	7440–66–6	NA	1,470	NA	898	NA	673	11,300
Miscellaneous								
corrosivity (pH)	NA	2.0 < pH < 12.5 See 40 CFR 261.22						NA
cyanide	57–12–5	18.9		11.5		8.63		200
ignitability	NA	flashpoint > 140°F See 40 CFR 261.21						NA
reactivity	NA	See 40 CFR 261.23						NA
sulfide	18496–25–8	See 40 CFR 261.23						NA

NA: The program did not calculate a delisting level for this constituent, or the delisting level was higher than those levels expected to be found in the waste. In the event high levels are discovered, the constituent will be evaluated and a delisting level set in accordance with the methodology used to set delisting levels for the other constituents.

Total cyanide and sulfide analysis will also be conducted, although delisting levels for total concentrations have not been established for cyanide and sulfide. The results will be used to support a qualitative statement by the petitioner that the waste is not reactive as defined in 40 CFR 261.23.

D. How Will EPA Evaluate the Exclusion Demonstration?

EPA will confirm that sample collection, data analysis, and elements of QA/QC analysis are in accordance with the approved sampling and analysis plan. EPA will compare the maximum value of each constituent detected at a given facility to the maximum allowable concentration levels set forth in this proposal.

The EPA will use the DRAS program to estimate the aggregate cancer risk and hazard index for each facility's waste. The aggregate cancer risk is the cumulative total of all individual constituent cancer risks. The hazard index is a similar cumulative total of non-cancer effects. The target aggregate cancer risk is 1×10^{-5} and the target hazard index is one.

In addition, EPA will review any process information which differs from the standard process described above.

V. Conditions for Exclusion

A. How Will the Petitioners Manage the Waste if It Is Delisted?

If the petitioned waste is delisted, the facility must dispose of it in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258 and certify to this annually.

The facilities granted an up-front exclusion must conduct initial verification testing. These facilities must handle the wastewater treatment sludge generated after aluminum parts are first subjected to conversion coating as hazardous until 15 calendar days after EPA receives the initial verification data. If EPA notifies the facility during the 15-day period that the data is unacceptable, the facility must continue the handle the waste as hazardous.

B. How Frequently Must Each Facility Test the Waste?

After the exclusion becomes effective, and any necessary inital verification testing has been completed, each facility shall collect and analyze a representative sample on a quarterly basis to verify that the waste continues to meet the requirements of this proposal. The sample must be collected in accordance with the approved sampling plan. The verification samples need to be analyzed for only those constituents which were originally detected in the exclusion demonstration.

Each facility must submit the verification data on an annual basis. The annual submittal of verification data and disposal certification must be made to both Region 5 Waste Management Branch, U.S. EPA, at 77 West Jackson Boulevard, Mail Code DW–8J, Chicago, Illinois 60604 and MDEQ, Waste Management Division, Hazardous Waste Program Section, at P.O. Box 30241, Lansing, Michigan 48909. The facility must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. The facility must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

C. What Must the Facility Do if the Process Changes?

If a facility significantly changes the manufacturing process, the treatment process, or the chemicals used, the facility may not handle the sludge generated from the new process under this exclusion until it has demonstrated to the EPA that the waste meets the criteria set in section IV.C and that no new hazardous constituents listed in appendix VIII of 40 CFR part 261 have been introduced. The facility must manage wastes generated after the process change as hazardous waste until it receives written approval for continuance of the exclusion from the Agency.

D. What Happens if a Facility's Waste Fails To Meet the Conditions of the Exclusion?

If a facility with sludge excluded under this project violates the terms and conditions established in the exclusion, the Agency may suspend the exclusion or may start procedures to withdraw the exclusion.

If the quarterly testing of the waste does not meet the delisting levels described in section IV.C above, the facility must notify the EPA and MDEQ immediately at the addresses listed in section V.B, above. The exclusion will be suspended and the waste managed as hazardous until the facility has received written approval for continuance of the exclusion from the Agency. The facility may provide any information and sampling results that support the continuation of the delisting exclusion.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978) et seq. (APA), to reopen a delisting decision if we receive information indicating that the conditions of this exclusion have been violated.

VI. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from today's proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to eleven facilities. Accordingly, the Agency certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VIII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated

with this proposed rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 et seq.) and have been assigned OMB Control Number 2050–0053.

IX. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with federal mandates that may result in estimated costs to state, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any state, local, or tribal governments or the private sector estimated to cost $100 million or more in any one year. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

X. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

XI. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XII. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XIII. National Technology Transfer And Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the Agency is directed 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 (for example, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where EPA does not use available and potentially applicable voluntary consensus standards, the Act requires the Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards, and thus the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: February 22, 2002.

Robert Springer,

Director, Waste, Pesticides and Toxics Division.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX of part 261 it is proposed to add the following waste streams in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility and address	Waste description
* * *	* * * *
Auto Alliance International Inc. (Ford/Mazda Joint Venture Company)—Flat Rock, Michigan.	Waste water treatment plant sludge, F019, that is generated by Auto Alliance International Inc., Flat Rock, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents and delisting levels from section IV.C of the preamble) 2. *Initial Verification Testing:* a. When aluminum parts are first subjected to conversion coating, the facility must collect 4 additional samples and analyze them for the constituents listed in paragraph (1) using the methodologies specified in an EPA-approved sampling plan. The facility must manage as hazardous all wastewater treatment sludge generated after aluminum parts are first subjected to conversion coating, until 15 calendar days after EPA receives valid data demonstrating that paragraph (1) is satisfied, unless EPA notifies the facility during the 15-day period that the data is unacceptable. b. When production using conversion coating on aluminum first reaches 50 units a day, the facility must collect 4 additional samples and analyze them for the constituents listed in paragraph (1) using the methodologies specified in an EPA-approved sampling plan. c. The verification data required in paragraphs (2.a) and (2.b) must be submitted as soon as the data becomes available. 3. *Quarterly Verification Testing:* After the facility satisfies the requirements of paragraph (2.a), it must, on a quarterly basis, collect and analyze one sample of the waste for the constituents detected in pre-aluminum sampling and the sampling required in paragraph (2) using the methodologies specified in an EPA-approved sampling plan. 4. *Changes in Operating Conditions:* The facility must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process significantly change. The facility must handle wastes generated after the process change as hazardous until it has demonstrated that the wastes continue to meet the delisting levels and that no new hazardous constituents listed in appendix VIII of part 261 have been introduced and it has received written approval from EPA. 5. *Data Submittals:* The facility must submit the data obtained through verification testing or as required by other conditions of this rule to both U.S. EPA Region 5, Waste Management Branch (DW–8J), 77 W. Jackson Blvd., Chicago, IL 60604 and MDEQ, Waste Management Division, Hazardous Waste Program Section, at P.O. Box 30241, Lansing, Michigan 48909. The quarterly verification data and certification of proper disposal must be submitted annually upon the anniversary of the effective date of this exclusion. The facility must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. The facility must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12). 6. *Reopener Language*—(a) If, anytime after disposal of the delisted waste, the facility possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in paragraph (1) is at a level in the leachate higher than the delisting level established in paragraph (1), or is at a level in the groundwater higher than the point of exposure groundwater levels referenced by the model, then the facility must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility and address	Waste description
	(c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify the facility in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. The facility shall have 30 days from the date of the Regional Administrator's notice to present the information. (d) If after 30 days the facility presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.
DaimlerChrysler Corporation, Jefferson North Assembly Plant—Detroit, Michigan.	Waste water treatment plant sludge, F019, that is generated by DaimlerChrysler Corporation at the Jefferson North Assembly Plant, Detroit, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
DaimlerChrysler Corporation, Sterling Heights Assembly Plant—Sterling Heights, Michigan.	Waste water treatment plant sludge, F019, that is generated by DaimlerChrysler Corporation at the Sterling Heights Assembly Plant, Sterling Heights, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
DaimlerChrysler Corporation, Warren Truck Assembly Plant—Warren, Michigan.	Waste water treatment plant sludge, F019, that is generated by DaimlerChrysler Corporation at the Warren Truck Assembly Plant, Warren, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
Ford Motor Company, Dearborn Assembly Plant—Dearborn, Michigan.	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Dearborn Assembly Plant, Dearborn, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
Ford Motor Company, Michigan Truck Plant and Wayne Integrated Stamping and Assembly Plant—Wayne, Michigan.	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Wayne Integrated Stamping and Assembly Plant from wastewaters from both the Wayne Integrated Stamping and Assembly Plant and the Michigan Truck Plant, Wayne, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
Ford Motor Company, Wixom Assembly Plant—Wixom, Michigan.	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Wixom Assembly Plant, Wixom, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR Part 258. The exclusion becomes effective as of (insert final publication date).

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility and address	Waste description
	1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
General Motors Corporation, Flint Truck—Flint, Michigan	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Flint Truck, Flint, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
General Motors Corporation, Hamtramck—Detroit, Michigan.	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Hamtramck, Detroit, Michigan at a maximum annual rate of (annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
General Motors Corporation, Pontiac East—Pontiac, Michigan.	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Pontiac East, Pontiac, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
Trigen/Cinergy-USFOS of Lansing LLC at General Motors Corporation, Lansing Grand River—Lansing, Michigan.	Waste water treatment plant sludge, F019, that is generated at General Motors Corporation's Lansing Grand River (GM—Grand River) facility by Trigen/Cinergy-USFOS of Lansing LLC exclusively from wastewaters from GM—Grand River, Lansing, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR Part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste).

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility and address	Waste description
	2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
* * * * * * *	

[FR Doc. 02–5314 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–7154–2]

Nebraska: Tentative Approval of Nebraska Underground Storage Tank Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; tentative determination on application of State of Nebraska for final approval; public comment period.

SUMMARY: Nebraska has applied to EPA for final approval of its underground storage tank (UST) program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the Nebraska application and has made a tentative determination that Nebraska's UST program satisfies all of the requirements necessary to qualify for final approval. Thus, by this proposed rule, EPA is providing notice that EPA intends to grant final approval to Nebraska to operate its UST program in lieu of the Federal program. Nebraska's application for approval is available for public review and comment, and a public hearing will be held to solicit comments on the application, if there is significant public interest expressed.

DATES: A public hearing will be scheduled if there is sufficient public interest communicated to EPA by April 8, 2002. EPA will determine by April 22, 2002, whether there is significant interest to hold the public hearing. The State of Nebraska will participate in such public hearing held by EPA on this subject. Written comments on the Nebraska approval application, as well as requests to present oral testimony, must be received by the close of business on April 8, 2002.

ADDRESSES: Send written comments to Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101. You can view and copy Nebraska's application during normal business hours at the following addresses: The Nebraska Department of Environmental Quality, Suite 400, The Atrium, 1200 N Street, Lincoln, Nebraska, 68509, telephone: (402) 471–3557; The U.S. EPA Docket Clerk, Office of Underground Storage Tanks, c/o RCRA Information Center, 1235 Jefferson Davis Highway, Arlington, Virginia 22202, telephone: (703) 603–9230, and EPA Region 7, Library, 901 N. 5th Street, Kansas City, KS 66101. If sufficient public interest is expressed, EPA will hold a public hearing on the State of Nebraska's application for program approval. Anyone wishing to learn the status of the public hearing on the State's application may telephone the following contacts after April 22, 2002: Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7268; David Chambers, Supervisor, Leaking Underground Storage Tanks Program, Nebraska Department of Environmental Quality, Suite 400, The Atrium, 1200 N Street, Lincoln, Nebraska 68509, (402) 471–4230.

FOR FURTHER INFORMATION CONTACT: Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101.

SUPPLEMENTARY INFORMATION:

A. Background

Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, requires that the EPA develop standards for Underground Storage Tanks (UST) systems as may be necessary to protect human health and the environment, and procedures for approving State programs in lieu of the Federal program. EPA promulgated State program approval procedures at 40 CFR part 281. Program approval may be granted by EPA pursuant to RCRA section 9004(b), if the Agency finds that the State program: is ''no less stringent'' than the Federal program for the seven elements set forth at RCRA section 9004(a)(1) through (7); includes the notification requirements of RCRA section 9004(a)(8); and provides for adequate enforcement of compliance with UST standards of RCRA section 9004(a). Note that RCRA sections 9005 (information-gathering) and 9006 (Federal enforcement) by their terms apply even in states with programs approved by EPA under RCRA section 9004. Thus, the Agency retains its authority under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions.

B. Nebraska UST Program

The UST program in Nebraska is implemented jointly by the Nebraska Department of Environmental Quality (NDEQ) and the Nebraska State Fire Marshal (NSFM). Section 81–15, 118 of the Nebraska Revised Statutes (N.R.S.) designates NDEQ as the lead agency for the UST program, but specifies that NSFM will conduct preventative activities under an interagency agreement with NDEQ.

The State of Nebraska initially submitted a state program approval application to EPA by letter dated December 15, 2000. Additional information was provided by Nebraska on March 21, 2001. EPA evaluated that information as well as other issues and determined the application package met all requirements for a complete program application. On December 5, 2001, EPA notified Nebraska that the application package was complete.

Included in the State's Application is an Attorney General's statement. The Attorney General's statement provides an outline of the State's statutory and

regulatory authority and details concerning areas where the State program is broader in scope or more stringent than the Federal program. Also included was a transmittal letter from the Governor of Nebraska requesting program approval, a description of the Nebraska UST program, a demonstration of Nebraska's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of EPA and the Nebraska Department of Environmental Quality, and copies of all applicable state statutes and regulations. EPA has reviewed the application and supplementary materials, and has tentatively determined that the State's UST program meets all of the requirements necessary to qualify for final approval.

Specifically, the Nebraska UST program has requirements that are no less stringent than the federal requirements at: 40 CFR 281.30 New UST system design, construction, installation, and notification; 40 CFR 281.31 Upgrading existing UST systems; 40 CFR 281.32 General operating requirements; 40 CFR 281.33 Release detection; 40 CFR 281.34 Release reporting, investigation, and confirmation; 40 CFR 281.35 Release response and corrective action; 40 CFR 281.36 Out-of-service UST systems and closure; 40 CFR 281.37 Financial responsibility for UST systems containing petroleum; and 40 CFR 281.39 Lender Liability.

Additionally, the Nebraska UST program has adequate enforcement of compliance, as described at: 40 CFR 281.40 Requirements for compliance monitoring program and authority; 40 CFR 281.41 Requirements for enforcement authority; 40 CFR 281.42 Requirements for public participation; and 40 CFR 281.43 Sharing of information.

Notice of Public Hearing

EPA will hold a public hearing on the tentative decision, if sufficient public interest is expressed. Anyone wishing to learn the status of the public hearing on the State's application may telephone the contacts listed in the Addresses section above, after April 22, 2002. EPA will consider all public comments on the tentative determination received at the hearing, or received in writing during the public comment period. Issues raised by those comments may be the basis for a decision to deny final approval to Nebraska. EPA expects to make a final decision on whether or not to approve Nebraska's program and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action proposes to authorize State requirements for the purpose of RCRA 9004 and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). Because this proposed action proposes to authorize pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this proposed action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to authorize State requirements as part of the State underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA. This proposed action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This proposed action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 9004, EPA grants approval of a State's program as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State program application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the proposed action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*.).

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This document is issued under the authority of section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 18, 2002.

Nat Scurry,

Acting Regional Administrator, Region 7.

[FR Doc. 02–5452 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 67, No. 45
Thursday, March 7, 2002

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.

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 966

[No. 2002–04]

RIN 3069–AB10

Federal Home Loan Bank Consolidated Obligations—Definition of the Term ''Non-Mortgage Assets''

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation on Federal Home Loan Bank (Bank) consolidated obligations in order to redefine the term ''non-mortgage assets,'' as used in the provision on Bank leverage limits. The effect of this amendment would be to allow a Bank to qualify more easily to maintain a 25-to-1 assets-to-capital leverage ratio instead of the general 21-to-1 ratio. In addition, the rule makes several technical changes to the definition of ''non-mortgage assets.''

DATES: The Finance Board will accept written comments on the proposed rule on or before April 8, 2002.

ADDRESSES: Mail comments to Elaine L. Baker, Secretary to the Board, by electronic mail at *bakere@fhfb.gov*, or by regular mail at Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Scott L. Smith, Acting Director, Office of Policy, Research and Analysis (202) 408–2991; Eric M. Raudenbush, Senior Attorney-Advisor, Office of General Counsel (202) 408–2932; Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Summary of the Rule

A. Background

Section 966.3(a) of the Finance Board's regulations sets forth the assets-to-capital leverage limit that will apply to each Bank until: (1) That Bank's capital structure plan required under part 933 of the regulations becomes effective; and (2) the Bank is in compliance with the new leverage limit set forth in § 932.2 of the regulations. *See* 12 CFR 931.9(b)(1) (governing transition from old to new leverage limit); *see also* 66 FR 8262, 8280 (Jan. 30, 2001) (transition discussed in preamble to rule adopting new capital regulations). Under § 966.3(a)(1), each Bank generally is required to maintain a leverage ratio not in excess of 21-to-1. However, § 966.3(a)(2) provides that a Bank may maintain a leverage ratio of up to 25-to-1 if the amount of its ''non-mortgage assets'' (after deducting deposits and capital held by the Bank) does not exceed 11 percent of the Bank's total assets.

Under § 966.3(a)(2), ''non-mortgage assets'' are defined to include a Bank's total assets after deduction of core mission activity (CMA) assets described in § 940.3 of the regulations and assets described in sections II.B.8 through II.B.11 of the Federal Home Loan Bank System Financial Management Policy (FMP),[1] which include: Mortgage-backed securities (MBS) or collateralized mortgage obligations (CMOs) issued by U.S. government-sponsored enterprises; AAA-rated MBS or CMOs issued by private entities; AAA-rated asset-backed securities backed by manufactured housing loans or home equity loans; and certain obligations of state and local housing finance agencies rated AA or higher. This proposed rule would amend § 966.3(a)(2) to: (1) Exclude from the scope of the definition of ''non-mortgage assets'' United States government-insured mortgages acquired by Banks as part of their acquired member asset (AMA) programs established under part 955 of the regulations; and (2) clarify the definition by eliminating the CMA and FMP cross-references and replacing them with direct descriptions of the assets in question. The Finance Board welcomes comments regarding these regulatory changes.

[1] The FMP is a Finance Board policy that governs Banks' investments and other issues of financial management. The policy currently is being phased out as the Banks transition to their new capital structures in compliance with the Finance Board's new regulations on Bank capital. *See* 12 CFR Parts 930–933.

B. Government-insured or -guaranteed mortgages

Section 940.3 of the regulations enumerates the Bank activities that qualify as CMA—*i.e.,* activities that the Finance Board has determined are most central to the fulfillment of the Banks' statutory mission and upon which the Banks must focus when preparing their strategic business plans as required by § 917.5 of the regulations. Under § 940.3(b), most AMA qualify as CMA. However, in order to provide incentive for Banks to focus upon the acquisition of conventional mortgages, in which market the Finance Board believes that the involvement of the Banks provides greater benefit, *see* 65 FR 43969, 43972 (July 17, 2000), § 940.3(b) provides that U.S. government-insured or -guaranteed mortgages acquired under commitments entered into after April 12, 2000 qualify as CMA only in an amount up to 33 percent of total AMA acquired after that date, less U.S. government-insured or -guaranteed mortgages acquired after April 12, 2000 under commitments entered into on or before April 12, 2000. Any government-insured or -guaranteed mortgages held by a Bank in excess of this benchmark do not qualify as CMA and therefore are ''non-mortgage assets'' for purposes of the calculation to be made under § 966.3(a)(2).

Notwithstanding its efforts to focus the Banks upon conventional—as opposed to government-insured or -guaranteed—AMA, the Finance Board has consistently favored Bank investment in markets (including those for all types of AMA) in which Bank participation is likely to have a measurable positive impact over investment in MBS. *See* 65 FR 43969, 43971–72 (July 17, 2000) (explaining Finance Board preference for AMA over MBS). Thus, most AMA qualify as CMA, while no MBS qualify as CMA (except to the extent that a particular MBS investment qualifies under the ''targeted investment'' language of § 940.3(e)) and each Bank's investment in MBS is limited to 300 percent of that Bank's capital. *See* FMP at II.C.2.

In light of the emphasis that the Finance Board has asked the Banks to place upon AMA, as opposed to MBS, it is counterintuitive to designate all MBS for favorable treatment in making the leverage limit calculation, while denying such favorable treatment to a category of AMA. Accordingly, the

Finance Board is proposing to amend § 966.3(a)(2) to add ''acquired member assets, including all United States government-insured or guaranteed whole single-family residential mortgage loans'' to the list of assets to be subtracted from a Bank's total assets to obtain the amount of ''non-mortgage assets'' on a Bank's balance sheet for purposes of the leverage limit calculation.

C. Elimination of Cross-References

In addition to the above-described revision, this proposed rule also would eliminate the reference in § 966.3(a)(2) to ''core mission activity assets'' and ''assets described in sections II.B.8 through II.B.11 of the FMP'' and replace them with an explicit enumeration of the assets in question. The FMP is being gradually phased-out and will no longer govern Bank operations once all Banks are in compliance with the Finance Board's new capital regulations. As such, the Finance Board finds it prudent to begin eliminating regulatory references to this policy (except in the case of transition provisions) so that all relevant information can be found in the published regulatory text. Although the Finance Board has revised some of the language used in the FMP to describe these assets so as to conform to the conventions used in its regulations, no substantive change is intended.

In the same vein, the Finance Board also is proposing to eliminate the cross-reference to CMA assets and, instead, substitute an explicit enumeration of all of the other assets that are to be subtracted from a Bank's total assets in calculating the percentage of non-mortgage assets. With the inclusion of government-insured or -guaranteed mortgages—which do not qualify as CMA—in the list of items to be subtracted from total assets to derive the amount of a Bank's non-mortgage assets, the Finance Board believes that it is not appropriate to tie § 966.3(a)(2) to the CMA definition. In addition, this change would make the definition of non-mortgage assets clearer and more transparent.

II. Regulatory Flexibility Act

The proposed rule applies only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, *see id.* at 605(b), the Finance Board hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

III. Paperwork Reduction Act

The proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 966

Federal home loan banks, Securities.

Accordingly, the Finance Board hereby proposes to amend title 12, chapter IX, Code of Federal Regulations as follows:

PART 966—CONSOLIDATED OBLIGATIONS

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

Authority: 12 U.S.C. 1422a, 1422b, and 1431.

2. Amend § 966.3 by revising paragraph (a)(2) to read as follows:

§ 966.3 Leverage limit and credit rating requirements.

(a) * * *

(2) The aggregate amount of assets of any Bank may be up to 25 times the total paid-in capital stock, retained earnings, and reserves of that Bank, provided that non-mortgage assets, after deducting the amount of deposits and capital, do not exceed 11 percent of such total assets. For the purposes of this section, the amount of non-mortgage assets equals total assets after deduction of:

(i) Advances;

(ii) Acquired member assets, including all United States government-insured or guaranteed whole single-family residential mortgage loans;

(iii) Standby letters of credit;

(iv) Intermediary derivative contracts;

(v) Debt or equity investments:

(A) That primarily benefit households having a targeted income level, a significant proportion of which must benefit households with incomes at or below 80 percent of area median income, or areas targeted for redevelopment by local, state, tribal or Federal government (including Federal Empowerment Zones and Enterprise and Champion Communities), by providing or supporting one or more of the following activities:

(*1*) Housing;

(*2*) Economic development;

(*3*) Community services;

(*4*) Permanent jobs; or

(*5*) Area revitalization or stabilization;

(B) In the case of mortgage- or asset-backed securities, the acquisition of which would expand liquidity for loans that are not otherwise adequately provided by the private sector and do not have a readily available or well established secondary market; and

(C) That involve one or more members or housing associates in a manner, financial or otherwise, and to a degree to be determined by the Bank;

(vi) Investments in SBICs, where one or more members or housing associates of the Bank also make a material investment in the same activity;

(vii) SBIC debentures, the short term tranche of SBIC securities, or other debentures that are guaranteed by the Small Business Administration under title III of the Small Business Investment Act of 1958, as amended (15 U.S.C. 681 *et seq.*);

(viii) Section 108 Interim Notes and Participation Certificates guaranteed by the Department of Housing and Urban Development under section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308);

(ix) Investments and obligations issued or guaranteed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*);

(x) Securities representing an interest in pools of mortgages (MBS) issued, guaranteed, or fully insured by the Government National Mortgage Association (Ginnie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), or the Federal National Mortgage Association (Fannie Mae), or Collateralized Mortgage Obligations (CMOs), including Real Estate Mortgage Investment Conduits (REMICs), backed by such securities;

(xi) Other MBS, CMOs, and REMICs rated in the highest rating category by a NRSRO;

(xii) Asset-backed securities collateralized by manufactured housing loans or home equity loans and rated in the highest rating category by a NRSRO; and

(xiii) Marketable direct obligations of state or local government units or agencies, rated in one of the two highest rating categories by a NRSRO, where the purchase of such obligations by a Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community development.

* * * * *

Dated: February 13, 2002.

By the Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 02–5459 Filed 3–6–02; 8:45 am]

BILLING CODE 6725–01–U

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 985

[No. 2002–06]

RIN 3069–AB15

Office of Finance Board of Directors Meetings

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation governing the minimum number of meetings that the board of directors of the Office of Finance must hold each year. The proposed rule would require at least six in-person meetings per year.

DATES: The Finance Board will consider written comments on the proposed rule that are received on or before April 8, 2002.

ADDRESSES: Send comments to: Elaine L. Baker, Secretary to the Board, by electronic mail at *bakere@fhfb.gov,* or by regular mail to the Board, at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Office of Policy, Research and Analysis, 202/408-2872, *sweeneyp@fhfb.gov,* or Charlotte A. Reid, Special Counsel, Office of General Counsel, 202/408–2510, *reidc@fhfb.gov.* Staff also can be reached by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

The Office of Finance (OF) is a joint office of the Federal Home Loan Banks (Banks) under section 2B of the Federal Home Loan Bank Act (Act). 12 U.S.C. 1422b(b)(2). The principal function of the OF is to offer, issue, and service consolidated obligations (COs) on which the Banks are jointly and severally liable. *See* 12 U.S.C. 1431(c). Until recently, OF issued debt as agent for the Finance Board, which was the statutory issuer of the debt under section 11(c) of the Act. On June 7, 2000, the Finance Board authorized the Banks to issue COs under section 11(a) of the Act, 12 U.S.C. 1431(a), and authorized the OF to act as the agent of the Banks in issuing and servicing those COs. 65 FR 36290 (June 7, 2000). That regulatory action also broadened the OF's functions, expanded the duties, responsibilities, and powers of the OF board of directors (OF board), and set a minimum number of annual board meetings, as discussed below. As part of that rulemaking, the Finance Board assigned to the OF (as part of its debt issuance function) the responsibility for preparing the combined Federal Home Loan Bank System (Bank System) annual and quarterly financial reports.[1] 12 CFR 985.3(b), 985.6(b). The Finance Board also required the OF to obtain annual independent audits, gave OF the exclusive authority to select the independent outside auditor for the combined financial statements, and mandated that the Banks provide the necessary financial information within timeframes set by the Finance Board or the OF. *See* 12 CFR part 989.

Under the existing rules, the OF board is responsible for the oversight of every aspect of the operations of the OF and has broad powers to carry out its responsibilities. *See generally* 12 CFR part 985. In executing these duties, the OF board is subject to many of the same regulations that apply to the boards of directors of the Banks. In particular, the Finance Board rules require the OF board to conform to certain governance standards that apply to the boards of directors of the Banks under part 917 of the Finance Board regulations. *See* 12 CFR 985.8. One effect of that rule is that certain provisions in part 917 that apply to the Banks have been made equally applicable to the OF board. Specifically, the OF board must adopt bylaws in accordance with the requirements of section 917.10, and must establish policies for the management and operation of the OF, and approve a strategic business plan, in accordance with section 917.5. *See* 12 CFR 985.8(a)(2), (d)(1), (2). The OF board also must review, adopt, and monitor annual operating and capital budgets, in accordance with section 917.8 of the Finance Board regulations, *see* 12 CFR 985.8(d)(3), and must establish and perform the duties of an audit committee consistent with the requirements of § 917.7 and applicable SEC regulations governing audit reports. *See* 12 CFR 985.8(d)(4).

To discharge these duties the Finance Board constituted the OF board with three part-time members, each of whom is appointed by the Finance Board. The OF board includes two Bank presidents and one private citizen member, the latter of whom serves as the chair. *See* 12 CFR 985.8(a). Section 985.8(b) of the Finance Board regulations currently requires the OF board to hold no fewer than nine meetings annually. When the Finance Board adopted this requirement in June 2000, it established a minimum meeting requirement for the OF board, which previously had been required to meet quarterly. Although this action was independent of the Finance Board's regulatory treatment of the Banks, it was consistent with the regulations applicable to the Banks, which at that time were required to hold a minimum of nine meetings each year.[2] Since that time, the Finance Board has reduced the minimum number of board meeting required of the Banks to no fewer than six in-person board meetings annually, which reflects the actual operations practices of the Banks. 12 CFR 918.7(a).

II. Analysis of Proposed Rule

The OF board has asked the Finance Board to reduce the minimum number of meetings for the OF board, noting that ''[t]he OF is a small organization whose business activities, while substantial in terms of debt issued, are largely routine in nature.'' The OF board also noted that its staff is experienced, and its operations are subject to periodic review by the examiners of the Finance Board, as well as by external auditors, and that the OF board has in place sufficient guidelines, policies, and procedures to monitor the day-to-day business affairs of the OF. Moreover, the OF board establishes the debt issuance parameters and ratifies debt issuance activity at regularly scheduled meetings, and the activities of the OF are closely monitored by various Bank officials through a variety of formal and ad hoc committees.

The OF board believes that it can continue to carry out its responsibilities while holding fewer meetings, without disruption of office functions or board

[1] Previously, the Finance Board was responsible for preparing those financial reports. As amended, § 985.6(b) also sets forth the standards under which the OF is required to prepare Bank System annual and quarterly financial reports. The rule requires that the scope, form and content of the disclosures in such financial reports be consistent with the requirements of the applicable Securities Exchange Commission's (SEC) regulations governing various disclosure requirements, and be presented in accordance with the Statement Of Financial Accounting Standards No. 131, ''Disclosures about Segments of an Enterprise and Related Information'' (FAS 131). The rule also requires that OF comply with the filing and distribution schedule applicable to corporate registrants under the Securities Exchange Act of 1934.

[2] *See* 65 FR 13663, 13664 (March 14, 2000), citing 64 FR 71275 (December 21, 1999).

oversight, noting that there are sufficient checks and balances in place to ensure continued adequate review by the OF board. For example, an internal audit function headed by the OF's director of internal audit and compliance performs regular reviews of the debt issuance and servicing functions, and reports to the OF board on a quarterly basis. Additionally, the OF board reviews the OF's budget-to-actual expenses quarterly, and OF senior staff regularly reports on all actions taken under a delegation of authority. The OF board further notes that ''[g]iven the stable nature of the OF's operation, the number of matters that must be brought for the Board's consideration at a formal meeting are limited.'' By regulation, the OF board serves as the audit committee, which meets each quarter, usually by telephone, to approve the publication of the quarterly and annual financial reports. These meetings generally do not coincide with the regular meeting of the board of directors.

The proposed rule would reduce the minimum number of meetings that the OF board must hold each year from nine to six in-person meetings. The Finance Board believes that reducing the minimum number of meetings would not affect the ability of the OF board to monitor the operations of the OF, or the ability of the Finance Board to oversee the OF. Moreover, the proposed rule would be consistent with earlier actions by the Finance Board to reduce to six the minimum number of annual in-person board meetings required of the Banks. The Finance Board's experience with the reduced number of meetings for the Banks suggests that the boards of directors have been able to discharge their oversight duties notwithstanding the lesser number of meetings.

In relation to this issue, the Finance Board has conducted a survey of large financial intermediaries regarding the number of board meetings held each year. The survey included 12 bank holding companies (with total assets ranging from $11 billion to $99 billion), 4 thrift holding companies (with total assets ranging from $35 billion to $186.5 billion), and the Fannie Mae and Freddie Mac (with total assets of $575.2 billion and $386.7 billion, respectively). The number of board meetings held each year by the boards of the bank holding companies ranged from 4 to 12 (averaging 7.33); for the thrift institution holding companies, the range was 4 to 9, (averaging 7.00) meetings annually. Fannie Mae held 8 board meetings in 1999, and Freddie Mac held five 5 meetings in that year.[3] That information tends to confirm the view that requiring at least six in-person OF board meetings annually would be consistent with the practices at institutions of comparable size and with similar responsibilities.

The Finance Board believes that setting the minimum number of in-person board meetings at six per year strikes an appropriate balance between the needs of the Finance Board as the safety and soundness regulator of the Banks and the desire of the OF board to determine the optimal number of meetings to hold each year. The Finance Board further expects that notwithstanding the proposed reduction of the minimum number of meetings to be held each year, the OF board of directors will continue to maintain its level of oversight of the OF and its operations.

III. Regulatory Flexibility Act

The proposed rule would apply only to the OF, which does not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that this proposed rule, if promulgated as a final rule, will not have significant economic impact on a substantial number of small entities under the RFA.

Paperwork Reduction Act

This proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 33 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 985

Federal Home Loan Banks.

Accordingly, the Finance Board hereby proposes to amend part 985, title 12, chapter IX, Code of Federal Regulations, as follows:

PART 985—THE OFFICE OF FINANCE

1. The authority citation for part 985 continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1).

2. Revise § 985.8(b) to read as follows:

§ 985.8 General duties of the OF board of directors.

* * * * *

(b) *Meetings and quorum.* The OF board of directors shall conduct its business by majority vote of its members at meetings convened in accordance with its bylaws, and shall hold no fewer than six in-person meetings annually. Due notice shall be given to the Finance Board by the Chair prior to each meeting. A quorum, for purposes of meetings of the OF board of directors, shall be not less than two members.

* * * * *

Dated: February 13, 2002.

By the Board of Directors of the Federal Housing Finance Board.

John T. Korsmo,

Chairman.

[FR Doc. 02–5469 Filed 3–6–02; 8:45 am]

BILLING CODE 6725–01–P

[3] *See* 66 FR 24263, 24264 (May 14, 2001).

POSTAL SERVICE

39 CFR Part 111

Proposed Domestic Mail Manual Changes To Clarify the Method Used To Determine Postal Zones

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: The Postal Service is proposing to amend Domestic Mail Manual (DMM) G030, Postal Zones, to clarify the language describing the method used to determine postal zones. This change also removes redundant eligibility information in G030 that is currently in the DMM eligibility standards for Parcel Post and Periodicals mail. Effective with the implementation date of the Docket No. R2001–1 omnibus rate case, the Postal Service will update zone chart coordinates for all 3-digit ZIP Code prefixes in L005, Column A, that do not match the corresponding coordinates for L005, Column B.

DATES: Comments must be received on or before April 8, 2002.

ADDRESSES: Mail written comments to Manager, National Customer Support Center (NCSC), ATTN: J. Stefaniak, 1735 North Lynn Street, Room 3025, Arlington VA 22201–6038 or submit via fax to 703–292–4058, ATTN: J. Stefaniak. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Library, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, DC 20260–1540.

FOR FURTHER INFORMATION CONTACT: Angie White, 901–681–4525.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to clarify the language in DMM G030 which describes the method used to determine postal zones 1 through 8. This clarification does not propose to change the method used to calculate postal zones.

Postal rates for certain subclasses of mail are based on the weight of the

individual piece and the distance that the piece travels from origin to destination (i.e., the number of postal zones crossed). For the administration of the system of postal zones, the sphere of the earth is geometrically divided into units of area 30 minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. Postal zones are based on the distance between these units of area. The distance is measured from the center of the unit of area containing the sectional center facility (SCF) serving the origin post office to the SCF serving the destination post office. The SCF's serving the origin and destination post offices are determined by the appropriate SCF in L005, Column B.

Effective with the implementation of the Docket No. R2001–1 omnibus rate case, the longitude and latitude of 130 3-digit ZIP Code prefixes for SCF coordinates in L005, Column A, will be updated to reflect the parent SCF in L005, Column B. This update will align the 3-digit ZIP Code prefixes with current postal processing and distribution networks.

DMM G030.3.0 will be deleted because it repeats eligibility information for intra-BMC, inter-BMC, SCF, and delivery unit rates contained in other portions of the DMM.

The Postal Service Official National Zone Chart Data Program is administered from the National Customer Support Center (NCSC) in Memphis, TN. Single-page zone charts for originating mail are available online through Postal Explorer at *http://pe.usps.gov.* Zone chart data for the entire nation can be purchased in two formats: printed (about 500 pages) and electronic (3.5-inch diskettes). For more information, or to purchase zone charts, call the Zone Chart Program Administrator at 800–238–3150. The single-page zone chart program available online through Postal Explorer has been updated with a link to the updated zone chart data that would be effective, if this proposed rule is adopted, with the implementation date of the Docket No. R2001–1 omnibus rate case.

Comments are solicited on the proposed implementation date for this revision. The method of determining postal zones and the data coordinates for the SCFs are outside the scope of this rulemaking.

Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the DMM, incorporated by reference into the Code of Federal Regulations. (See 39 CFR part 111.)

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as set forth below:

G General Information

G000 The USPS and Mailing Standards

* * * * *

G030 Postal Zones

Summary

[Amend Summary text by removing the references to BMCs, SCF, and delivery unit zones to read as follows:]

G030 describes how postal zones are used to compute postage for zoned mail. It also defines local and nonlocal zones.

1.0 BASIC INFORMATION

[Amend 1.0 by removing the last sentence and adding the following two sentences to read as follows:]

* * * The distance is measured from the center of the unit of area containing the SCF serving the origin post office to the SCF serving the destination post office. The SCFs serving the origin and destination post offices are determined by using L005, Column B.

* * * * *

2.0 SPECIFIC ZONES

* * * * *

2.2 Nonlocal Zones

Nonlocal zones are defined as follows:

[Amend item 2.2a to read as follows:]

a. The zone 1 rate applies to pieces not eligible for the local zone in 2.1 that are mailed between two post offices with the same 3-digit ZIP Code prefix identified in L005, Column A. Zone 1 includes all units of area outside the local zone lying in whole or in part within a radius of about 50 miles from the center of a given unit of area.

[Remove 3.0 in its entirety.]

* * * * *

An appropriate amendment to 39 CFR part 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–5486 Filed 3–6–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7153–3]

Hazardous Waste Management System; Proposed Exclusions for Identifying and Listing Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules and request for comment.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is proposing to exclude (or ''delist'') wastewater treatment plant sludge (from conversion coating on aluminum) generated by 11 automobile assembly facilities in the State of Michigan from the lists of hazardous wastes. The facilities include three plants owned and operated by General Motors Corporation (GM)(Pontiac East-Pontiac, Hamtramck-Detroit, Flint Truck-Flint), one plant owned and operated by GM with an onsite wastewater treatment plant owned by the City of Lansing and operated by Trigen/Cinergy-USFOS of Lansing LLC (Lansing Grand River-Lansing), three plants owned and operated by Ford Motor Company (Wixom Assembly Plant-Wixom, Michigan Truck/Wayne Integrated Stamping and Assembly Plant-Wayne, Dearborn Assembly-Dearborn), one plant owned and operated by Auto Alliance International Inc. (AAI), a Ford/Mazda joint venture company (Auto Alliance International Inc.-Flat Rock), and three plants owned and operated by DaimlerChrysler Corporation (Sterling Heights Assembly Plant-Sterling Heights, Warren Truck Plant-Warren, Jefferson North Assembly Plant-Jefferson).

The Agency is proposing to use an expedited process to evaluate these wastes under a pilot project developed with the Michigan Department of Environmental Quality (MDEQ). EPA requests comments on the pilot project. Each of these 11 facilities voluntarily requested to participate in the pilot project. Based on its evaluation of historical data, the Agency has

tentatively decided to grant an exclusion for each of these facilities, conditioned in part upon the facility's demonstration that the waste is nonhazardous. These proposed decisions, if finalized, will conditionally exclude these wastes from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: We will accept public comments on these proposed decisions until April 22, 2002. We will stamp comments postmarked after the close of the comment period as ''late.'' These ''late'' comments may not be considered in formulating a final decision. Comments which are meant to relate to a single facility or a subset of the 11 facilities must identify the facility(s) to which the comment applies.

Any person may request a hearing on any of these proposed decisions by filing a request with Robert Springer, Director, Waste, Pesticides and Toxics Division (D–8J), EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois 60604. Your request for a hearing must reach EPA by March 22, 2002. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Please send two copies of your comments to Todd Ramaly, Waste Management Branch (DW–8J), EPA Region 5, 77 W. Jackson Blvd., Chicago, IL, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: The docket for these proposed rules is located at 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. The public may copy material from the docket at $0.15 per page. For technical information concerning this document or to make appointment to view the docket, contact Todd Ramaly at the address above or at 312–353–9317.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview
A. What action is EPA proposing?
B. Why is EPA proposing to grant, on an expedited basis, these delistings?
C. What is unique about today's proposals?
II. Background
A. What is the history of the delisting program?
B. What is a delisting petition, and what does it require of a petitioner?
C. What factors must EPA consider in deciding whether to grant a delisting petition?
D. How will these actions affect the States?
III. The Expedited Delisting Project
A. What is the Expedited Delisting Project?
B. Does the project amend EPA's delisting petition regulations?
C. Who is eligible to participate in the project?
D. How does the project address wastes not yet generated?
E. What is the standard automotive assembly plant process that generates F019 waste?
F. What information will each facility submit under the project?
G. What is required by the project's sampling and analysis plan?
H. When would EPA finalize the proposed delistings?
I. What support is MDEQ providing EPA in implementing the project?
IV. EPA's Evaluation of Waste Information and Data
A. What information and analyses did EPA consider in developing these proposed delistings?
B. How did EPA establish risk levels for these wastes?
C. What are the maximum allowable concentrations of hazardous constituents in the waste?
D. How will EPA evaluate the exclusion demonstration?
V. Conditions for Exclusion
A. How will the petitioners manage the waste if it is delisted?
B. How frequently must each facility test the waste?
C. What must the facility do if the process changes?
D. What happens if a facility's waste fails to meet the conditions of the exclusion?
VI. Regulatory Impact
VII. Regulatory Flexibility Act
VIII. Paperwork Reduction Act
IX. Unfunded Mandates Reform Act
X. Executive Order 12875
XI. Executive Order 13045
XII. Executive Order 13084
XIII. National Technology Transfer And Advancement Act

I. Overview

A. What Action Is EPA Proposing?

The EPA is tentatively proposing to grant petitions to exclude, or delist, from the definition of hazardous waste, wastewater treatment sludge generated at 11 automotive assembly facilities in Michigan. As a pilot project, the EPA proposes to exclude these wastes using an expedited process. Prior to finalizing our decision, we will compare constituent levels in the waste to maximum allowable concentration levels established by a fate and transport model.

B. Why Is EPA Proposing To Grant, on an Expedited Basis, These Delistings?

Automobile manufacturers are adding aluminum to automobiles, which may result in increased fuel economy. However, when aluminum is conversion coated in the automobile assembly process, the resulting wastewater treatment sludge must be managed as hazardous waste (listed as ''F019''). Previously, EPA granted has petitions to delist F019 waste at automobile assembly plants. Based on available historical data and other information, EPA believes that a number of automotive assembly plants use a similar manufacturing process which generates a similar F019 waste likely to be nonhazardous. This similarity of manufacturing processes and the resultant wastes provides an opportunity for the automobile industry to be more efficient in submitting delisting petitions and EPA in evaluating them. Efficiency may be gained and time saved by using standardized approaches for gathering, submitting and evaluating data. Therefore, EPA, in conjunction with MDEQ, developed a pilot project to expedite the delisting process. EPA believes that the project will be a more efficient way of making delisting determinations for this group of facilities. At the same time, EPA believes that these delisting determinations will be consistent with current laws and regulations and will be protective of human health and the environment.

C. What Is Unique About Today's Proposals?

Today's proposals, while consistent with the delisting petition regulations at 40 CFR 260.20 and 260.22, are unique in several important ways. Specifically, we are taking a standardized approach for the evaluation of petitions from multiple automotive assembly plants. In addition, EPA is identifying constituents of concern based on available historical data from waste generated at automotive assembly plants. Once the petitioner submits the analytical results of demonstration samples under § 260.22, EPA will determine whether the waste meets the maximum allowable concentration levels set forth in this proposal. Generally, EPA identifies constituents of concern for a particular facility from an analysis of its waste rather than relying on industry-wide historical data. By participating in the project, facilities agree that, if their waste is excluded, it must be disposed in a Subtitle D landfill with a liner and a leachate collection system. Typically, EPA only requires that excluded waste be disposed in a Subtitle D landfill, which may include older facilities that are unlined and without a leachate collection system. Finally, while we usually propose delistings one at a time, today we are proposing to simultaneously grant delistings for multiple facilities.

In addition to the proposed delistings, EPA is requesting comment on the pilot

project to expedite these delistings, which is described in section III, below.

II. Background

A. What Is the History of the Delisting Program?

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. The EPA has amended this list several times and published it in 40 CFR 261.31 and 261.32.

We list these wastes as hazardous because: (1) they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in § 261.11(a)(2) or (3).

Individual waste streams may vary depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility that meets the listing description may not be.

For this reason, §§ 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows a person to demonstrate that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What Is a Delisting Petition, and What Does It Require of a Petitioner?

A delisting petition is a request from a facility to EPA or an authorized state to exclude wastes from the list of hazardous wastes. The petitioner must show that the waste generated at a particular facility does not meet any of the criteria for listed wastes. The criteria for which EPA lists a waste are in 40 CFR 261.11 and in the background documents for the listed wastes.

In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (40 CFR 260.22, 42 U.S.C. 6921(f) and the background documents for a listed waste.)

Once a waste has been delisted, a generator remains obligated under RCRA to confirm that its waste remains nonhazardous.

C. What Factors Must EPA Consider in Deciding Whether To Grant a Delisting Petition?

Besides considering the criteria in 40 CFR 260.22(a), 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA must consider any factors (including additional constituents) other than those for which we listed the waste if these additional factors could cause the waste to be hazardous. (See The Hazardous and Solid Waste Amendments (HSWA) of 1984.)

EPA must also consider mixtures containing listed hazardous wastes and wastes derived from treatment of listed hazardous waste as hazardous wastes. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion but remain hazardous wastes until excluded.

D. How Will These Actions Affect States?

Because EPA is proposing today's exclusions under the federal RCRA delisting program, only states subject to federal RCRA delisting provisions would be affected. These exclusions may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements, or in states which have received our authorization to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge the petitioners to contact the state regulatory authority to establish the status of its waste under the state law.

EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states. If a facility transports the petitioned waste to or manages the waste in any state with delisting authorization, it must obtain a delisting from that state before the facility can manage the waste as nonhazardous in that state.

III. The Expedited Delisting Project

A. What Is the Expedited Delisting Project?

On December 21, 2001, EPA signed a Memorandum of Understanding with the MDEQ to implement the pilot project titled: ''Expedited Delisting of Aluminum Phosphating Sludge for Automobile Assembly Operations'' (hereinafter the ''Expedited Delisting Project'' or ''project''). In February 2002, the Agencies amended the Memorandum of Understanding to modify the eligibility requirements. A copy of the Amended Memorandum of Understanding (MOU) is available in the docket for these proposed rules. The Agencies agreed to implement the terms of the MOU as a five-year project. The purpose of the project is to more efficiently process delisting petitions from automobile assembly plants that generate F109 waste without using the hazardous constituents for which F019 was originally listed. The similarity of waste at these automotive assembly plants gives EPA and industry an opportunity to be more efficient.

EPA and MDEQ developed the project under the ''Joint EPA/State Agreement to Pursue Regulatory Innovation'' which encourages states to propose innovative approaches to environmental regulation to ''find new, better, and more efficient and effective ways to improve environmental protection.'' See, 63 FR 24785, May 5, 1998. Consistent with the joint agreement, the project was developed with the input of ''stakeholders,'' i.e., representatives of the automobile industry (Ford Motor Company and General Motors Corporation) and an environmental organization (The Ecology Center). In December 2001, MDEQ notified the stakeholders that the agencies had signed the MOU.

As described in section I.C, above, the Expedited Delisting Project takes a new approach in the way EPA implements its delisting regulations for a group of similar facilities. Because of the availability of historical data and the similarities among these facilities, EPA and MDEQ developed, under the Expedited Delisting Project, a uniform approach for the submission and evaluation of petitions made by automotive assembly plants to delist F019 waste. First, EPA usually requires the petitioner to submit a manufacturing process description specific to its facility. However, under the Expedited Delisting Project, each facility must certify that it uses the standard automotive assembly manufacturing process that generates F019 waste. Second, EPA requires a petitioner to

submit analytical results of demonstration samples. Generally, petitioners work separately with EPA to develop a sampling and analysis plan to comply with this section. Under the project, each petitioner will use the same pre-approved sampling and analysis plan. Third, EPA identifies constituents of concern and sets maximum allowable concentrations for those constituents in the waste separately for each facility. Under the project, EPA is establishing a set constituents of concern and corresponding maximum allowable concentrations that are the same for a group of automotive assembly facilities.

Another significant innovation is that the facilities participating in the project will dispose of excluded waste in a lined landfill with a leachate collection system. Generally, under previous exclusions, wastes may be sent to any Subtitle D landfill, including older facilities that may not be lined or have a leachate collection system.

Finally, today EPA is simultaneously proposing multiple delistings. Typically, EPA proposes delistings one at a time.

EPA requests comments on the Expedited Delisting Project described in this section.

B. Does the Project Amend EPA's Delisting Petition Regulations?

The Expedited Delisting Project is not an amendment to the delisting petition regulations at 40 CFR 260.20 and 260.22. Rather, the project represents a new approach in EPA's implementation of these delisting petition regulations. Participation in the project is voluntary. Automobile assembly plants not participating may follow the usual process for delisting.

Today's description of the Expedited Delisting Project (apart from the proposed delistings themselves) provides guidance to EPA, facilities participating in the project, and the general public on how EPA intends to exercise its discretion in implementing the statutory and regulatory provisions that concern the delisting of F019 waste generated by automotive assembly plants in Michigan. The statutory provisions and EPA regulations described in this project contain legally binding requirements. This project does not substitute for those provisions or regulations, nor is it a regulation itself. However, the proposed delistings, if finalized, will be rules imposing legally binding requirements. EPA retains the discretion to adopt approaches on a case-by-case basis that differ from the project where appropriate. Any decisions regarding a particular facility's waste will be made based on the statute and regulations. EPA will consider whether or not the project is appropriate in a particular situation. The project will be subject to periodic evaluation and may be revised without public notice.

C. Who Is Eligible To Participate in the Project?

The MOU states the eligibility requirements for the project, which are summarized in this section. Subject to approval, Michigan automobile or light duty truck assembly facilities, which use, or intend to use, the zinc phosphating process on aluminum described in the MOU, are eligible to participate in the Expedited Delisting Project. Consistent with the MOU, the facility must submit to the EPA and the MDEQ a letter requesting to participate in the Expedited Delisting Project to delist its F019 wastewater treatment sludge.

In January 2002, a total of 14 facilities requested to participate in the project. In February of 2002, MDEQ, with EPA approval, notified 11 plants [1] that they are eligible to participate in the Expedited Delisting Project. Of the 11 participating facilities, the following are currently using aluminum and are generating F019 waste: Ford Motor Company—Michigan Truck Plant and Wayne Integrated Stamping and Assembly Plant, 38303 Michigan Avenue/37625 Michigan Avenue, Wayne, MI 48184, RCRA ID No. MID 000809228/MID 0005379706; Ford Motor Company—Wixom Assembly Plant, 28801 Wixom Road, Wixom, MI 48393, RCRA ID No. MID 005379714; General Motors—Flint Truck, G–3100 Van Slyke Road, Flint, MI 48551, RCRA ID No. MID005356951; General Motors—Hamtramck, 2500 E. General Motors Blvd., Detroit, MI 48211, RCRA ID No. MID980795488; General Motors—Pontiac East, 2100 S. Opdyke Road, Pontiac, MI 48341, RCRA ID No. MID0053546902; Trigen/Cinergy-USFOS of Lansing LLC at General Motors Corporation—Lansing Grand River, 920 Townsend Ave., Lansing, MI 48921, RCRA ID No. MIK211915624. The following participating facilities are not yet using aluminum and do not generate F019 at this time: Ford Motor Company—Dearborn Assembly Plant, 3001 Miller Road, Dearborn, MI 48121, RCRA ID No. MID 000809764; Auto Alliance International Inc. (Ford/Mazda Joint Venture Company), 1 International Drive, Flat Rock, MI 84134–9498, RCRA ID No. MID 981953912; DaimlerChrysler—Jefferson North Assembly Plant, 2101 Conner Avenue, Detroit, MI 84215, RCRA ID No. MID985569987; DaimlerChrysler—Warren Truck Assembly Plant, 21500 Mound Round, Warren, MI 48091, RCRA ID No. MID005358007; DaimlerChrysler—Sterling Heights Assembly Plant, 38111 Van Dyke, Sterling Heights, MI 48312, RCRA ID No. MID980896690.

[1] Three facilities withdrew their requests to participate at this time, but may request to participate in the future.

D. How Does the Project Address Wastes Not Yet Generated?

The project will include some facilities which do not yet perform the conversion coating on aluminum resulting in F019. We grant up-front delistings for wastes that have not yet been generated, but will be generated in the future, based on available data (e.g. pilot scale system data). Consistent with previous up-front delistings, the up-front delistings proposed today will be contingent upon verification testing of the waste water treatment sludge once the facility begins conversion coating on aluminum (see section V.A., Conditions for Exclusion).

E. What Is the Standard Automotive Assembly Plant Process That Generates F019 Waste?

F019 is a wastewater treatment sludge generated from rinses and overflows from the conversion coating of aluminum. Wastewaters from other automobile assembly operations, including electrocoating and spray booth operations, are commingled with the conversion coating wastewater prior to treatment. The conversion coating, electrocoating and spray booth operations which may contribute constituents of concern in the sludge are summarized in this section.

Prior to the zinc phosphating process, fully assembled metal car bodies, parts, and spaceframe assemblies are cleaned with various alkaline cleaners, surfactants, and/or organic detergents. Following cleaning, rinse conditioners are employed to create nucleation sites prior to conversion coating. In the conversion coating step, parts are sprayed with or immersed in a zinc phosphate solution to create a uniform surface for painting. A sealer may be applied after conversion coating and a buffer is sometimes added during this step. Rinses and overflows from the conversion coating process are likely to contain trivalent chromium, nickel, and zinc. The zinc phosphating process used at these facilities today does not use hexavalent chromium or cyanide, for which F019 was originally listed.

Following the phosphating process, the metal parts are immersed in a bath where an electrocoating of paint is applied. Any undeposited paint is rinsed and recovered in subsequent stages prior to oven baking.

After conversion coating and electrocoating, various paints and top coats are applied to the automobile bodies/parts in spray booths. Some facilities use a water curtain to control emissions which is discharged to the wastewater treatment plant.

Overflows and rinse water from the electrocoating process and wastewater from the paint booths can contain hazardous constituents such as metals, organic solvents or formaldehyde.

Typical wastewater treatment plant operations begin with separation of large particles. The wastewater is then sent to various thickeners and clarifiers where water and solids are further separated. The pH of the wastewater might be adjusted and flocculents and coagulants may be added to facilitate the thickening process. The sludge from the thickeners and clarifiers is dewatered in a filter press.

F. What Information Will Each Facility Submit Under the Project?

Each facility participating in the project must submit a brief written application, consistent with the MOU, demonstrating that its waste qualifies for exclusion or delisting (the ''exclusion demonstration'').[2] The exclusion demonstration must show the following on the basis of sampling data consistent with the approved sampling and analysis plan: (1) That the wastewater treatment sludge meets the criteria set forth in the Table of Maximum Allowable Concentrations; (2) that the wastewater treatment sludge is not characteristically hazardous waste under 40 CFR part 261, subpart C; and (3) that the wastewater treatment sludge does not contain other hazardous waste listed under part 261, subpart D.

Each exclusion demonstration shall also include the following: (1) All sampling data required by and consistent with the approved sampling and analysis plan; (2) a description of the waste, including, but not limited to, (i) any factors which may cause the waste to be a hazardous waste, and (ii) the maximum annual quantities of waste covered by the demonstration; (3) a statement that the facility is an automobile assembly facility using the standard manufacturing processes as stated in the MOU;[3] (4) an assertion that the F019 waste does not meet the criteria for which this type of waste was listed as a hazardous waste; (5) the certification as required by § 260.22(i)(12).

G. What Is Required by the Project's Sampling and Analysis Plan?

The sampling and analysis plan describes the sampling objectives, sampling strategy, collection procedures, and quality assurance/quality control (QA/QC) procedures in detail. The plan also discusses the procedures that all facilities participating in the project will use for sample labeling and documentation, equipment preparation and cleaning, and sample shipment. Each facility will collect composite samples from each of six roll-off boxes of wastewater treatment sludge over at least six weeks at each facility.

When aluminum is first conversion coated at a facility which does not currently use aluminum, the facility will collect initial verification samples from each of four roll-off boxes and will analyze them for the constituents of concern. When production using conversion coating on aluminum first reaches 50 units a day, additional samples from each of four roll-off boxes will be collected and analyzed for the constituents of concern.

Each facility will also conduct quarterly verification sampling.

All data collected must include the appropriate QA/QC information and be subject to data validation as described in the approved sampling and analysis plan. Each facility will submit the analytical methods and detection levels to be used prior to sampling.

The sampling and analysis plan is an appendix to the MOU for the Expedited Delisting Project and is available in the docket.

H. When Would EPA Finalize the Proposed Delistings?

HSWA specifically requires EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has considered and addressed all timely public comments on today's proposal, including any comments made at public hearings. For those facilities named in today's proposal which submit their exclusion demonstrations in a timely manner, EPA Region 5 will decide whether or not to exclude their waste within 128 days after the close of the public comment period. The exclusions will become effective on the publication date of the final rule in the **Federal Register**.

Since these rules would reduce the existing requirements, the regulated community does not need a six-month period to come into compliance in accordance with section 3010 of RCRA as amended by HSWA.

I. What Support Is MDEQ Providing EPA in Implementing the Project?

MDEQ will be providing important assistance to EPA during the life of the project. MDEQ will provide technical support in reviewing exclusion demonstrations and all verification sampling data and will participate in periodic evaluations of the project.

IV. EPA's Evaluation of Waste Information and Data

A. What Information and Analyses Did EPA Consider in Developing These Proposed Delistings?

The EPA reviewed existing data submitted in support of five petitions to delist automotive assembly plant F019 sludge. Three were granted by EPA: GM in Lake Orion, Michigan (62 FR 55344, October 24, 1997); GM in Lansing, Michigan (65 FR 31096, May 16, 2000); and BMW Manufacturing Corporation in Greer, South Carolina (66 FR 21877, May 2, 2001). Petitions to exclude F019 at GM plants located in Lordstown, Ohio and Oklahoma City, Oklahoma have not been acted upon by EPA. The F019 waste from these facilities was sampled in accordance with approved sampling and analysis plans and analyzed for a comprehensive list of constituents. These analyses included total and Toxicity Characteristic Leaching Procedure (TCLP) analysis for volatile and semivolatile organic compounds and metals. These wastes were also analyzed for cyanide, sulfide, fluoride, formaldehyde, pH, and other parameters.

EPA also considered an industry database submitted jointly by the Aluminum Association and the Alliance of Automobile Manufacturers. This database contained waste data generated

[2] Trigen/Cinergy-USFOS of Lansing LLC (Trigen) must submit its exclusion demonstration jointly with GM. Trigen must also certify, in accordance with 40 CFR 260.22(i)(12), that (1) the Trigen wastewater treatment plant is located on the GM Lansing Grand River facility property and (2) the Trigen wastewater treatment plant does not receive any waste or wastewater from sources other than the GM Lansing Grand River facility.

[3] To the extent that a participating facility's process differs from the process set forth in the MOU, the facility shall describe any such differences that might result in a hazardous constituent being present in the wastewater treatment sludge that is not covered by the demonstration, i.e., not included in the Table of Maximum Allowable Concentrations. Facilities that identify differences that the EPA believes will not materially impact wastewater treatment sludge quality may still be considered for delisting consistent with the time frame set forth in section III.H, below.

over ten years and included a range of analyses of F019 and non-F019 wastewater treatment plant sludge generated at some automotive assembly plants. The analytes and number of samples collected varied by plant and the database did not include QA/QC information.

EPA used the available historical data in conjunction with a fate and transport model to define a list of approximately 70 constituents of concern for the exclusion demonstration analysis. Specifically, EPA compared the maximum observed concentration of any hazardous constituent detected at least once in any of the historical data to the most conservative delisting levels developed for the project. EPA identified a constituent for analysis if the observed value was within three orders of magnitude of this delisting level. The list of 70 constituents of concern also included the non-pesticide constituents in 40 CFR 261.24 and constituents associated with painting operations.

B. How Did EPA Establish Risk Levels for These Wastes?

In developing this proposal, we considered the original listing criteria and the additional factors required by the HSWA. See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(2)–(4). We evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11(a)(2) and (3). These factors include: (1) Whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the hazardous constituents to migrate and to bioaccumulate; (5) its persistence in the environment once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

Consistent with previous proposed delistings, EPA identified plausible exposure routes (ground water, surface water, air) for hazardous constituents present in the petitioned waste based on improper management of a Subtitle D landfill. To evaluate the waste, we used the Delisting Risk Assessment Software program (DRAS), a Windows based software tool, to estimate the potential release of hazardous constituents from the waste and to predict the risk associated with those releases. For a detailed description of the DRAS program and revisions see 65 FR 58015, September 27, 2000; 65 FR 59000, November 7, 2000; and 65 FR 75879, December 5, 2000.

Today's proposal contains one proposed revision to the DRAS program. Previously, the Henry's Law Constant used to estimate the volatilization rate of formaldehyde in groundwater for the shower-inhalation scenario was estimated using a relationship based on molecular weight, solubility, and pure vapor pressure taken from the *Handbook of Chemical Property Estimation Methods,* W.J. Lyman, W.F. Reehl, and D.H. Rosenblatt, 1982, McGraw-Hill Book Company, New York, New York. In 1988, Eric A. Betterton and Michael R. Hoffman published *Henry's Law Constants of Some Environmentally Important Aldehydes* in *Environmental Science and Technology,* Volume 22, Number 12, in which observed Henry's Law constants for low concentrations of aldehydes in water were lower than those expected using the earlier relationship. These empirical results reflect the increased affinity for water by formaldehyde. We believe these empirical results more accurately reflect the conditions modeled in the DRAS groundwater inhalation scenario and we are using the revised Henry's Law constant for this proposal. A technical support document for the DRAS program, as well as documentation of the formaldehyde references, are available in the docket.

C. What Are the Maximum Allowable Concentrations of Hazardous Constituents in the Waste?

The following table gives the maximum allowable concentration levels for the 70 constituents of concern based on a target cancer risk of 1×10^{-6} and a target hazard quotient of one. The levels are expressed both as total constituent concentrations and TCLP concentrations. Since the allowable levels are dependent on the annual volume generated, the table includes allowable levels at three different volumes which span the typical range of waste generated. The table also includes the maximum allowable groundwater concentration expected at the disposal site.

TABLE OF MAXIMUM ALLOWABLE CONCENTRATIONS EXPEDITED DELISTING PROJECT

Constituent	CAS #	Maximum allowable concentrations in the waste						Maximum allowable groundwater concentration (µg/L)
		1000 cubic yards		2000 cubic yards		3000 cubic yards		
		Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	
Volatile Organic Compounds								
acetone	67–64–1	NA	375	NA	228	NA	171	3,750
acetonitrile	75–05–8	NA	64.2	NA	39.2	NA	29.3	643
acrylonitrile	107–13–1	6,370	0.0128	4,120	0.0078	3,200	0.00584	0.135
allyl chloride	107–05–1	2,540	0.563	1,640	0.344	1,270	0.257	10.7
benzene	71–43–2	NA	0.238	NA	0.145	NA	0.109	2.50
carbon tetrachloride	56–23–5	NA	0.0738	NA	0.045	NA	0.0337	0.562
chlorobenzene	108–90–7	NA	9.98	NA	6.08	NA	4.56	100
chloroform	67–66–3	NA	0.128	6,530	0.0779	5,080	0.0583	1.35
1,1 dichloroethane	75–34–3	NA	19.7	NA	12	NA	9	3,750
1,2 dichloroethane	107–06–2	NA	0.00422	NA	0.00257	9,800	0.00193	0.800
1,1-dichloroethylene	75–35–4	1,340	0.015	867	0.00702	674	0.00526	0.122
cis-1,2 dichloroethylene	156–59–2	NA	6.98	NA	4.26	NA	3.19	70.0
trans-1,2 dichloroethylene	156–60–5	NA	9.98	NA	6.08	NA	4.56	100
ethylbenzene	100–41–4	NA	69.8	NA	42.6	NA	31.9	700
formaldehyde	50–00–0	1,070	138	689	84.2	535	63	1,380
methyl chloride (chloromethane)	74–87–3	5,760	0.295	3,720	0.180	2,890	0.135	5.63
methyl ethyl ketone	78–93–3	NA	200	NA	200	NA	200	22,600
methyl isobutyl ketone	108–10–1	NA	300	NA	183	NA	137	3,000

TABLE OF MAXIMUM ALLOWABLE CONCENTRATIONS EXPEDITED DELISTING PROJECT—Continued

Constituent	CAS #	Maximum allowable concentrations in the waste						Maximum allowable groundwater concentration (µg/L)
		1000 cubic yards		2000 cubic yards		3000 cubic yards		
		Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP (mg/L)	
methyl methacrylate	80–62–6	NA	NA	NA	NA	NA	7,690	52,700
methylene chloride	75–09–2	NA	0.473	NA	0.288	NA	0.216	5
n-butyl alcohol	71–36–3	NA	375	NA	228	NA	171	3,750
styrene	100–42–5	NA	9.98	NA	6.08	NA	4.56	100
1,1,1,2-tetrachloroethane	630–20–6	NA	0.399	NA	0.243	NA	0.182	2.81
1,1,2,2-tetrachloroethane	79–34–5	274	0.720	152	0.439	108	0.329	0.366
tetrachloroethylene	127–18–4	NA	0.14	NA	0.0855	NA	0.064	1.40
toluene	108–88–3	NA	99.8	NA	60.8	NA	45.6	1,000
1,1,1-trichloroethane	71–55–6	NA	20	NA	12.2	NA	9.11	200
1,1,2-trichloroethane	79–00–5	NA	0.128	NA	0.078	NA	0.0584	1.28
trichloroethylene	79–01–6	NA	0.5	NA	0.304	NA	0.228	5.00
vinyl acetate	108–05–4	NA	1,440	NA	879	NA	658	15,200
vinyl chloride	75–01–4	178 0.00384	115	0.00234	89.4	0.00175	0.0384	
xylene	95–47–6 108–38–3 106–42–3	NA	998	NA	608	NA	456	10,000
Semivolatile Organic Compounds								
acrylamide	79–06–1	2,940	0.00196	2,710	0.0012	2,580	0.0009	0.0163
bis(2-ethylhexyl) phthalate	117–81–7	NA	0.147	NA	0.0896	NA	0.0671	1.47
butyl benzyl phthalate	85–68–7	NA	152	NA	92.9	NA	69.6	1,450
o-cresol	95–48–7	NA	187	NA	114	NA	85.5	1,875
m-cresol	108–39–4	NA	187	NA	114	NA	85.5	1,875
p-cresol	106–44–5	NA	18.7	NA	11.4	NA	8.55	188
1,4-dichlorobenzene	106–46–7	NA	0.227	NA	0.139	NA	0.104	2.40
2,4-dimethylphenol	105–67–9	NA	74.9	NA	45.7	NA	34.2	750
2,4-dinitrotoluene	121–14–2	NA	0.0107	NA	0.00654	NA	0.0049	0.107
di-n-octyl phthalate	117–84–0	NA	0.184	NA	0.112	NA	0.0839	1.30
hexachlorobenzene	118–74–1	2.84	0.000159	1.58	9.67×10^{-5}	1.12	7.24×10^{-5}	0.00168
hexachlorobutadiene	87–68–3	537	0.0158	299	0.00961	212	0.0072	0.167
hexachloroethane	67–72–1	NA	0.289	NA	0.176	NA	0.132	3.06
naphthalene	91–20–3	NA	24.5	NA	15	NA	11.2	246
nitrobenzene	98–95–3	NA	1.87	NA	1.14	NA	0.855	18.8
pentachlorophenol	87–86–5	4,980	0.00672	2,770	0.004	1,960	0.00307	0.0711
pyridine	110–86–1	NA	3.75	NA	2.28	NA	1.71	37.4
2,4,5-trichlorophenol	95–95–4	NA	150	NA	91.6	NA	68.6	1,500
2,4,6-trichlorophenol	88–06–2	NA	0.453	NA	0.276	NA	0.207	4.79
Metals								
antimony	7440–36–0	NA	1.08	NA	0.659	NA	0.494	6.00
arsenic	7440–38–2	8,820	0.492	8,140	0.3	7,740	0.224	4.87
barium	7440–39–3	NA	100	NA	100	NA	100	2,000
beryllium	7440–41–7	NA	2.18	NA	1.33	NA	0.998	4.00
cadmium	7440–43–9	NA	0.788	NA	0.48	NA	0.36	5.00
chromium	7440–47–3	NA	5	NA	4.95	NA	3.71	100
cobalt	7440–48–4	NA	118	NA	72.1	NA	54	2,250
lead	7439–92–1	NA	5	NA	5	NA	5	15.0
mercury	7439–97–6	16	0.2	8.92	0.2	6.34	0.2	2.00
nickel	7440–02–0	NA	148	NA	90.5	NA	67.8	750
selenium	7782–49–2	NA	1.0	NA	1.0	NA	1.0	50.0
silver	7440–22–4	NA	5.0	NA	5.0	NA	5.0	187
thallium	7440–28–0	NA	0.462	NA	0.282	NA	0.211	2.00
tin	7440–31–5	NA	1,180	NA	721	NA	540	22,500
vanadium	7440–62–2	NA	111	NA	67.6	NA	50.6	263
zinc	7440–66–6	NA	1,470	NA	898	NA	673	11,300
Miscellaneous								
corrosivity (pH)	NA	2.0 < pH < 12.5 See 40 CFR 261.22						NA
cyanide	57–12–5	18.9		11.5		8.63		200
ignitability	NA	flashpoint > 140°F See 40 CFR 261.21						NA
reactivity	NA	See 40 CFR 261.23						NA
sulfide	18496–25–8	See 40 CFR 261.23						NA

NA: The program did not calculate a delisting level for this constituent, or the delisting level was higher than those levels expected to be found in the waste. In the event high levels are discovered, the constituent will be evaluated and a delisting level set in accordance with the methodology used to set delisting levels for the other constituents.

Total cyanide and sulfide analysis will also be conducted, although delisting levels for total concentrations have not been established for cyanide and sulfide. The results will be used to support a qualitative statement by the petitioner that the waste is not reactive as defined in 40 CFR 261.23.

D. How Will EPA Evaluate the Exclusion Demonstration?

EPA will confirm that sample collection, data analysis, and elements of QA/QC analysis are in accordance with the approved sampling and analysis plan. EPA will compare the maximum value of each constituent detected at a given facility to the maximum allowable concentration levels set forth in this proposal.

The EPA will use the DRAS program to estimate the aggregate cancer risk and hazard index for each facility's waste. The aggregate cancer risk is the cumulative total of all individual constituent cancer risks. The hazard index is a similar cumulative total of non-cancer effects. The target aggregate cancer risk is 1×10^{-5} and the target hazard index is one.

In addition, EPA will review any process information which differs from the standard process described above.

V. Conditions for Exclusion

A. How Will the Petitioners Manage the Waste if It Is Delisted?

If the petitioned waste is delisted, the facility must dispose of it in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258 and certify to this annually.

The facilities granted an up-front exclusion must conduct initial verification testing. These facilities must handle the wastewater treatment sludge generated after aluminum parts are first subjected to conversion coating as hazardous until 15 calendar days after EPA receives the initial verification data. If EPA notifies the facility during the 15-day period that the data is unacceptable, the facility must continue the handle the waste as hazardous.

B. How Frequently Must Each Facility Test the Waste?

After the exclusion becomes effective, and any necessary inital verification testing has been completed, each facility shall collect and analyze a representative sample on a quarterly basis to verify that the waste continues to meet the requirements of this proposal. The sample must be collected in accordance with the approved sampling plan. The verification samples need to be analyzed for only those constituents which were originally detected in the exclusion demonstration.

Each facility must submit the verification data on an annual basis. The annual submittal of verification data and disposal certification must be made to both Region 5 Waste Management Branch, U.S. EPA, at 77 West Jackson Boulevard, Mail Code DW–8J, Chicago, Illinois 60604 and MDEQ, Waste Management Division, Hazardous Waste Program Section, at P.O. Box 30241, Lansing, Michigan 48909. The facility must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. The facility must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

C. What Must the Facility Do if the Process Changes?

If a facility significantly changes the manufacturing process, the treatment process, or the chemicals used, the facility may not handle the sludge generated from the new process under this exclusion until it has demonstrated to the EPA that the waste meets the criteria set in section IV.C and that no new hazardous constituents listed in appendix VIII of 40 CFR part 261 have been introduced. The facility must manage wastes generated after the process change as hazardous waste until it receives written approval for continuance of the exclusion from the Agency.

D. What Happens if a Facility's Waste Fails To Meet the Conditions of the Exclusion?

If a facility with sludge excluded under this project violates the terms and conditions established in the exclusion, the Agency may suspend the exclusion or may start procedures to withdraw the exclusion.

If the quarterly testing of the waste does not meet the delisting levels described in section IV.C above, the facility must notify the EPA and MDEQ immediately at the addresses listed in section V.B, above. The exclusion will be suspended and the waste managed as hazardous until the facility has received written approval for continuance of the exclusion from the Agency. The facility may provide any information and sampling results that support the continuation of the delisting exclusion.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978) et seq. (APA), to reopen a delisting decision if we receive information indicating that the conditions of this exclusion have been violated.

VI. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from today's proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to eleven facilities. Accordingly, the Agency certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VIII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated

with this proposed rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 et seq.) and have been assigned OMB Control Number 2050–0053.

IX. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with federal mandates that may result in estimated costs to state, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, EPA must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any state, local, or tribal governments or the private sector estimated to cost $100 million or more in any one year. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

X. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

XI. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XII. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XIII. National Technology Transfer And Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the Agency is directed 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 (for example, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where EPA does not use available and potentially applicable voluntary consensus standards, the Act requires the Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards, and thus the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: February 22, 2002.

Robert Springer,

Director, Waste, Pesticides and Toxics Division.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX of part 261 it is proposed to add the following waste streams in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility and address	Waste description
* * *	* * * *
Auto Alliance International Inc. (Ford/Mazda Joint Venture Company)—Flat Rock, Michigan.	Waste water treatment plant sludge, F019, that is generated by Auto Alliance International Inc., Flat Rock, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents and delisting levels from section IV.C of the preamble) 2. *Initial Verification Testing:* a. When aluminum parts are first subjected to conversion coating, the facility must collect 4 additional samples and analyze them for the constituents listed in paragraph (1) using the methodologies specified in an EPA-approved sampling plan. The facility must manage as hazardous all wastewater treatment sludge generated after aluminum parts are first subjected to conversion coating, until 15 calendar days after EPA receives valid data demonstrating that paragraph (1) is satisfied, unless EPA notifies the facility during the 15-day period that the data is unacceptable. b. When production using conversion coating on aluminum first reaches 50 units a day, the facility must collect 4 additional samples and analyze them for the constituents listed in paragraph (1) using the methodologies specified in an EPA-approved sampling plan. c. The verification data required in paragraphs (2.a) and (2.b) must be submitted as soon as the data becomes available. 3. *Quarterly Verification Testing:* After the facility satisfies the requirements of paragraph (2.a), it must, on a quarterly basis, collect and analyze one sample of the waste for the constituents detected in pre-aluminum sampling and the sampling required in paragraph (2) using the methodologies specified in an EPA-approved sampling plan. 4. *Changes in Operating Conditions:* The facility must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process significantly change. The facility must handle wastes generated after the process change as hazardous until it has demonstrated that the wastes continue to meet the delisting levels and that no new hazardous constituents listed in appendix VIII of part 261 have been introduced and it has received written approval from EPA. 5. *Data Submittals:* The facility must submit the data obtained through verification testing or as required by other conditions of this rule to both U.S. EPA Region 5, Waste Management Branch (DW–8J), 77 W. Jackson Blvd., Chicago, IL 60604 and MDEQ, Waste Management Division, Hazardous Waste Program Section, at P.O. Box 30241, Lansing, Michigan 48909. The quarterly verification data and certification of proper disposal must be submitted annually upon the anniversary of the effective date of this exclusion. The facility must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. The facility must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12). 6. *Reopener Language*—(a) If, anytime after disposal of the delisted waste, the facility possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in paragraph (1) is at a level in the leachate higher than the delisting level established in paragraph (1), or is at a level in the groundwater higher than the point of exposure groundwater levels referenced by the model, then the facility must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility and address	Waste description
	(c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify the facility in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. The facility shall have 30 days from the date of the Regional Administrator's notice to present the information. (d) If after 30 days the facility presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.
DaimlerChrysler Corporation, Jefferson North Assembly Plant—Detroit, Michigan.	Waste water treatment plant sludge, F019, that is generated by DaimlerChrysler Corporation at the Jefferson North Assembly Plant, Detroit, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
DaimlerChrysler Corporation, Sterling Heights Assembly Plant—Sterling Heights, Michigan.	Waste water treatment plant sludge, F019, that is generated by DaimlerChrysler Corporation at the Sterling Heights Assembly Plant, Sterling Heights, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
DaimlerChrysler Corporation, Warren Truck Assembly Plant—Warren, Michigan.	Waste water treatment plant sludge, F019, that is generated by DaimlerChrysler Corporation at the Warren Truck Assembly Plant, Warren, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
Ford Motor Company, Dearborn Assembly Plant—Dearborn, Michigan.	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Dearborn Assembly Plant, Dearborn, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). The conditions in paragraphs (1) through (6) for Auto Alliance International Inc., Flat Rock, Michigan apply.
Ford Motor Company, Michigan Truck Plant and Wayne Integrated Stamping and Assembly Plant—Wayne, Michigan.	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Wayne Integrated Stamping and Assembly Plant from wastewaters from both the Wayne Integrated Stamping and Assembly Plant and the Michigan Truck Plant, Wayne, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
Ford Motor Company, Wixom Assembly Plant—Wixom, Michigan.	Waste water treatment plant sludge, F019, that is generated by Ford Motor Company at the Wixom Assembly Plant, Wixom, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR Part 258. The exclusion becomes effective as of (insert final publication date).

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility and address	Waste description
	1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
General Motors Corporation, Flint Truck—Flint, Michigan	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Flint Truck, Flint, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
General Motors Corporation, Hamtramck—Detroit, Michigan.	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Hamtramck, Detroit, Michigan at a maximum annual rate of (annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
General Motors Corporation, Pontiac East—Pontiac, Michigan.	Waste water treatment plant sludge, F019, that is generated by General Motors Corporation at Pontiac East, Pontiac, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste). 2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
Trigen/Cinergy-USFOS of Lansing LLC at General Motors Corporation, Lansing Grand River—Lansing, Michigan.	Waste water treatment plant sludge, F019, that is generated at General Motors Corporation's Lansing Grand River (GM—Grand River) facility by Trigen/Cinergy-USFOS of Lansing LLC exclusively from wastewaters from GM—Grand River, Lansing, Michigan at a maximum annual rate of (insert annual volume) cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR Part 258. The exclusion becomes effective as of (insert final publication date). 1. *Delisting Levels:* The total constituent concentrations and TCLP concentrations measured in any sample may not exceed the following levels: (insert constituents of concern and delisting levels based on the annual volume of waste).

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility and address	Waste description
	2. *Quarterly Verification Testing:* The facility must show that the waste does not contain constituents listed in paragraph (1) that exceed the delisting levels specified in paragraph (1) by collecting and analyzing one waste sample on a quarterly basis. The samples must be collected and analyzed in accordance with the approved sampling plan. 3. *Other Conditions:* The conditions in paragraphs (4) through (6) for Auto Alliance International Inc., Flat Rock, Michigan also apply.
* * * * * * *	

[FR Doc. 02–5314 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–7154–2]

Nebraska: Tentative Approval of Nebraska Underground Storage Tank Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; tentative determination on application of State of Nebraska for final approval; public comment period.

SUMMARY: Nebraska has applied to EPA for final approval of its underground storage tank (UST) program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the Nebraska application and has made a tentative determination that Nebraska's UST program satisfies all of the requirements necessary to qualify for final approval. Thus, by this proposed rule, EPA is providing notice that EPA intends to grant final approval to Nebraska to operate its UST program in lieu of the Federal program. Nebraska's application for approval is available for public review and comment, and a public hearing will be held to solicit comments on the application, if there is significant public interest expressed.

DATES: A public hearing will be scheduled if there is sufficient public interest communicated to EPA by April 8, 2002. EPA will determine by April 22, 2002, whether there is significant interest to hold the public hearing. The State of Nebraska will participate in such public hearing held by EPA on this subject. Written comments on the Nebraska approval application, as well as requests to present oral testimony, must be received by the close of business on April 8, 2002.

ADDRESSES: Send written comments to Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101. You can view and copy Nebraska's application during normal business hours at the following addresses: The Nebraska Department of Environmental Quality, Suite 400, The Atrium, 1200 N Street, Lincoln, Nebraska, 68509, telephone: (402) 471–3557; The U.S. EPA Docket Clerk, Office of Underground Storage Tanks, c/o RCRA Information Center, 1235 Jefferson Davis Highway, Arlington, Virginia 22202, telephone: (703) 603–9230, and EPA Region 7, Library, 901 N. 5th Street, Kansas City, KS 66101. If sufficient public interest is expressed, EPA will hold a public hearing on the State of Nebraska's application for program approval. Anyone wishing to learn the status of the public hearing on the State's application may telephone the following contacts after April 22, 2002: Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7268; David Chambers, Supervisor, Leaking Underground Storage Tanks Program, Nebraska Department of Environmental Quality, Suite 400, The Atrium, 1200 N Street, Lincoln, Nebraska 68509, (402) 471–4230.

FOR FURTHER INFORMATION CONTACT: Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101.

SUPPLEMENTARY INFORMATION:

A. Background

Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, requires that the EPA develop standards for Underground Storage Tanks (UST) systems as may be necessary to protect human health and the environment, and procedures for approving State programs in lieu of the Federal program. EPA promulgated State program approval procedures at 40 CFR part 281. Program approval may be granted by EPA pursuant to RCRA section 9004(b), if the Agency finds that the State program: is ''no less stringent'' than the Federal program for the seven elements set forth at RCRA section 9004(a)(1) through (7); includes the notification requirements of RCRA section 9004(a)(8); and provides for adequate enforcement of compliance with UST standards of RCRA section 9004(a). Note that RCRA sections 9005 (information-gathering) and 9006 (Federal enforcement) by their terms apply even in states with programs approved by EPA under RCRA section 9004. Thus, the Agency retains its authority under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions.

B. Nebraska UST Program

The UST program in Nebraska is implemented jointly by the Nebraska Department of Environmental Quality (NDEQ) and the Nebraska State Fire Marshal (NSFM). Section 81–15, 118 of the Nebraska Revised Statutes (N.R.S.) designates NDEQ as the lead agency for the UST program, but specifies that NSFM will conduct preventative activities under an interagency agreement with NDEQ.

The State of Nebraska initially submitted a state program approval application to EPA by letter dated December 15, 2000. Additional information was provided by Nebraska on March 21, 2001. EPA evaluated that information as well as other issues and determined the application package met all requirements for a complete program application. On December 5, 2001, EPA notified Nebraska that the application package was complete.

Included in the State's Application is an Attorney General's statement. The Attorney General's statement provides an outline of the State's statutory and

regulatory authority and details concerning areas where the State program is broader in scope or more stringent than the Federal program. Also included was a transmittal letter from the Governor of Nebraska requesting program approval, a description of the Nebraska UST program, a demonstration of Nebraska's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of EPA and the Nebraska Department of Environmental Quality, and copies of all applicable state statutes and regulations. EPA has reviewed the application and supplementary materials, and has tentatively determined that the State's UST program meets all of the requirements necessary to qualify for final approval.

Specifically, the Nebraska UST program has requirements that are no less stringent than the federal requirements at: 40 CFR 281.30 New UST system design, construction, installation, and notification; 40 CFR 281.31 Upgrading existing UST systems; 40 CFR 281.32 General operating requirements; 40 CFR 281.33 Release detection; 40 CFR 281.34 Release reporting, investigation, and confirmation; 40 CFR 281.35 Release response and corrective action; 40 CFR 281.36 Out-of-service UST systems and closure; 40 CFR 281.37 Financial responsibility for UST systems containing petroleum; and 40 CFR 281.39 Lender Liability.

Additionally, the Nebraska UST program has adequate enforcement of compliance, as described at: 40 CFR 281.40 Requirements for compliance monitoring program and authority; 40 CFR 281.41 Requirements for enforcement authority; 40 CFR 281.42 Requirements for public participation; and 40 CFR 281.43 Sharing of information.

Notice of Public Hearing

EPA will hold a public hearing on the tentative decision, if sufficient public interest is expressed. Anyone wishing to learn the status of the public hearing on the State's application may telephone the contacts listed in the Addresses section above, after April 22, 2002. EPA will consider all public comments on the tentative determination received at the hearing, or received in writing during the public comment period. Issues raised by those comments may be the basis for a decision to deny final approval to Nebraska. EPA expects to make a final decision on whether or not to approve Nebraska's program and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action proposes to authorize State requirements for the purpose of RCRA 9004 and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). Because this proposed action proposes to authorize pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this proposed action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to authorize State requirements as part of the State underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA. This proposed action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This proposed action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 9004, EPA grants approval of a State's program as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State program application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the proposed action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*.).

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This document is issued under the authority of section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 18, 2002.

Nat Scurry,

Acting Regional Administrator, Region 7.

[FR Doc. 02–5452 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 67, No. 45
Thursday, March 7, 2002

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

Commodity Credit Corporation

Dockage Specifications for Wheat for Foreign Food Assistance Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) is soliciting public comment on the dockage specifications for CCC purchases of U.S. wheat for foreign food assistance programs and potential purchases under section 5(d) of the CCC Charter Act beginning in U.S. fiscal year 2003.

DATES: Written comments on this notice must be received on or before April 8, 2002 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Please direct written correspondence to: Mary Chambliss, Acting Administrator, Foreign Agricultural Service, STOP 1001, 1400 Independence Ave. SW., Washington, DC 20250. Direct phone, fax and e-mail may be directed to: Robert Riemenschneider, Director, Grain and Feed Division, Foreign Agricultural Service, Phone: (202) 720–6219, Fax: (202) 720–0340, E-mail: *riemenschnei@fas.usda.gov.*

SUPPLEMENTARY INFORMATION: In June 2000, as part of the U.S. Department of Agriculture's (USDA) ''Clean Wheat Initiative,'' CCC announced that it would progressively tighten the standards for the cleanliness of U.S. wheat exports destined for overseas food aid. In fiscal year 2000, the maximum dockage specification for wheat purchased by the CCC for food aid was lowered from 1.0 to 0.8 percent. This specification was lowered again to 0.7 percent for fiscal year 2001 purchases.

USDA announced on February 5, 2002, that it would lower the maximum acceptable dockage level for wheat purchases by the CCC for U.S. foreign food aid programs from 0.7 percent to 0.6 percent for the remainder of fiscal year 2002. We are now seeking public comment regarding whether we should reduce the dockage level further to 0.5 percent in fiscal year 2003.

The CCC purchasing requirements for wheat will apply to CCC's food donations under the Food for Progress Act of 1985, and, with the concurrence of the United States Agency for International Development, title II of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), and any surplus removal under section 5(d) of the CCC Charter Act.

Comments are invited on all aspects of reducing dockage for U.S. foreign food aid purchases under the Clean Wheat Initiative for fiscal year 2003 and future years, *i.e.,* whether the dockage level should be tightened further to 0.5 percent in fiscal year 2003; whether it should remain the same, that is 0.6 percent; whether it should be relaxed; or whether CCC should abandon the Clean Wheat Initiative completely and return to the 1.0 percent dockage level that was in place prior to this initiative. Economic and/or marketing reasons should be discussed, including any likelihood that CCC may be reducing the pool of eligible suppliers of commodities resulting in an adverse impact on competition.

Mary Chambliss,

Acting Administrator, Foreign Agricultural Service and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 02–5479 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Gifford Pinchot National Forest Resource Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The North Gifford Pinchot National Forest Resource Advisory Committee will meet on Tuesday, March 19, 2002, at the Virgil R. Lee building, 221 SW 13th Street, Chehalis, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. The purpose of the meeting is to:

(1) Prioritize the list of Title II projects for fiscal year 2002,
(2) Provide for a Public Open Forum, and
(3) Discus the percentage of indirect support costs.

All North Gifford Pinchot National Forest Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (2) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Tom Knappenberger, Public Officer, at (360) 891–5005, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: March 1, 2002.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 02–5423 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

South Gifford Pinchot National Forest Resource Advisory Committee meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The South Gifford Pinchot National Forest Resource Advisory Committee will meet on Friday, March 15, 2002 at the Skamania County Public Works Department basement located in the Courthouse Annex, 170 N.W. Vancouver Avenue, Stevenson, Washington. The meeting will begin at 8:30 a.m. and continue until 3 p.m. The purpose of the meeting is to:

(1) Prioritize the list of Title II projects for fiscal year 2002,
(2) Provide for a Public Open Forum,
(3) Discuss the percentage of indirect support costs, and
(4) Determine member replacement.

All South Gifford Pinchot National Forest Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (2) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Tom Knappenberger, Public Affairs Officer, at (360) 891–5005, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: March 1, 2002.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 02–5424 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee, Hamilton, MT

Time and Date: March 18, 2002; 6:30 p.m.

Place: Ravalli County Courthouse, 205 Bedford, Hamilton, Montana.

Status: The meeting is open to the public.

Matters To Be Considered: Agenda topics will include Project Solicitation and Review process, and a public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393).

FOR FURTHER INFORMATION CONTACT: Jeanne Higgins, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: February 28, 2002.

Rodd Richardson,

Forest Supervisory.

[FR Doc. 02–5425 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by May 6, 2002.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036, South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. Fax: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. Fax: (202) 720–4120.

Title: Request for Mail List Data, RUS Form 87.

OMB Control Number: 0572–0051.

Type of Request: Extension of a currently approved collection.

Abstract: The RUS Form 87 is used for both the Electric and Telecommunications programs to obtain the names and addresses of the borrowers' officials with whom RUS must communicate directly in order to administer the agency's lending programs. Changes occurring at the borrowers' annual meetings (*e.g.,* the selection of board members, managers, attorneys, certified public accountants, or other officials make necessary the collection of this information. The RUS Form 87 is being revised to add a field for borrowers to provide the address of their website.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hour per response.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 905.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 226 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078. Fax: (202) 720–4120.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 28, 2002.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 02–5480 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–15–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting Notice

DATE AND TIME: March 12, 2002; 10 a.m.–12 Noon.

PLACE: The Tides Hotel, 1220 Ocean Drive, Miami, FL 33139.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S.

international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: March 4, 2002.

Carol Booker,

Legal Counsel.

[FR Doc. 02–5544 Filed 3–4–02; 4:25 pm]

BILLING CODE 8320–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia, Maryland and Virginia Advisory Committees

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that subcommittees of the District of Columbia, Maryland and Virginia Advisory Committees to the Commission will convene at 12:00 p.m. and adjourn at 2:30 p.m. on March 27, 2002, at the U. S. Commission on Civil Rights, 624 9th Street NW, 5th Floor Conference Room (540), Washington, DC 20425. The subcommittees, also known as the Inter-SAC Committee, will finalize necessary details in preparation for the community forum on civil rights concerns of Arab and Muslim Americans in the aftermath of 9/11, to be held late April or early May 2002.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–5392 Filed 3–6–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a community forum and planning meeting of the Florida Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on March 26, 2002, at the Sheraton Biscayne Bay, 459 Brickell Avenue, Miami, Florida 33131. The Committee will hold a community forum on Muslim and Arab American civil rights post 9/11, and develop program plans for a June 2002 meeting.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–5391 Filed 3–6–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: National Voluntary Conformity Assessment Systems Evaluation (NVCASE) Program.

Form Number(s): None.

OMB Approval Number: 0693–0019.

Type of Request: Regular submission.

Burden Hours: 30.

Number of Respondents: 10.

Average of Hours Per Response: 3.

Needs and Uses: The information collected is used by NIST to evaluate conformity assessment bodies that are applying for recognition to provide needed services to U.S. manufacturers whose products must satisfy mandatory regulations of the importing country prior to import.

Affected Public: Business or other for profit organizations, not-for-profit institutions.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 28, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–5370 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Requests for the Appointment of a Technical Advisory Committee

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 6, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608,

14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6883, 14th and Constitution Avenue, NW., Washington, DC, 20230.

SUPPLEMENTAL INFORMATION

I. Abstract

The Technical Advisory Committees were established to advise and assist the U.S. Government on export control matters. In managing the operations of the TACs, the Department of Commerce is responsible for implementing the policies and procedures prescribed in the Federal Advisory Committee Act. The Bureau of Export Administration provides technical and administrative support for the Committees.The TACs advise the government on proposed revisions to export control lists, licensing procedures, assessments of the foreign availability of controlled products, and export control regulations.

II. Method of Collection

Written request to BXA.

III. Data

OMB Number: 0694–0100.
Form Number: None.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 1.
Estimated Time Per Response: 5 hours per response.
Estimated Total Annual Burden Hours: 5.
Estimated Total Annual Cost: No capital expenditures are required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 1, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–5373 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

End-User Certificates for High Performance Computer Exports to the People's Republic of China

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 6, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6883, 14th & Constitution Avenue, NW, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Export Administration is required to perform post-shipment verifications on high performance computers exported to the PRC under License Exception CTP in addition to those exported under a license. U.S. exporters of high performance computers to PRC will obtain the End-User Certficate in each transaction.

II. Method of Collection

Submitted in written form.

III. Data

OMB Number: 0694–0112.
Form Number: N/A.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 300.
Estimated Time Per Response: 15 minutes per response.
Estimated Total Annual Burden Hours: 75 hours.
Estimated Total Annual Cost: No capital expenditures are required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 1, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–5374 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an

administrative review of the antidumping duty order on certain forged stainless steel flanges (stainless steel flanges) from India (A–533–809) manufactured by Isibars Ltd. (Isibars), Panchmahal Steel Ltd. (Panchmahal), Patheja Forgings and Auto Parts Ltd. (Patheja), and Viraj Forgings Ltd. (Viraj). The period of review (POR) covers the period February 1, 2000, through January 31, 2001. We preliminarily determine that sales of stainless steel flanges have been made below the normal value (NV) for some of the respondents. In addition, we have preliminarily determined to rescind the review with respect to Echjay Forgings Ltd. (Echjay) because it had no shipments of subject merchandise during the period of review. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument 1) a statement of the issues and 2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam, Mike Heaney, or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5222, (202) 482–4475, or (202) 482–0649, respectively.

APPLICABLE STATUTE AND REGULATIONS:

Unless otherwise indicated, all citations to the 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 (April 1, 2001).

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published the antidumping duty order on stainless steel flanges from India (59 FR 5994). On February 14, 2001, the Department published the notice of ''Opportunity to Request Administrative Review'' for this order covering the period February 1, 2000 through January 31, 2001 (66 FR 10269). In accordance with 19 CFR 351.213(b)(2), on February 28, 2001, Isibars, Panchmahal and Viraj requested a review, and the petitioners, under 19 CFR 351.213(b)(1), requested a review of Echjay, Isibars, Panchmahal, Patheja and Viraj. The petitioners are Gerlin Inc., Ideal Forging Corporation, and Maas Flange Corporation. On March 22, 2001, the Department published in the *Federal Register* a notice of initiation of this antidumping duty administrative review (66 FR 16037).

On July 5, 2001, we extended the time limit for the preliminary results of this administrative review to February 28, 2002 (66 FR 35411).

Partial Rescission

On April 4, 2001, Echjay informed the Department that it had no shipments of subject merchandise to the United States during the period of review. The Department conducted a query of U.S. Customs Service data on entries of stainless steel flanges from India made during the POR, and confirmed that Echjay made no entries during the review period. Therefore, we preliminarily determine to rescind the review with respect to Echjay.

Scope of the Review

The products under review are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Period of Review

The POR is February 1, 2000, through January 31, 2001.

Use of Facts Available

Section 776(a)(2) of the Act provides that, ''if an interested party or any other person--(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority...shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong. 2nd Sess. (1994), at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' See Antidumping Duties, Countervailing Duties; Final Rule, 62 FR 27340 (May 17, 1997). The statute notes, in addition, that in selecting from among the facts available the Department may, subject to the corroboration requirements of section 776(c), rely upon information drawn from the petition, a final determination in the investigation, any previous administrative review conducted under section 751 (or section 753 for countervailing duty cases), or any other information on the record.

Section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of a investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that ''corroborate''

means that the Department will satisfy itself that the secondary information to be used has probative value. Id. As noted in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

Patheja failed to respond to our May 28, 2001 antidumping questionnaire, and has provided no probative information for this review. Panchmahal failed to respond to our July 11, 2001 request for supplemental information concerning its section A, B, and C responses to our antidumping questionnaire, and failed to respond to our July 30, 2001 request for cost of production/constructed value (COP/CV) information. Patheja's failure to respond to our antidumping questionnaire is a failure to provide requested information as defined by section 776(a)(2)(B) of the Act. Panchmahal's failure to provide COP/CV information as well as Panchmahal's failure to provide a complete response to sections A, B, and C of our antidumping questionnaire is also a failure to provide requested information as defined by section 776(a)(2)(B) of the Act. Additionally, both of these failures to provide requested information have significantly impeded this proceeding, as defined by section 776(a)(2)(C) of the Act. Moreover, as Patheja and Panchmahal have supplied no information or explanation of why they did not respond to our questionnaire and supplemental questionnaire respectively, sections 782(c)(1), (d) and (e) of the Act are inapplicable. Accordingly, we preliminarily determine that the use of facts available under section 776(a) of the Act is warranted.

Patheja never attempted to respond to our questionnaire or to explain why it could not respond. Panchmahal made an initial response, but thereafter, made no attempt to respond to our supplemental questionnaire. Moreover, Panchmahal provided no explanation as to why it could not respond. The lack of attempt to cooperate or even to offer an explanation for the failure to do so supports our conclusion that the two firms did not cooperate to the best of their ability. As noted above, Section 776(b) of the Act provides that if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts available, which includes information derived from the petition. See SAA at 829–831 and 870 (1994).

Because we were unable to calculate margins for these respondents, we have assigned them the highest margin from any segment of this proceeding, in accordance with our practice. See e.g., Certain Cased Pencils from the People's Republic of China; Preliminary Results and Rescission In Part of Antidumping Duty Administrative Review, 66 FR 1638, 1640 (January 9, 2001). The highest margin assigned for flanges from India is 210 percent. See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges from India, 59 FR 5994 (February 9, 1994) (the Order). This margin was based on information in the petition.

Section 776(c) of the Act provides that when the Department relies on secondary information (such as that in the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (see SAA at 870). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and U.S. Customs Service data, and information obtained from interested parties during the particular investigation (see SAA at 870). Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

To assess the reliability of the petition margin, in accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the calculations of export price and normal value upon which the petitioners based their margins for the petition. The U.S. prices in the petition were based on quotes to U.S. customers, most of which were obtained through market research. See Petition for the Imposition of Antidumping Duties, December 29, 1993. We were able to corroborate the U.S. prices in the petition by comparing these prices to publicly available information based on IM–145 import statistics. See Memorandum from Thomas Killiam, Case Analyst to the File, Corroboration of Petition Rate for Use as Facts Available, January 10, 2002.

The normal values in the petition were based on actual price quotations obtained through market research. The Department did not receive any useful information from Patheja, and we were unable to verify the partial information submitted by Panchmahal prior to its withdrawal from participation in the review. The Department is not aware of other independent sources of information that would enable it to corroborate the margin calculations in the petition further. We note that four Indian manufacturers currently have a 210 percent margin under this order.

The implementing regulation for section 776 of the Act, codified at 19 CFR 351.308(d), states, ''(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' Additionally, the SAA at 870 states specifically that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. The SAA at 869 emphasizes that the Department need not prove that the facts available are the best alternative information. Therefore, based on our efforts, described above, to corroborate information contained in the petition and in accordance with 776(c) of the Act, which discusses facts available and corroboration, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this preliminary determination (see Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review, 64 FR 76, 84 (January 4, 1999)).

Fair Value Comparisons

To determine whether sales of flanges from India 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 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.

We calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States. We used the date of invoice as the date of sale. We based EP on the packed C&F, CIF duty paid, FOB, or ex-dock duty paid prices to the first unaffiliated purchasers in the United States. We added to U.S. price amounts for duty drawback, when reported, pursuant to section 772(c)(1)(B) of the Act. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including: foreign inland freight, foreign brokerage and handling, bank export document handling charges, ocean freight, and marine insurance.

For CEP sales, in accordance with section 772(d)(1) of the Act, 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 imputed inventory carrying costs. In accordance with section 772(d)(3) of the Act, we deducted an amount for profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

For these preliminary results, for Viraj's U.S. prices we have used Viraj's prices to its first unaffiliated U.S. customers. In the case of one of Viraj's U.S. customers, we have solicited information bearing on a possible affiliation with Viraj. Prior to issuing our final results, we will further examine whether sales from Viraj to the customer in question, rather than sales from that customer in question to its own customers, constitute the appropriate basis for U.S. price. We invite comments on this issue.

Normal Value

A. Viability

In order to determine whether there is 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 during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR), for each respondent we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Since we found no reason to determine that quantity was not the appropriate basis for these comparisons, we did not use value as the measure. See 351.404(b)(2).

We based our comparisons of the volume of U.S. sales to the volume of home market sales on reported stainless steel flange weight, rather than on number of pieces. The record demonstrates that there can be large differences between the weight (and corresponding cost and price) of stainless steel flanges based on relative sizes, so comparisons of aggregate data would be distorted for these products if volume comparisons were based on the number of pieces.

We determined that for Viraj, the home market was viable because Viraj's home market sales were greater than 5 percent of its U.S. sales based on aggregate volume by weight. Because Isibars reported no home market or third country sales, we based NV on CV, pursuant to section 351.404(f) of the Department's regulations.

B. Arm's Length Sales

Since no information on the record indicates any comparison market sales to affiliates, we did not use an arm's-length test for comparison market sales.

C. Cost of Production Analysis

The petitioners in this proceeding filed timely sales-below-cost allegations with regard to Viraj. See petitioners' letters of June 6, 2001. The petitioners' allegations were based on the respondents' questionnaire responses. We found that petitioners' methodology provided the Department with a reasonable basis to believe or suspect that sales in the home market had been made at prices below the COP. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Viraj's sales of flanges were made at prices below COP during the POR. See memorandum from Thomas Killiam, Case Analyst, to Richard Weible, Office Director, Petitioners' Allegation of Sales Below the Cost of Production, dated July 1, 2001.

Each respondent defined its unique products, and thus its costs, based on different product characteristics. We determined that only grade, type, size, pressure rating, and finish were required to define models for purposes of matching. To make the model definitions for the cost test identical to those in the model match, we used the above criteria to define models and calculate costs. Where necessary, we converted costs from a per-piece basis to a per-kilogram basis. See the company-specific analysis memoranda for Isibars and Viraj, dated concurrently with this notice and available in the Central Records Unit.

In accordance with section 773(b)(3) of the Act, we calculated COP for Viraj based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and packing. We relied on the home market sales and COP information provided by Viraj. After calculating COP, we tested whether home market sales of stainless steel flanges were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model are at prices less than COP, we disregard the below-cost sales because they are 1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

The results of our cost test for Viraj indicated that for certain comparison market models, less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of these comparison market models in our analysis and used them as the basis for determining NV. Our cost test also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain comparison market

models, more than 20 percent of the comparison market sales were sold at prices below COP. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Product Comparisons

We compared Viraj's U.S. sales with contemporaneous sales of the foreign like product in the home market. We considered stainless steel flanges identical based on grade, type, size, pressure rating and finish. We used a 20 percent difference-in-merchandise (DIFMER) cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and comparison market variable costs of manufacturing divided by the total cost of manufacturing of the U.S. product. For Isibars we compared U.S. price to CV.

E. Level of Trade

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 (LOT) as the EP or CEP transaction. The LOT in the comparison market 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 SG&A expenses and profit. With respect to U.S. price for EP transactions, the LOT is also that of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is that of the sale from the exporter to the importer.

To determine whether comparison market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. In analyzing the selling activities of the respondents, we did not note any significant differences in functions provided in any of the markets. Based upon the record evidence, we have determined that for each respondent there is one LOT for all EP sales, the same LOT as for all comparison market sales. Accordingly, because we find the U.S. sales and comparison market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) is warranted.

F. Comparison Market Price

We based comparison market prices on the packed, ex-factory or delivered prices to the unaffiliated purchasers in the comparison market. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparison to EP we made COS adjustments by deducting comparison market direct selling expenses and adding U.S. direct selling expenses.

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a contemporaneous comparison market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. In accordance with 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the 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. For selling expenses, we used the weighted-average comparison market selling expenses. Where appropriate, we made COS adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We also made adjustments, where applicable, for comparison market indirect selling expenses to offset commissions in EP comparisons.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins for the period February 1, 1999, through January 31, 2000, to be as follows:

Manufacturer / Exporter	Margin (percent)
Isibars	0
Panchmahal	210.00
Patheja	210.00
Viraj	3.97

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication. See CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings 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 the final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total quantity (in kilograms) of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of merchandise of that manufacturer/exporter made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of flanges from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or the LTFV

investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or any previous reviews, the cash deposit rate will be 162.14 percent, the ''all others'' rate established in the LTFV investigation (59 FR 5994) (February 9, 1994).

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 notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5477 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke, In-Part

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan in response to a request by respondents, Komatsu, Ltd. (Komatsu) and Hitachi Zosen Corp. (HZC) and its subsidiary Hitachi Zosen Fukui Corporation, doing business as H&F Corporation (H&F). This review covers shipments of this merchandise to the United States during the period of February 1, 2000 through January 31, 2001. We have preliminarily determined that U.S. sales have not been made below normal value (NV). We also intend, preliminarily, to revoke the order, in part, with respect to Komatsu because we find that Komatsu has met all of the requirements set forth in section Section 351.222(b) of the regulations for revocation. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to liquidate entries without regard to antidumping duties. Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Sally Gannon, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–0666 or (202) 482–0162, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

The Department published an antidumping duty order on MTPs from Japan on February 16, 1990 (55 FR 5642). On March 22, 2001, we published a notice initiating an administrative review of MTPs (66 FR 16037). The review covers three producers/exporters, Komatsu, HZC, and HZC's subsidiary, H&F, which requested the review.

Due to complicated issues in this case, on October 2, 2001, the Department extended the deadline for the preliminary results of this antidumping duty administrative review until no later than February 28, 2002. *See Mechanical Transfer Presses From Japan: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review,* 66 FR 52107 (October 2, 2001).

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8462.99.8035, 8462.21.8085, and 8466.94.5040. The HTSUS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive. The term ''mechanical transfer presses'' refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order. (*See* ''Final Scope Ruling on Spare and Replacement Parts,'' U.S. Department of Commerce, March 20, 1992; and ''Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.,'' U.S. Department of Commerce, October 3, 1996.)

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information provided by Komatsu using standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public and proprietary versions of the verification report, which are on file in the Central Records Unit of the Department.

Intent To Revoke

In its timely submission of February 28, 2001, Komatsu requested, pursuant to 19 CFR 351.222(e)(1), partial revocation of the order with respect to its sales of MTPs. Komatsu certified that (1) it sold the subject merchandise in commercial quantities at not less than NV for a period of at least three consecutive years; (2) in the future it will not sell the subject merchandise at less than NV; and, (3) it agreed to its immediate reinstatement under the order if the Department determines that, subsequent to revocation, it has sold the subject merchandise at less than NV.

Based upon the preliminary results in this review and the final results of the two preceding reviews, Komatsu has preliminarily demonstrated three consecutive years of sales at not less than normal value. Furthermore, we have determined that Komatsu's aggregate sales to the United States have been made in commercial quantities during these three segments of this proceeding. The company also agreed in writing that it will not sell the subject merchandise at less than NV in the future and to the immediate reinstatement of the antidumping order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the partial revocation, Komatsu has sold the subject merchandise at less than normal

value. Based on the above facts, and absent a determination that the continued application of the antidumping order is otherwise necessary to offset dumping, the Department preliminarily determines that partial revocation with respect to Komatsu is warranted.

In order to determine that Komatsu sold subject merchandise at commercial quantities, we requested that Komatsu submit sales quantity and value information for all years in which the order has been in place. During the past three review periods, Komatsu had sales in amounts comparable to both its home market sales and third country sales. Its sales were higher during these three periods than at any earlier time during the course of the order. Therefore, we determine that Komatsu made sales in commercial quantities to the United States during the three review periods in which it was found not to have sold MTPs at less than normal value.

Therefore, if these preliminary results are affirmed in our final results, we intend to revoke the order in part with respect to merchandise produced and exported by Komatsu. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption after February 1, 2001.

Affiliation of HZC and H&F

Based on HZC's ownership interest in H&F (73.01 percent), we preliminarily find HZC and H&F to be affiliated pursuant to sections 771(33)(E) and (G) of the Act.

Collapsing HZC and H&F

Section 351.401(f) of the Department's regulations outlines the criteria for collapsing (*i.e.,* treating as a single entity) affiliated producers. Pursuant to section 351.401(f), the Department will treat two or more 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. Pursuant to section 351.401(f)(2), in identifying a significant potential for the manipulation of price or production, the Department may consider the following factors:

(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.

To establish the first prong of the collapsing test, pursuant to section 351.401(f)(1), the producers must have production facilities equipped to manufacture similar or identical products that would not require substantial retooling of either facility to restructure manufacturing priorities. H&F maintains a production facility that produces MTPs in Fukui Prefecture, and another facility at Kanazu Town that produces press accessories. HZC owns two subsidiaries that sometimes fabricate significant MTP components. One of these two subsidiaries, which is wholly-owned by HZC, is capable of manufacturing complete MTPs, according to HZC's response.

With regard to common ownership, which is one of the factors to be considered under 19 CFR 351.401(f)(2)(i), HZC owns 73.01 percent of H&F's voting stock.

With respect to the extent to which there is a management overlap between HZC and H&F, under 19 CFR 351.401(f)(2)(ii), while there are no common board members between the two companies, we conclude that there is significant management overlap between HZC and H&F. *See Memorandum to Sally Gannon from Mark Hoadley, Analysis of HZC and H&F*, dated February 28, 2002, for a discussion of the business proprietary facts underlying this conclusion.

Finally, with regard to 19 CFR 351.401(f)(2)(iii), there are intertwined operations between companies. According to the response, HZC and H&F ''press businesses were integrated in July 1999. As part of the integration process, {HZC} transferred its press sales staff and engineers to H&F. The former {HZC} engineers have found their home in a newly created Large Presses Department.'' Moreover, HZC ''sometimes acts as the nominal 'reseller' for H&F's MTPs * * * For these 'resales,' {HZC} does not perform any selling functions; it merely allows H&F to use its name for consideration in order to inspire the customer's confidence.''

Based upon a review of the totality of the circumstances, we preliminarily find that collapsing of these two entities is appropriate in this case under 19 CFR 351.401(f).

Normal Value Comparisons

To determine whether respondents' exports of the subject merchandise to the United States were made at less than NV, we compared export price to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Export Price

Komatsu

We calculated an export price (EP) in accordance with section 772(a) of the Act. We calculated EP for Komatsu based on the packed, freight prepaid price to the U.S. customer. We made deductions from the starting price for Japanese inland freight and insurance, brokerage and handling, international freight, marine insurance, U.S. inland freight, duties, and supervision, in accordance with section 772(c)(2) of the Act.

HZC and H&F

We calculated EP in accordance with section 772(a) of the Act. We calculated EP for HZC and H&F based on the packed, freight prepaid price to the U.S. customer. We made deductions from the starting price for Japanese inland freight and insurance, brokerage and handling, international freight, marine insurance, U.S. inland freight, and supervision, in accordance with section 772(c)(2) of the Act.

Normal Value

Komatsu

We preliminarily determine that the use of constructed value (CV) is warranted to calculate NV for Komatsu, in accordance with section 773(a)(4) of the Act. While the home market is viable, sales made to the United States do not permit appropriate price-to-price comparisons with sales made in the home market because the MTPs, each of which is sold for millions of dollars, are made to each customer's specifications, resulting in significant differences among machines. Therefore, we have resorted to the use of CV. This decision is consistent with Department precedent in this proceeding. *See, e.g., Mechanical Transfer Presses From Japan; Preliminary Results of Antidumping Duty Administrative Review, and Intent To Revoke Order in Part*, 63 FR 11211, 11213 (March 6, 1998); *and Mechanical Transfer Presses From Japan; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Administrative Order in Part*, 63 FR 37331 (July 10, 1998).

We note that, in past proceedings involving large, custom-built capital equipment, in addition to prior reviews

of this order, we have normally resorted to CV. *See, e.g., Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 62700, 62702 (October 19, 2000); *Large Power Transformers from France: Final Result of Antidumping Administrative Review*, 61 FR 40403, (August 2, 1996). CV consists of cost of design, direct materials, direct labor, variable overhead, fixed overhead, product-line R&D, and loss on disposals of inventories (yielding total cost of manufacturing), plus selling, general and administrative expenses, net interest expense, profit, and U.S. packing expenses. We subtracted home market direct selling expenses (warranties, commissions, and credit). We added to CV amounts for direct selling expenses (U.S. tax, warranties, and credit) for merchandise exported to the United States. In calculating CV profit, we subtracted from home market gross unit price, warranties, indirect selling expenses, total cost of manufacturing, general and administrative expenses, net interest expense, and movement expenses (including supervision expenses).

HZC and H&F

We preliminarily determine that the use of CV is warranted to calculate NV for HZC and H&F, in accordance with section 773(a)(4) of the Act. While the home market is viable, sales made to the United States do not permit proper price-to-price comparisons with sales made in the home market, as discussed above. Therefore, we have resorted to the use of CV for HZC and H&F, as well as Komatsu. CV consists of direct materials, direct labor, variable overhead, fixed overhead (yielding total cost of manufacturing), plus selling, general and administrative expenses, net interest expense, profit, and U.S. packing expenses. We subtracted home market direct selling expenses (warranties and credit). We added to CV amounts for direct selling expenses (warranties and credit) for merchandise exported to the United States. In calculating CV profit, we subtracted from home market gross unit price, warranties, commissions, indirect selling expenses, cost of goods sold, general and administrative expenses, net interest expense, and movement expenses (including installation and supervision expenses).

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Komatsu, Ltd	02/01/00–01/31/01	0.00
Hitachi Zosen Corp/Hitachi Zosen Fukui Corp	02/01/00–01/31/01	0.00

The Department will disclose, in accordance with 19 CFR 351.224(b), its calculations to interested parties within 5 days of the date of public announcement of these results, or if no public announcement, within 5 days of publication of this notice. Any interested party may request a hearing within 30 days of publication in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit rate will be effective upon publication of the final results of this administrative review for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Komatsu (except if the order is revoked in part), HZC and HZFC, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original 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 subject merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the LTFV investigation, which is 14.51 percent. *See Notice of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Mechanical Transfer Presses from Japan*, 55 FR 5642 (February 16, 1990). These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review. If the order covering MTPs from Japan is revoked in-part for Komatsu, we will instruct Customs to terminate the suspension of liquidation for the merchandise covered by the revocation on the first day after the period under review (February 1, 2001), in accordance with 19 CFR 351.222(f)(3).

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.

This administrative review and notice are issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C 1677f(i)(1)).

Dated: February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5473 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Certain Preserved Mushrooms From Indonesia: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner,[1] the Department of Commerce is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from Indonesia. The respondents are three manufacturers/exporters of the subject merchandise: PT Dieng Djaya and PT Surya Jaya Abadi Perkasa,[2] PT Indo Evergreen Agro Business Corp., and PT Zeta Agro Corporation. The period of review is February 1, 2000, through January 31, 2001.

We preliminarily determine that sales have been made below normal value by PT Dieng Djaya and PT Surya Jaya Abadi Perkasa. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries of the subject merchandise during the period of review.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Sophie E. Castro or Rebecca Trainor, Office 2, AD/CVD Enforcement Group I, Import Administration–Room B–099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone : (202) 482–0588 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 U.S. Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

Background

On December 31, 1998, the Department published in the Federal Register (63 FR 72268), the final affirmative antidumping duty determination of sales at less than fair value (LTFV) on certain preserved mushrooms from Indonesia. We published an antidumping duty order on February 19, 1999 (64 FR 8310).

On February 14, 2001, the Department published in the Federal Register a notice advising of the opportunity to request an administrative review of this order for the period February 1, 2000, through January 31, 2001 (66 FR 10269). On February 28, 2001, in accordance with 19 CFR 351.213(b), we received a timely request from the petitioner that the Department conduct an administrative review of exports to the United States by PT Dieng Djaya and PT Surya Jaya Abadi Perkasa (Dieng/Surya), PT Indo Evergreen Agro Business Corp. (Indo Evergreen), and PT Zeta Agro Corporation (Zeta). We published a notice of initiation of the review on March 22, 2001 (66 FR 16037).

On March 30, 2001, the Department issued an antidumping questionnaire to Dieng/Surya, Indo Evergreen, and Zeta. We issued supplemental questionnaires in November 2001. In June 2001 and January 2002, we received timely responses to the Department's original and supplemental questionnaires, respectively.

On July 19, 2001, due to the reasons set forth in the Certain Preserved Mushrooms from India, Indonesia, and the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Reviews, 66 FR 37640 (July 19, 2001), we extended the due date for the preliminary results. In accordance with section 751(a)(3)(A) of the Act, we extended the due date for the preliminary results by the maximum 120 days allowable or until February 28, 2002.

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus and Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States[3] (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order dispositive.

Fair Value Comparisons

To determine whether sales to the United States of certain preserved mushrooms by Dieng/Surya, Indo Evergreen and Zeta were made at less than normal value, we compared export price to the normal value, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the export prices of individual U.S. transactions to the weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade at prices above the cost of production (COP), as discussed in the ''Cost of Production Analysis'' section below.

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Nottingham, PA; Modern Mushrooms Farms, Inc., Toughkernamon, PA; Monterrey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushrooms Canning Company, Kennett Square, PA; Southwood Farms, Hockessin, DE; Sunny Dell Foods, Inc., Oxford, PA; United Canning Corp., North Lima, OH.

[2] In accordance with 19 CFR 351.401(f), PT Dieng Djaya and PT Surya Jaya Abadi Perkasa were determined to be affiliated companies in the original less–than–fair–value investigation.

[3] As of January 1, 2002, the HTS codes are as follows: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 0711.51.0000

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Dieng/Surya, Indo Evergreen and Zeta, covered by the description in the ''Scope of the Order'' section, above, sold by the respondents in the home or third country markets during the period of review (POR), to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home or third country markets within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home or third country markets made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the home or third country markets to compare to U.S. sales, we compared U.S. sales to the constructed value (CV) of the product.

In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: preservation method, container type, mushroom style, weight, grade, container solution and label type. See ''Normal Value'' section below for further discussion.

Export Price

For all three respondents we used export price calculation methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the producer/exporter in Indonesia to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) treatment was not otherwise indicated.

We calculated export price based on the packed FOB seaport prices charged to the first unaffiliated customer in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

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 normal value, we compared each of the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act.

Evergreen and Zeta's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Therefore, we determined that the home market provides a viable basis for calculating normal value for both Evergreen and Zeta, in accordance with section 773(a)(1)(B)(ii)(II) of the Act.

Dieng/Surya reported that its aggregate volume of home market sales was less than five percent of its aggregate volume of U.S. sales of the subject merchandise. However, sales to one of its third country markets were above the five percent threshold and we attempted to use Dieng/Surya's third country market sales, pursuant to section 773(a)(1)(C) of the Act. As discussed below in the ''Cost of Production Analysis'' section of this notice, we were ultimately unable to use Dieng/Surya's third country sales to calculate normal value. As a result, we used the CV of the product as the basis for calculating normal value for Dieng/Surya, in accordance with section 773(a)(4) of the Act.

Arm's–Length Sales

Indo Evergreen and Zeta each reported sales of the foreign like product to affiliated customers. To test whether these sales to affiliated customers were made at arm's length, where possible, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. See Antidumping Duties; Contervailing Duties; Final Rule, 62 FR 27296, 27355 (May 19, 1997) (preamble to the Department's regulations). Consistent with 19 CFR 351.403(c), we excluded from our analysis those sales where the price to the affiliated parties was less than 99.5 percent of the price to the unaffiliated parties.

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade (LOT) as the export price or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997) (Cut-to-Length Plate from South Africa). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the ''chain of distribution''), including selling functions, class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for export price and comparison market sales (i.e., normal value based on either home market or third country prices[4]), we consider the starting prices before any adjustments. 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. See Micron Technology, Inc. v. United States, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing export price or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a normal value LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between normal value and CEP affected price comparability (i.e., no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See Cut-to-Length Plate from South Africa, 62 FR 61731 (November 19, 1997).

We obtained information from Indo Evergreen, Zeta and Dieng/Surya regarding the marketing stages involved in making the reported home market (for Indo Evergreen and Zeta) and third country market (for Dieng/Surya) and U.S. sales, including a description of the selling activities performed by Indo Evergreen, Zeta and Dieng/Surya for

[4] Where normal value is based on constructed value, we determine the normal value LOT based on the LOT of the sale from which we derive selling, general and administrative (SG&A) expenses and profit for constructed value, where possible.

each channel of distribution. Company-specific LOT findings are summarized below.

Indo Evergreen: All of Indo Evergreen's sales in the home market are through distributors who resell the merchandise to wholesalers for distribution, with the exception of a small amount of sales to its employees for consumption. We examined those two channels of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Indo Evergreen. Specifically, Indo Evergreen does not provide inventory maintenance, after sale services, technical advise, advertising, or sales support for any of its home market customers. Indo Evergreen does incur some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided to all home-market customers regardless of the channels of distribution or customer categories. Because Indo Evergreen has the same selling functions for both channels of distribution (i.e., pre-delivery inspections), we find that both channels of distribution constitute one LOT.

In the U.S. market, Indo Evergreen made only export price sales through two channels of distribution: (1) Through trading companies, and (2) through distributors who resold the merchandise to wholesalers for distribution either to supermarket chains or food service distributors. Similar to the home market LOT, Indo Evergreen does not provide inventory maintenance, after sale services, technical advise, advertising, or sales support in selling to its U.S. customers. In addition, Indo Evergreen does incur some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided equally to all customers regardless of the channels of distribution or customer categories. Accordingly, there is only one LOT for U.S. sales.

We compared the export price LOT to the home market LOT and concluded that the selling functions performed for home market customers are the same as those performed for U.S. customers (i.e., pre-delivery inspection). Accordingly, we consider the export price and home market LOTs to be the same. Consequently, we are comparing export price sales to sales at the same LOT in the home market.

Zeta: Zeta reported sales in the home market through two channels of distribution: (1) Unaffiliated distributors, and (2) unaffiliated end-users. We examined the chain of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Zeta. Specifically, Zeta provided only delivery arrangements for distributors and trading companies. Zeta does not maintain inventory or provide technical advice, warranty service or advertising for home market sales. Zeta did not indicate that there are any differences with respect to freight and delivery services between these channels of distribution or customer categories. Therefore, we find that the home market channels of distribution do not differ significantly from each other with respect to selling activities and, therefore, constitute one LOT.

In the U.S. market, Zeta made only export price sales through one channel of distribution: sales to distributors shipped directly to the United States. Zeta incurred freight costs in delivering the product to the port. Zeta provided no technical advice or warranty services in the U.S. market, nor did it provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, there is only one LOT for U.S. sales.

We compared the export price LOT to the home market LOT and concluded that the selling functions performed for home market customers are the same as those performed for U.S. customers (i.e., freight/delivery services). Accordingly, we consider the export price and home market LOTs to be the same. Consequently, we are comparing export price sales to sales at the same LOT in the home market.

Dieng/Surya: As stated above, where normal value is based on CV, we determine the normal value LOT based on the LOT of the sales from which we derive SG&A and profit for CV, where possible. In the case of Dieng/Surya, because we are basing normal value on CV and using the SG&A expenses of Dieng/Surya in the calculation of CV, we conducted our LOT analysis in part based on the information provided by Dieng/Surya concerning its third country and U.S. marketing stages, including selling activities performed for each channel of distribution. In addition, because we are basing Dieng/Surya's profit for CV calculation purposes on the experience of the other two respondents in this review (see ''Calculation of Constructed Value'' section below), we also conducted our LOT analysis in part based on the information provided by the other two respondents.

Dieng/Surya sold the foreign like product directly to trading companies in the third country. We examined the chain of distribution and the selling activities associated with third country sales through this channel of distribution, and determined that there was little difference in the relevant selling functions provided by Dieng/Surya to its third country customers. Specifically, Dieng/Surya provided only delivery services to these customers. Dieng/Surya does not maintain inventory or provide technical advice, warranty service or advertising for its third country sales. Therefore, we find that all of Dieng/Surya's third country sales were made at the same LOT.

In the U.S. market, Dieng/Surya made only export price sales through an affiliated company located in the Netherlands, which in turns sold to three different customers in the United States: 1) distributors, 2) wholesalers and 3) trading companies. For its U.S. sales, Dieng/Surya incurs freight costs in delivering the product to the port. Dieng/Surya provided no technical advice or warranty services in the U.S. market, nor did it provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, we find that there is only one LOT for U.S. sales.

We compared the export price LOT to the third country LOT and concluded that the selling functions performed for third country market customers are the same as those performed for U.S. customers (i.e., freight/delivery services). Accordingly, we consider the export price and third country market LOTs to be the same. Consequently, no LOT adjustment to normal value (i.e., CV) is warranted based on a comparison of Dieng/Surya's third country and U.S. marketing stages.

Furthermore, as discussed above, we found the home market and export price LOTs to be the same for the other two respondents in this review, the data of which were used to derive Dieng/Surya's profit rate. Consequently, no LOT adjustment to normal value is warranted on this basis either.

Cost of Production Analysis

Because we disregarded sales that failed the cost test for Dieng/Surya, Indo Evergreen and Zeta in the last completed segment of the proceeding (see Certain Preserved Mushrooms From Indonesia: Final Results of Antidumping Duty Administrative Review, 66 FR 36754 (July 13, 2001)), we had reasonable grounds to believe or suspect that the respondents' sales of the foreign like product under consideration for the determination of

normal value in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of home market sales made by Indo Evergreen and Zeta, and third country sales made by Dieng/Surya.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Dieng/Surya's, Indo Evergreen's and Zeta's cost of materials and fabrication for the foreign like product, plus amounts for SG&A, interest expenses, and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home (for Indo Evergreen and Zeta) and third country (for Dieng/Surya) market sales, and COP information the respondents provided in their questionnaire responses, except for the following adjustments:

For Indo Evergreen, we adjusted the general and administrative (G&A) expense rate by including Indo Evergreen's foreign exchange losses on accounts payable. For Zeta, we adjusted the reported production quantities by deducting waste production quantities. We also reclassified foreign exchange gains and losses to G&A expense. In addition, we decreased Zeta's claimed offset to material costs by excluding scrap revenue attributable to non-subject merchandise sales. For further details, see Preliminary Calculation Memorandum from Sophie Castro, Financial Analyst, to Irene Darzenta Tzafolias, Program Manager, Office 2, AD/CVD Enforcement Group I, Import Administration, dated February 28, 2002, for Zeta and Indo Evergreen, respectively.

B. Test of Home and Third Country Market Prices

We compared the weighted-average, per-unit COP figures for the POR to home (for Indo Evergreen and Zeta) and third country (for Dieng/Surya) market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) Within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP, consisting of the COM, G&A, and interest, to the home market or third country prices, less any applicable movement charges, rebates, discounts and direct and indirect selling expenses. We adjusted Zeta's reported home market indirect selling expenses to exclude certain misclassified expenses. For further details, see Zeta's Preliminary Calculation Memorandum.

3. Results of COP Test

Pursuant to section 773(b)(2)(C), 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 twenty percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below–cost sales where such sales were found to be made at prices which would not permit the recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act).

For Dieng/Surya, our cost test indicated that all third country sales made by Dieng/Surya, over an extended period of time, were at prices below COP and would not permit full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we excluded these below-cost sales and based normal value on CV.

The results of our cost tests for Indo Evergreen and Zeta indicated for certain home market products that less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining normal value.

Our cost tests also indicated, for both Indo Evergreen and Zeta, that for certain other home market products more than twenty percent of home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we excluded these below–cost sales from our analysis and used the remaining sales as the basis for determining normal value.

Price-to-Price Comparisons

For Indo Evergreen and Zeta, we based normal value on the price at which the foreign like product is first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and at the same LOT as the export price, as defined by section 773(a)(1)(B)(i) of the Act.

Home market prices were based on either ex-factory or delivered prices. We reduced normal value for home market movement expenses, where appropriate, in accordance with section 773(a)(6)(B)(ii). We also reduced normal value for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i), and increased normal value to account for U.S. packing expenses in accordance with section 773(a)(6)(A). We also made adjustments for differences in circumstances of sale (COS) in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, by deducting home market direct selling expenses (i.e., credit) and adding U.S. direct selling expenses (i.e., credit, U.S. warranty and bank charges), where applicable.

Finally, we made adjustments to normal value, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Calculation of Constructed Value

We calculated CV for Dieng/Surya in accordance with section 773(e) of the Act, which indicates that CV shall be based on the sum of the respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A, profit, and U.S. packing costs. For Dieng/Surya, we relied on the submitted CV information except for the following adjustments:

For Dieng/Surya, because of the absence of comparable third country sales during the POR, we derived profit in accordance with section 773(e)(2)(B)(ii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316, Vol. 1 at 839–841 (1994). Section 773(e)(2)(B)(ii) of the Act allows the Department to use the weighted average of the actual profit amounts realized by other exporters or producers that are subject to the review in connection with the production and sale of a foreign like product in the ordinary course of trade, for consumption in the foreign country. See 19 CFR 351.405(b)(2) (stating that under section 773(e)(2)(B) of the Act, ''foreign country''≥ means the country in which the merchandise is produced).

Because Indo Evergreen and Zeta both have a viable home market, and actual company-specific profit data are available, we calculated Dieng/Surya's profit as a weighted average of the profit amounts experienced by Indo Evergreen and Zeta. For further details, see Preliminary Calculation Memorandum

from Rebecca Trainor, Case Analyst, to Irene Darzenta Tzafolias, Program Manager, dated February 28, 2002, for Dieng/Surya.

For Dieng/Surya's selling expenses, we used the company's actual selling expenses incurred on sales to its third country market because this data reflects Dieng's/Surya's actual experience in selling the foreign like product. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile, 63 FR 56613, 56615 (October 22, 1998).

Price-to-Constructed Value Comparisons

For Dieng/Surya, we based normal value on CV, in accordance with section 773(a)(4) of the Act. For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with 773(a)(8) of the Act, and 19 CFR 351.410. We made COS adjustments by deducting third country market direct selling expenses (comprised of imputed credit) and adding U.S. direct selling expenses (comprised of imputed credit, warranties and bank charges).

Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period February 1, 2000, though January 31, 2001, are as follows:

Manufacture/exporter	Margin (percent)
PT Dieng Djaya and PT Surya Jaya Abadi Perkasa	0.59%
PT Indo Evergreen Agro Business Corp.	0.09% (de minimis)
PT Zeta Agro Corporation	0.27% (de minimis)

We will disclose calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice, or the first work day thereafter.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. See 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated in the final results of this review is above de minimis (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined. In order to estimate the entered value, we will subtract applicable movement expenses from the gross sales value.

Cash Deposit Requirements.

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those 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(c)(1), in which case the cash deposit rate 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 original 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 11.26 percent, the ''All Others'' rate made effective by the LTFV investigation. These 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.

This administrative review and notice are published ign accordance with sections 751(a)(1) of the Act and 19 CFR 351.221.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5474 Filed 3–6–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to timely requests by four manufacturer/exporters and the petitioner,[1] on March 22, 2001, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to twelve companies. The period of review is February 1, 2000, through January 31, 2001.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Kate Johnson, or Margarita Panayi, Office 2, AD/CVD Enforcement Group I, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136, (202) 482–4929, or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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's (the Department's) regulations are to 19 CFR Part 351 (April 2001).

Background

On February 19, 1999, the Department published in the Federal Register an amended final determination and antidumping duty order on certain preserved mushrooms from India (64 FR 8311).

On February 14, 2001, the Department published a notice advising of the opportunity to request an administrative review of the antidumping duty order on certain preserved mushrooms from India (66 FR 10269). In response to timely requests by four manufacturer/exporters, Agro Dutch Foods Ltd. (Agro Dutch), Himalya International Ltd. (Himalya), Hindustan Lever Ltd. (formerly Ponds India Ltd.) (HLL), and Weikfield Agro Products, Ltd. (Weikfield), and the petitioner, the Department published a notice of initiation of an administrative review with respect to twelve companies: Agro Dutch, Alpine Biotech Ltd. (Alpine Biotech), Dinesh Agro Products Ltd. (Dinesh Agro), Flex Foods Ltd. (Flex Foods), Himalya, HLL, Mandeep Mushrooms Ltd. (Mandeep), Premier Mushroom Farms (Premier), Saptarishi Agro Industries Ltd. (Saptarishi), Techtran Agro Industries Limited (Techtran), Transchem Ltd.(Transchem), and Weikfield (66 FR 16037, March 22, 2001). The period of review (POR) is February 1, 2000, through January 31, 2001.

On March 30, 2001, the Department issued antidumping duty questionnaires to the above-mentioned twelve companies. We received responses to the original questionnaire during the period May through July 2001. We issued supplemental questionnaires in August 2001 and January 2002, and received responses during the period August through September 2000 and February 2002.

On April 23, 2001, we received a timely submission from HLL to withdraw its request for an administrative review. On April 24, 2001, we received a timely submission from the petitioner to withdraw its request for administrative reviews of HLL and Transchem.

In June 2001, counsel for Saptarishi informed the Department that the company would no longer participate in the 2000–2001 administrative review. On June 14, 2001, we received a timely submission from the petitioner to withdraw its request for administrative review of Alpine Biotech, Dinesh Agro, Flex Foods, Mandeep, Premier, and Techtran. On July 13, 2001, the Department published a notice of partial recission of the antidumping duty administrative review with respect to Alpine Biotech, Dinesh Agro, Flex Foods, HLL, Mandeep, Premier, and Techtran, and Transchem (66 FR 36753). Therefore, the Department is reviewing only Agro Dutch, Himalya, Saptarishi and Weikfield in this administrative review.

On July 11, 2001, the Department received an allegation from the petitioner that Himalya sold certain preserved mushrooms in India at prices below the cost of production (COP). On August 9, 2001, the Department initiated a cost investigation of Himalya's home-market sales of this merchandise. See August 9, 2001, Memorandum to Louis Apple from The Team Regarding ''Allegation of Sales Below the Cost of Production for Himalya International Limited (Himalya).'' On July 19, 2001, the Department extended the time limit for the preliminary results in this review until February 28, 2002. See Certain Preserved Mushrooms from India, Indonesia, and the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Reviews, 66 FR 37640.

Scope of the Order

The products covered by this order are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter, or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified,'' or ''pickled'' mushrooms, which are

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushrooms Canning Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp.

prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (HTS)[2]. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Use of Facts Otherwise Available

As noted above in the ''Background'' section, Saptarishi informed the Department in June 2001 that it would no longer participate in this review. Because of Saptarishi's refusal to cooperate in this review, we determine that the application of facts available is appropriate, pursuant to section 776(a)(2) of the Act.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Because Saptarishi refused to participate in this administrative review, we find that, in accordance with sections 776(a)(2)(A) and (C) of the Act, the use of total facts available is appropriate (see, e.g., Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 50183, 50184 (August 17, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 40609, 40610–40611 (June 30, 2000)); Notice of Final Determination of Sales at Less Than Fair Value: Persulfates from the People's Republic of China, 62 FR 27222, 27224 (May 19, 1997); and Certain Grain-Oriented Electrical Steel from Italy: Final Results of Antidumping Duty Administrative Review, 62 FR 2655 (January 17, 1997) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Certain Grain-Oriented Electrical Steel from Italy, 61 FR 36551, 36552 (July 4, 1996)).

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103–316, at 870 (1994). Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' See Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296, 27340 (May 19, 1997).

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.'' Saptarishi informed the Department of its unwillingness to participate in this review, thereby failing to comply with this provision of the statute. Therefore, we determine that Saptarishi failed to cooperate to the best of its ability, making the use of an adverse inference appropriate.

In this proceeding, in accordance with Department practice (see, e.g., Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review Brake Rotors From the People's Republic of China, 64 FR 61581, 61584 (November 12, 1999); and Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 65 FR 33295 (May 23, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Fresh Garlic From the People's Republic of China, 64 FR 39115 (July 21, 1999)), as adverse facts available, we have preliminarily assigned to exports of the subject merchandise produced by Saptarishi the rate of 66.24 percent, the highest rate calculated for any cooperative respondent in the original less-than-fair-value (LTFV) investigation or the 1998–2000 administrative review. The rates assigned to respondents in the previous two segments of the proceeding range from single digits for cooperative respondents to a petition rate of 243.87 for non-cooperative respondents. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' See Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998). We find the application of a rate of 66.24 percent to Saptarishi to be sufficiently adverse in this case.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See SAA at 870. The SAA states that ''corroborate'' means to determine that the information used has probative value (id.). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.

Unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can derive calculated dumping margins; the only source for margins is administrative determinations. In an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period, because it was calculated in accordance with the statute.

[2] As of January 1, 2002, the HTS numbers are as follows: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be relevant, the Department will attempt to find a more appropriate basis for facts available. See, e.g., Final Results of Antidumping Duty Administrative Review: Fresh Cut Flowers from Mexico, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

We preliminarily determine that the calculated margin selected, as adverse facts available, is relevant, and has probative value because it is based on verified data from a respondent in the immediately preceding administrative review. Although this margin is the highest in the range of calculated margins, there is no basis to conclude that it is aberrational or is inappropriate as applied to Saptarishi. Accordingly, we determine that this rate is an appropriate rate to be applied in this review to exports of the subject merchandise produced by Saptarishi as facts otherwise available.

Allegation of Duty Reimbursement

In its January 30, 2002, comments, the petitioner alleges that because Agro Dutch and Weikfield are the importers of record for the preserved mushrooms they produce and export to the United States, and, therefore, pay all applicable antidumping cash deposits and duties on this merchandise, they are paying duties on behalf of their respective importers within the meaning of the Department's reimbursement regulation. See 19 CFR 351.402(f). In numerous cases, the Department has held that reimbursement within the meaning of the regulation does not occur when the importer and exporter are the same legal entity. Because Agro Dutch and Weikfield function both as the exporter and U.S. importer of the preserved mushrooms they produce, there is no basis for reducing U.S. price under the Department's reimbursement regulation. See, e.g., Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review, 66 FR 53388 (October 22, 2001), and accompanying Issues and Decision Memorandum at Comment 1.

Fair Value Comparisons

To determine whether sales of certain preserved mushrooms by the respondents to the United States were made at less than normal value, we compared constructed export price (CEP) or export price, as appropriate, to the normal value, as described in the ''Export Price/Constructed Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the export prices of individual U.S. transactions to the weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section below.

In this review, neither Agro Dutch nor Weikfield had a viable home or third country market. Therefore, as the basis for normal value, we used constructed value when making comparisons in accordance with section 773(a)(4) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. With respect to Himalya, we compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the home market to compare to U.S. sales, we compared U.S. sales to constructed value. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: preservation method, container type, mushroom style, weight, grade, container solution, and label type.

For Agro Dutch and Weikfield, we compared U.S. sales to constructed value because these respondents had insufficient home market and/or third country sales during the POR. See ''Normal Value'' section below for further discussion.

Export Price/Constructed Export Price

For Agro Dutch and Weikfield, we used export price methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold first to an unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. With respect to Himalya, we calculated CEP in accordance with section 772(b) of the Act, because the subject merchandise was first sold by Transatlantic or Global Reliance, Himalya's affiliated importers in the United States, after importation into the United States. We based export price and CEP on packed, FOB, C&F, CIF, ex port/warehouse, and delivered prices, as appropriate, to unaffiliated purchasers in the United States. For each respondent, for those U.S. sales for which the payment was not received as of the date of the last questionnaire response, we recalculated imputed credit for purposes of a circumstance-of-sale (COS) adjustment using the date of the preliminary results, February 28, 2002, as the date of the payment. We will provide the respondents an opportunity to provide updated payment data for use in the final results.

Agro Dutch

We made deductions from the starting price, where appropriate, for foreign inland freight, freight document charges, insurance, foreign brokerage, Indian export duty (CESS), and international freight in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a).

In a February 11, 2002, submission, Agro Dutch stated that it made data entry errors in reporting the per-unit expenses incurred on certain U.S. sales for foreign inland freight, foreign brokerage, and CESS. Agro Dutch provided a revised sales listing with that submission in which it claimed to correct these errors. However, this unsolicited sales data revision is incomplete, as the accompanying narrative lacks details about the nature of the errors and corrections made by Agro Dutch, and is untimely for analysis and use in the preliminary results. Accordingly, we are using the information in the previously submitted sales response for the preliminary results. However, we will provide Agro Dutch with an opportunity to resubmit sales expense corrections, along with detailed explanations, following the issuance of the preliminary results for consideration in the final results.

Also, in the February 11, 2002, submission, Agro Dutch advised the Department for the first time in this

segment of the proceeding that it received monetary advances from one of its customers in anticipation of future shipments for which the product and price were not determined at the time of the advance. This statement suggests that Agro Dutch may have a long-term contract or sales agreement with this customer, yet Agro Dutch claims that it had no binding contracts or agreements with any U.S. customers during the POR (see Agro Dutch's August 30, 2001, supplemental questionnaire response at page 1). Further, Agro Dutch's reporting of pre-payments appears inconsistent with its earlier statement that all of its U.S. sales are sold with payment terms of 90 days after the bill of lading date (see May 25, 2001, Section C questionnaire response at page C–12).

In the previous review, Agro Dutch reported that it had a sales agreement of some sort with this customer, but failed to provide it for the record despite specific requests from the Department. Because the Department could not adequately determine whether Agro Dutch had reported the correct date of sale without reviewing the sales agreement, the Department made an adverse inference in applying facts available to calculation factors affected by the date of sale. See Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review, 66 FR 13896, 13899 (March 8, 2001) (1998–2000 Preliminary Results); and Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review, 66 FR 42507 (August 13, 2001), and accompanying Issues and Decision Memorandum at Comment 2.

Agro Dutch's February 11, 2002, description of its sales to this customer requires further explanation as to the existence of any sales agreement with this customer, the appropriate date of sale, and the relevant payment terms. However, we had insufficient time prior to the preliminary results to seek this clarification. Thus, for purposes of the preliminary results, we are relying on the same reasoning as in the 1998–2000 Preliminary Results and applying partial facts available under section 776(a) of the Act to the data affected by date of sale and payment terms, namely the exchange rate for currency conversions and imputed credit. Given the untimeliness and incompleteness of Agro Dutch's explanation of the sale terms to this customer in this review, we find that, for purposes of the preliminary results, Agro Dutch has not cooperated to the best of its ability to comply with the Department's requests in the questionnaire and supplemental questionnaire to supply full information of its payment terms and copies of any sales agreements. Thus, adverse inferences are warranted in applying facts available for the affected data pursuant to section 776(b) of the Act. As adverse facts available for the exchange rate, we are applying the highest exchange rate during the POR for all currency conversions involving these sales. As facts available for imputed credit, we are recalculating imputed credit for these sales by using the date of the preliminary results, February 28, 2002, as the payment date. We will provide Agro Dutch with the opportunity to provide further information on this topic after the issuance of the preliminary results for consideration in the final results.

Himalya

We made deductions from the CEP starting price, where appropriate, for foreign inland freight, brokerage and handling expenses, international freight, marine insurance, U.S. duty, U.S. inland freight, and U.S. warehousing expenses in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a). We also deducted indirect selling expenses, credit expenses, and inventory carrying costs pursuant to section 772(d)(1) of the Act and 19 CFR 351.402(b). We recalculated credit expenses and inventory carrying costs using a public-source U.S. interest rate. See February 28, 2002 Memorandum to the File Preliminary Results Calculation Memorandum for Himalya International Ltd. (Himalya) (Himalya Calculation Memo) for specifics as to why Himalya's reported U.S. interest rate data was insufficient. We made an adjustment for CEP profit in accordance with section 773(d)(3) of the Act. Finally, since there was insufficient time prior to the preliminary results to request additional information/clarification regarding certain expenses/adjustments, we will issue a supplemental questionnaire subsequent to the preliminary results. See Himalya Calculation Memo.

Weikfield

We made deductions from the starting price, where appropriate, for discounts, foreign inland freight, foreign inland and marine insurance, foreign brokerage and handling, international freight, CESS, and U.S. duty (including U.S. brokerage and handling expenses) in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a).

We revised Weikfield's reported discount amount granted to one customer based on information in the questionnaire responses to correct an allocation error acknowledged by Weikfield.

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 normal value, we compared the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Himalya's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Therefore, we determined that the home market provides a viable basis for calculating normal value for Himalya.

With regard to Weikfield, we determined that its home market was not viable because the aggregate volume of home market sales of the foreign like product was less than five percent of the aggregate volume of U.S. sales of the subject merchandise. Agro Dutch reported that during the POR it made no home market sales. Neither Agro Dutch nor Weikfield reported any third country sales during the POR. Therefore, we determined that neither the home market nor any third country market was a viable basis for calculating normal value for Agro Dutch and Weikfield. As a result, we used constructed value as the basis for calculating normal value for these two respondents, in accordance with section 773(a)(4) of the Act.

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade (LOT) as the export price or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing (id.); see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the ''chain of distribution''), including selling functions, class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for export price and comparison market sales (i.e., NV based on either home market or third country prices[3]), we consider the starting prices before any adjustments. 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. See Micron Technology, Inc. v. United States, Court Nos. 00–1058–1060 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the export price or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing export price or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a normal value LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between normal value and CEP affected price comparability (i.e., no LOT adjustment is practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. 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).

We examined Himalya's home market and U.S. distribution systems, including selling functions, classes of customers, and selling expenses. Himalya sold to wholesalers, retailers, caterers, canteens, and restaurants in the home market and through their affiliated importers to distributors and wholesalers in the United States. However, Himalya did not provide information on its selling activities for its transactions with its affiliated importers. Therefore, we are unable perform a LOT analysis comparing the selling functions provided by Himalya on its home market sales and those provided by Himalya on sales to its affiliated importers. Accordingly, an adjustment pursuant to sections 773(a)(7)(A) or 773(a)(7)(B) is not warranted.

For Agro Dutch and Weikfield, because we based normal value on constructed value, and are applying the profit rate and selling expense rates calculated for these respondents from the most recently completed segment of this proceeding, i.e., the 1998–2000 administrative review, as both of these respondents had viable foreign markets in that review (see ''Calculation of Constructed Value'' section below), we are also using the information from the previous review for our LOT analysis. In that review, we found a single LOT for both Agro Dutch and Weikfield. See 1998 - 2000 Preliminary Results, 66 FR at 13898. Therefore, we made neither a LOT adjustment nor a CEP offset (in the case of Himalya) to normal value for any of the companies in this review.

Cost of Production Analysis

The Department disregarded certain sales made by Agro Dutch and Weikfield in the 1998–2000 administrative review, pursuant to findings in that review that sales failed the cost test (see Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review, 66 FR 13896 (March 8, 2001)). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that respondents Agro Dutch and Weikfield made sales in the home market or third country at prices below the cost of producing the merchandise in the current review period. However, as discussed above in the ''Normal Value'' section of this notice, neither Agro Dutch nor Weikfield had a viable home or third country market during the POR. Accordingly, we cannot perform a cost test with regard to Agro Dutch or Weikfield. In addition, as stated in the ''Background'' section of this notice, based on a timely allegation filed by the petitioner, the Department initiated an investigation to determine whether Himalya's home market sales were made at prices less than the cost of production within the meaning of section 773(b) of the Act.

A. Calculation of COP

We calculated the COP on a product-specific basis, based on the sum of Himalya's cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative (SG&A) expenses, interest expense, and the cost of all expenses incidental to placing the foreign like product in a condition packed ready for shipment in accordance with section 773(b)(3) of the Act.

We relied on COP information submitted by Himalya, except for the following adjustments: we recalculated G&A and interest expenses to include certain expenses which were not included in the original calculation. See Himalya Calculation Memo.

B. Test of Home Market Prices

For Himalya, we compared the weighted-average, per-unit COP figures for the POR to home market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP, consisting of the cost of manufacturing, G&A and interest expenses, to the net home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses. We revised indirect selling expenses to allocate 12 months of expenses over 12 months of sales because Himalya reported a ratio of 12 months of expenses to ten months of sales (see Himalya Calculation Memo).

C. Results of COP Test

The results of our cost test for Himalya indicated all sales were at prices above COP. We therefore retained all sales in our analysis and used them as the basis for determining normal value.

Price-to-Price Comparisons

For Himalya, we based normal value on the price at which the foreign like product is first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, and at the same LOT as CEP, as defined by section 773(a)(1)(B)(i) of the Act.

We reduced normal value for inland freight, insurance and brokerage, and discounts and rebates, where appropriate, in accordance with section 773(a)(6) of the Act and 19 CFR 351.401.

We also reduced normal value for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i), and increased normal value to account for U.S. packing expenses in accordance with section 773(a)(6)(A). We made a deduction for credit expenses, where appropriate, pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we made adjustments to normal value, where appropriate, for differences in costs attributable to differences in the physical characteristics of the

[3] Where normal value is based on constructed value, we determine the normal value LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) and profit for constructed value, where possible.

merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Calculation of Constructed Value

We calculated constructed value in accordance with section 773(e) of the Act, which indicates that constructed value shall be based on the sum of each respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A expenses, profit and U.S. packing costs. For Agro Dutch and Weikfield, we relied on the submitted constructed value information except for the following adjustments:

Agro Dutch

Agro Dutch revised its G&A and interest expense rates in its supplemental response but did not submit a revised constructed value data base reflecting these revisions. We recalculated the G&A and interest rates using this revised data.

Weikfield

We recalculated Weikfield's G&A rate using information based on its 2000–2001 audited financial statement. For an explanation of the recalculation, see the February 28, 2002, Memorandum to the File Weikfield Preliminary Results Calculation Notes.

Because Agro Dutch and Weikfield had no viable home or third country market during the POR, we derived profit and selling expenses for Agro Dutch and Weikfield in accordance with section 773(e)(2)(B)(iii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316, Vol.1 at 839–841 (1994) (SAA). Section 773(e)(2)(B)(iii) of the Act allows the Department to calculate selling expenses and profit using any reasonable method, provided that the amount for profit does not exceed the amount normally realized by exporters or producers ''in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise,'' the so-called ''profit cap.'' See 19 CFR 351.405(b)(2) (clarifying that under section 773(e)(2)(B) of the Act, ''foreign country'' means the country in which the merchandise is produced). However, when the Department is unable to calculate a ''profit cap'' due to an absence of information on the record, it may calculate profit based on the facts otherwise available based on any reasonable method and without a profit cap. See the SAA at 841.

For this review, we are unable to determine the amounts that exporters and producers of merchandise that is in the same general category of products as the subject merchandise in the foreign market incurred and realized for selling expenses and profit (i.e., we are unable to calculate a ''profit cap'') due to insufficient information on the record. As facts available, we are applying the profit rates and selling expenses calculated for Agro Dutch and Weikfield, respectively, in the most recent segment of this proceeding. See February 28, 2002, Memoranda to the File Agro Dutch 1998–2000 Profit and Selling Expense Rate Calculations and Weikfield 1998–2000 Profit and Selling Expense Rate Calculations. This approach is consistent with that applied in Frozen Concentrated Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 51008, (October 5, 2001), and accompanying Issues and Decision Memorandum at Comment 3.

Agro Dutch provided profit rate information on certain Indian food processors in its February 11, 2002, submission. This unsolicited new factual information was received too late for any consideration in the preliminary results. Further, it is incomplete as the information consists solely of the profit rates and sales results of certain Indian companies, without any supporting information such as complete annual reports or financial statements for these companies. We will provide Agro Dutch with an opportunity to supplement this information with supporting details in time for consideration in the final results. We will extend the same opportunity to the other parties in this segment of the proceeding to submit additional factual information relevant to the selection of the constructed value profit and selling rates for consideration in the final results.

Price-to-Constructed Value Comparisons

For Agro Dutch and Weikfield, we based normal value on constructed value, in accordance with section 773(a)(4) of the Act. For comparisons to Agro Dutch's and Weikfield's export price sales, we made COS adjustments by deducting from constructed value the weighted-average home market direct selling expenses and adding the U.S. direct selling expenses, in accordance with section 773(a)(8) of the Act and section 19 C.F.R. 351.410.

As noted above under the ''Export Price/Constructed Export Price'' section, for Agro Dutch and Weikfield, we recalculated imputed credit expenses used for COS adjustment purposes on U.S. sales unpaid as of the last questionnaire response. As discussed above, we also recalculated imputed credit expenses on U.S. sales made by Agro Dutch to a particular customer.

Currency Conversion

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

Preliminary Results of Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period February 1, 2000, through January 31, 2001, are as follows:

Manufacturer/Exporter	Percent Margin
Agro Dutch Foods, Ltd.	1.54
Himalya International, Ltd.	0.68
Saptarishi Agro Industries, Inc. ..	66.24
Weikfield Agro Products, Ltd.	0.00

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If requested, a hearing will be scheduled upon receipt of responses to supplemental questionnaires and determination of briefing schedule.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted in accordance with a schedule to be determined upon the receipt of responses to supplemental questionnaires, which the Department will issue subsequent to the preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those 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(c)(1), in which case the cash deposit rate 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 original 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 11.30 percent, the ''All Others'' rate made effective by the LTFV investigation. These 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.

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 351.221.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5475 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar from India; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review

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

ACTION: Notice of preliminary results and partial rescission of 2000–2001 administrative review.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on stainless steel bar from India with respect to Viraj Group, Limited (''Viraj''). This review covers sales of stainless steel bar to the United States during the period February 1, 2000, through January 31, 2001.

We preliminarily find that, during the period of review, Viraj has not made sales below normal value. If these preliminary results are adopted in our final results of this administrative review, we will instruct the Customs Service not to assess antidumping duties. Interested parties are invited to comment on these preliminary results. Parties who submit arguments are also requested to submit (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Melanie Brown or Cole Kyle, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4987 or (202) 482–1503 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

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

Background

On February 21, 1995, the Department published in the Federal Register (60 FR 9661) the antidumping duty order on stainless steel bar from India. The Department notified interested parties of the opportunity to request an administrative review of this order on February 14, 2001 (66 FR 10269). In February 2001, the Department received requests for review from five Indian producers of the subject merchandise: Shaw Alloys Corp., Ltd (''Shaw''); Ferro Alloys Corp. Ltd. (''FACOR''); Isibars Limited (''Isibars''); Viraj Group, Ltd. (''Viraj''); and Panchmahal Steel Limited (''Panchmahal''). Concurrent with their request for review, Isibars and Viraj also requested revocation from the antidumping duty order. In accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on March 22, 2001 (66 FR 16037) with respect to Shaw, FACOR, Isibars, Viraj, and Panchmahal. The period of review (''POR'') is February 1, 2000, through January 31, 2001.

On March 30, 2001, Shaw Alloys withdrew its request for review. Panchmahal and FACOR withdrew their requests for review on June 1 and June 13, 2001, respectively. The above withdrawal requests were timely and no other interested party had requested a review of these companies. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the reviews of Shaw, FACOR, and Panchmahal.

On December 20, 2001, Isibars withdrew its request for review. Although this withdrawal was received

by the Department after the regulatory deadline of June 20, 2001, section 351.213(d)(1) of the regulations permits the Department to extend the deadline if ''it is reasonable to do so.'' Therefore, in accordance with section 351.213(d)(1) of the Department's regulations, the Department extended the deadline to withdraw requests for review and rescinded the administrative review with respect to Isibars (See the January 3, 2002 memorandum to Richard Moreland entitled, ''Rescission of Administrative Review of Isibars, Ltd.'' which is on file in the Department's Central Records Unit (''CRU'') in the main Department building). Therefore, for purposes of this administrative review, the only company reviewed is Viraj.

On July 19, 2001, the petitioners alleged that Viraj had made sales below the cost of production. Because the petitioners' allegation provided a reasonable basis to believe or suspect that sales in the home market by Viraj had been made at prices below the cost of production, the Department initiated a sales below cost investigation of Viraj on September 7, 2001. (See Cost of Production Analysis below).

Request for Revocation

According to section 351.222(b)(2)(i) of the Department's regulations, the Secretary may revoke an antidumping duty order in part if one or more of the exporters or producers covered by the order have sold the merchandise at not less than normal value for a period of at least three consecutive years. Section 351.222(b)(4)(d)(1) allows that the company requesting revocation need not have been reviewed during the intervening year (i.e., ''any year between the first and final year of the consecutive period on which revocation or termination is conditioned'' (351.222(b)(4)(d)(2)).

Viraj was reviewed in the 1998–1999 administrative review and received a 2.50 percent margin (See, Stainless Steel Bar From India; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review, 65 FR 48965 (August 10, 2000). Viraj was not reviewed in the 1999–2000 administrative review (the ''intervening year''). Viraj's request for revocation is based on an assumption that it will be found to be not dumping in the pending litigation of the 1998–1999 administrative review, not on the basis of an actual finding of no dumping. Because Viraj was found to be dumping in the 1998–1999 administrative review at 2.50 percent, Viraj has not had three consecutive years of no dumping. Accordingly, we find that Viraj does not meet the standard for revocation. In addition, the Department notes that Viraj failed to certify commercial quantities pursuant to 19 CRF 351.222(e)(1)(ii) of the Department's regulations.

Scope of Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut length flat–rolled products (i.e., cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Collapsing

The regulations state that we will treat two or more affiliated producers as a single entity where 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 we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the factors we may consider include the following: (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; (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. See 19 CFR 351.401(f).

The Viraj Group Ltd. has responded to the Department's questionnaire on behalf of the affiliated companies, Viraj Forgings, Ltd. (''VFL''); Viraj Alloys, Ltd. (''VAL''); Viraj Impoexpo, Ltd. (''VIL''); and Viraj USA, Inc. (''Viraj USA''). Based on the information currently on the record, we agree with Viraj that these companies are affiliated and should be collapsed for purposes of these preliminary results.

The information on the record indicates that there is common ownership among the companies in the Viraj Group Ltd. and that certain individuals serve on the board of directors of each of the four companies. The operations of the companies are intertwined through close supplier relationships, as VAL supplies VIL with the input hot-rolled bar VIL processes into bright bar and sells to the United States. VAL, VIL, and VFL each use production facilities for similar or identical merchandise. VAL produces hot–rolled round bars and billets for sale in the home market. VIL also produces stainless steel billets, flanges, forgings and wires. VFL produces stainless steel forged flanges from billets procured from VAL. There is no evidence on the record to indicate that substantial retooling would be required for VAL, VIL, or VFL to restructure their manufacturing priorities.

Because the Viraj companies are under common control and ownership, the three producing companies use similar production facilities to produce similar products, and the operations of the companies are intertwined, we preliminarily find the Viraj companies are affiliated for the purposes of this administrative review and that VAL, VIL, and VFL, should be collapsed and considered one entity pursuant to section 771(33) of the Act and section 351.401(f) of the Department's regulations. We will consider this issue further for the final results.

Fair Value Comparisons

To determine whether sales of stainless steel bar from India to the United States were made at less than

normal value, we compared export price (''EP'') or constructed export price (''CEP'') to the normal value (''NV''), as described in the ''Export Price/ Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated EPs and CEPs for comparison to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the home market during the POR that fit the description in the ''Scope of Investigation'' section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Export Price/Constructed Export Price

We calculated EP in accordance with Section 772(a) of the Act for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on packed, CIF prices to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses including, inland freight, international freight, marine insurance, and brokerage, in accordance with section 772(c)(2)(A) of the Act.

In accordance with Section 772(b) of the Act, we calculated CEP for those sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on packed, CIF duty-paid prices to unaffiliated purchasers in the United States.

We made deductions from the starting price for movement expenses, including inland freight, international freight, marine insurance, brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act, where appropriate. We increased the EP and CEP, where appropriate, by the amount of duty drawback in accordance with section 772(c)(1)(B) of the Act.

Normal Value

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Viraj's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with 19 CFR 404(b)(2) of the Department's regulation. Because Viraj's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable.

2. Cost of Production Analysis

Based on our analysis of an allegation made by petitioners on July 19, 2001, we found that there were reasonable grounds to believe or suspect that the respondent's sales of the subject merchandise in their respective comparison markets were made at prices below their cost of production (''COP''). Accordingly, pursuant to section 773(b) of the Act, we initiated an investigation to determine whether Viraj made home market sales during the POR at prices below the COP, within the meaning of section 773(b) of the Act (See Memorandum from Team to Susan Kubach, Director, AD/CVD Enforcement Office 1, Allegation of Sales Below the Cost of Production for Viraj Impoexpo Ltd., dated September 7, 2001). We conducted the COP analysis described below.

3. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the Viraj's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A), and interest expenses, where appropriate. We relied on the COP information provided by Viraj in its questionnaire responses.

4. Test of Home Market Prices

On a product-specific basis, we compared the weighted–average COPs to home market sales of the foreign like product during the POR, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below the COP. The prices were exclusive of commissions and indirect selling expenses. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of costs within a reasonable period of time.

5. Results of the COP Test

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of a respondent's sales of a given product are made at prices below the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent ''substantial quantities'' within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales are made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. We found that Viraj did not make more than 20 percent of its sales of any product at prices less than the COP. Therefore, all of Viraj's home market sales have been included in the calculation of NV, in accordance with section 773(b)(1).

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the ''chain of distribution''),[1] including selling

[1] The marketing process in the United States and home market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondents' sales occur

Continued

functions,[2] class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales, (i.e., NV based on either home market or third country prices[3]) we consider the starting prices before any adjustments. For CEP sales, we consider only the selling expenses reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See Micron Technology, Inc. v. United States, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a))(7)(B) of the Act. 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).

Viraj reported that it sells to manufacturers and distributors in the home market and to distributors and resellers in the United States. Viraj reported two levels of trade (based on customer category) and a single channel of distribution in the home market. We examined the information reported by Viraj and found that home market sales to both customer categories were identical with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily find that Viraj had only one level of trade for its home market sales.

Viraj reported a single, different, level of trade and a single channel of distribution for its EP and CEP sales. The EP/CEP level of trade differs from the home market only with respect to freight and delivery. Thus, it was unnecessary to make any level-of-trade adjustment. See section 773(a)(7)(A) of the Act.

6. Calculation of Normal Value Based on Home Market Prices

We calculated NV based on ex-factory prices to unaffiliated customers. We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses. We also made adjustments, in accordance with 19 CRF 351.410(e), for indirect selling expenses incurred in the home market or United States where commissions were granted on sales in one market but not in the other (the commission offset).

Preliminary Results of Review

We preliminarily find the following weighted-average dumping margin:

Manufacturer/Exporter	POR	Weighted Average Margin
Viraj Group, Ltd.	2/1/00–1/31/01	0.10 (de minimis)

Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held 37 days after the publication of this notice, or the first business day thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of 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. The Department will issue appraisement instructions directly to the Customs Service.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original LTFV investigation, 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 previous review, or the original 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 and/or exporters of this merchandise, shall be 12.45 percent, the ''all others'' rate established in the LTFV investigation. (See 59 FR 66915, December 28, 1994).

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

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. In addition, this notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR

somewhere along this chain. In performing this evaluation, we considered Viraj's narrative response to properly determine where in the chain of distribution the sale occurs.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

351.305, that continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5472 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–847]

Antidumping Duty Order: Stainless Steel Bar From Korea

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

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Sophie Castro at (202) 482–1766 and (202) 482–0588, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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's (''the Department's'') regulations refer to 19 CFR part 351 (April 2001).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* here 77964B.1 cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* here 77964B.1 (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from Korea is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value:* Stainless Steel Bar from Korea, here 77964B.1 67 FR 3149 (January 23, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Korea. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from Korea. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value:* Stainless Steel Bar from Korea, here 77964B.1 66 FR 40222 (August 2, 2001).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Changwon Specialty Steel Co., Ltd	13.38
Dongbang Industrial Co., Ltd	4.75
All Others	11.30

This notice constitutes the antidumping duty order with respect to stainless steel bar from Korea pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of Act and 19 CFR 351.211(b).

Dated: March 9, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5642 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–822]

Antidumping Duty Order: Stainless Steel Bar From the United Kingdom

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

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor at (202) 482–4929 and (202) 482–4007, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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's (''the Department's'') regulations refer to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order dispositive.

Antidumping Duty Order:

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from the United Kingdom,* 67 FR 3146 (January 23, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the United Kingdom. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from the United Kingdom. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Bar from the United Kingdom,* 66 FR 40192 (August 2, 2001).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Corus Engineering Steels, Ltd	4.48
Crownridge Stainless Steel, Ltd/Valkia Ltd.	125.77
Firth Rixson Special Steels, Ltd	125.77
All Others	4.48

This notice constitutes the antidumping duty order with respect to stainless steel bar from the United Kingdom pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of Act and 19 CFR 351.211.

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for, Import Administration.

[FR Doc. 02–5643 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–830]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Bar From Germany

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

ACTION: Notice of amended final determination of sales at less than fair value and Antidumping Duty Order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Andrew McAllister or Craig Matney, (202) 482–1174 or (202) 482–1778, respectively; 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 (''URAA''). In addition, unless otherwise indicated, all citations

to the Department of Commerce (''Department'') regulations are to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this investigation is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Amended Final Determination

On January 15, 2002, the Department determined that stainless steel bar from Germany is being sold in the United States at less than fair value (''LTFV''), as provided in section 735(a) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Germany*, 67 FR 3159 (January 23, 2002) (''*SSB Germany Final Determination*''). On January 28, 2002, we received ministerial error allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from the BGH Group of Companies (''BGH''), Edelstahl Witten-Krefeld GmbH (''EWK'') and Krupp Edelstahlprofile (''KEP'') regarding the Department's final margin calculations.[1] BGH, EWK and KEP requested that we correct the errors and publish a notice of amended final determination in the **Federal Register**, pursuant to 19 CFR 351.224(e). BGH's submission alleges that the Department inadvertently failed to fully incorporate certain intended revisions to variable cost of manufacturing and to factory overhead in its programming language. EWK and KEP assert that there was a flaw in the programming language used for model matching.

The petitioners in this proceeding did not submit comments on the BGH, EWK or KEP's ministerial error allegations.

In accordance with section 735(e) of the Act, we have determined that ministerial errors in the calculation of BGH's home market variable cost of manufacturing and factory overhead were made in our final margin calculations. Also, we have determined that there were ministerial errors in the computer programming in our final margin calculations for EWK and KEP. In addition, because the margin programs are identical in this respect for each of the four respondents in this investigation, we have revised the final determination margin programs for all four respondents. For a detailed discussion of the above-cited ministerial error allegation and the Department's analysis, *see* Memorandum to Richard W. Moreland, ''Allegation of Ministerial Error; Final Determination in the Antidumping Duty Investigation of Stainless Steel Bar from Germany'' dated February 22, 2002, which is on file in the Central Records Unit (''CRU''), room B–099 of the main Department building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel bar from Germany to correct these ministerial errors. The ''All Others'' rate has been revised as well. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin percentage
BGH	16.62	13.63
Einsal	4.31	4.17
EWK	15.54	15.40
KEP	32.24	32.32
All Others	17.77	16.96

[1] We did not receive ministerial error allegations concerning the final determination margin calculations for Walzwerke Einsal GmbH (''Einsal'').

Antidumping Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from Germany is being, or is likely to be, sold in the United States at LTFV. *See SSB Germany Final Determination.* On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of LTFV imports of subject merchandise from Germany. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from Germany. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register** (66 FR 40214).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Revised weighted-average margin percentage
BGH	13.63
Einsal	4.17
EWK	15.40
KEP	32.32
All Others	16.96

This notice constitutes the antidumping duty order with respect to

stainless steel bar from Germany, pursuant to section 736(a) of the Act. Interested parties may contact the Department's CRU for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5645 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–829]

Notice of Antidumping Duty Order: Stainless Steel Bar From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Antidumping Duty Order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0189.

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 to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (i.e., cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from Italy is being sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy,* 67 FR 3155 (January 23, 2002). Subsequently, the Department amended its final determination of the antidumping duty investigation of stainless steel bar from Italy to correct a ministerial error in the final margin calculation for one respondent. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy,* 67 FR 8228 (February 22, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Italy.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the U.S. Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the subject merchandise exceeds the export price or constructed export price of the subject merchandise for all entries of stainless steel bar from Italy, except for subject merchandise both produced and exported by Trafilerie Bedini, Srl (''Bedini''), which received a *de minimis* final margin. For all producers and exporters, with the exception of Bedini and Acciaierie Valbruna Srl/Acciaierie Bolzano S.p.A. (which was *de minimis* at the Department's preliminary determination), antidumping duties will be assessed on all unliquidated entries of stainless steel bar entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date of publication of the Department's preliminary determination in the **Federal Register** 66 FR 40214), and the Department will direct Customs to refund any cash deposits made, or bonds posted, on any subject merchandise which was entered prior to the Department's preliminary determination publication date of August 2, 2001. For Acciaierie Valbruna Srl/Acciaierie Bolzano S.p.A., antidumping duties will be assessed on all unliquidated entries of stainless steel bar entered, or withdrawn from warehouse, for consumption on or after January 23, 2002, the date of publication of the Department's final determination in the **Federal Register** 67 FR 3155), and the Department will direct Customs to refund any cash deposits made, or bonds posted, on any subject merchandise which was entered prior to the Department's final determination publication date of January 23, 2002. Finally, for Bedini, we will instruct Customs to liquidate without regard to antidumping duties and to refund all cash deposits, or bonds posted, for entries of subject merchandise both produced and exported by Bedini.

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Revised Weighted-average margin percentage
Acciaierie Valbruna Srl/ Acciaierie Bolzano S.p.A	2.50

Exporter/manufacturer	Revised Weighted-average margin percentage
Acciaiera Foroni SpA	7.07
Trafilerie Bedini, Srl	([2])
Rodacciai S.p.A	3.83
Cogne Acciai Speciali Srl	33.00
All Others	3.81

[1] Excluded.

This notice constitutes the antidumping duty order with respect to stainless steel bar from Italy, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5646 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–820]

Antidumping Duty Order: Stainless Steel Bar From France

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton at (202) 482–1766 and (202) 482–1280, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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's (''the Department's'') regulations refer to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order dispositive.

Antidupming Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from France is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from France,* 67 FR 3143 (January 23, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from France. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from France. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Bar from France,* 66 FR 40201 (August 2, 2001).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Aubert & Duval, S.A	71.83
Ugine-Savoie Imphy, S.A	3.90
All Others	3.90

This notice constitutes the antidumping duty order with respect to stainless steel bar from France pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of Act and 19 CFR 351.211(b).

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5644 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–856]

Synthetic Indigo from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a timely request from a U.S. importer, on July 23, 2001, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on synthetic indigo from the People's Republic of China with respect to China Jiangsu International Economic Technical Cooperation Corp., and Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry. The period of review is September 15, 1999, through May 31, 2001. As a result of this review, the Department of Commerce has preliminarily determined that dumping margins exist for exports of the subject merchandise by the above–referenced companies for the covered period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4136.

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 (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department's'') regulations are to 19 CFR Part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

On June 19, 2000, the Department of Commerce (''the Department'') published in the Federal Register (65 FR 37961) an antidumping duty order on synthetic indigo from the People's Republic of China (''PRC''), which was amended on June 23, 2000 (65 FR 39128). On June 29, 2001, Clariant Corporation (''Clariant''), a U.S. importer, requested, in accordance with 19 CFR 351.213, that we conduct an administrative review of exports to Clariant by China Jiangsu International Economic Technical Cooperation Corp. (''CJIETCC'') and Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry (''Wonderful/Jiangsu Taifeng''). On July 2, 2001, Clariant's request was revised to include the review of all sales of subject merchandise exported by CJIETCC and Wonderful/Jiangsu Taifeng to the United States. On July 23, 2001, the Department published a notice of initiation of an administrative review of the antidumping duty order on synthetic indigo from the PRC with respect to CJIETCC and Wonderful/Jiangsu Taifeng (66 FR 38252). On August 16, 2001, we issued the antidumping questionnaire to these companies. On October 9, 2001, these companies submitted a letter notifying the Department that they were no longer willing to cooperate in this review.

Scope of Order

The products subject to this order are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as ''Vat Blue 1.'' Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre–reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (e.g., powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this order are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Period of Review

The period of review covers the period September 15, 1999 through May 31, 2001.

Separate Rates Determination

In previous antidumping duty proceedings, the Department has treated the PRC as a non–market economy (''NME'') country. We have no evidence suggesting that this determination should be changed. Accordingly, the Department has determined that NME treatment is appropriate in this review. See section 771(18)(c)(i) of the Act. To establish whether a company operating in a NME is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test 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 by the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (''Silicon Carbide''). Under this test, companies operating in a NME are entitled to separate, company–specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities (Sparklers, 56 FR 20589). 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 the 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 (id.). *De facto* absence of government control over exports is based on four factors: (1) whether each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management (see Silicon Carbide, 59 FR 22587). In the instant review, neither CJIETCC nor Wonderful/Jiangsu Taifeng submitted responses to the Department's antidumping duty questionnaire, including the separate rates section. We therefore preliminarily determine that these companies did not establish their entitlement to a separate rate in this review and, therefore, are presumed to be part of the PRC NME entity and, as such, are subject to the PRC country–wide rate. Accordingly, exports by these companies are preliminarily assigned the PRC–wide rate, which is the highest margin in the less–than–fair–value (''LTFV'') petition.

PRC–Wide Rate and Use of Facts Otherwise Available

As noted above, CJIETCC and Wonderful/Jiangsu Taifeng submitted a

letter on the record stating that they would not participate in this review. Because of their refusal to cooperate in this review and their failure to establish their entitlement to a separate rate, we have assigned them the PRC–wide rate, which is based on facts available, pursuant to section 776(a)(2) of the Act.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Because CJIETCC and Wonderful/Jiangsu Taifeng have refused to participate in this administrative review, we find that, in accordance with sections 776(a)(2)(A) and (C) of the Act, the use of total facts available is appropriate (see, e.g., Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 50183, 50184 (August 17, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 40609, 40610–40611 (June 30, 2000)); Notice of Final Determination of Sales at Less Than Fair Value: Persulfates from the People's Republic of China, 62 FR 27222, 27224 (May 19, 1997); and Certain Grain–Oriented Electrical Steel from Italy: Final Results of Antidumping Duty Administrative Review, 62 FR 2655 (January 17, 1997) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Certain Grain–Oriented Electrical Steel from Italy, 61 FR 36551, 36552 (July 4, 1996)). Because these respondents have provided no information, sections 782(d) and (e) are not relevant to our analysis.

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (''SAA'') accompanying the URAA, H.R. Doc. No. 103–316, at 870 (1994).

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.'' CJIETCC's and Wonderful/Jiangsu Taifeng's October 9, 2001, letter documented for the record their refusal to provide this information and they have otherwise failed to respond to our request for information, thereby failing to comply with this provision of the statute. Therefore, we determine that the respondents failed to cooperate to the best of their ability, making the use of an adverse inference appropriate.

In this proceeding, in accordance with Department practice (see, e.g., Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review: Brake Rotors From the People's Republic of China, 64 FR 61581, 61584 (November 12, 1999); and Preliminary Results of Antidumping Duty Administrative Review: Fresh Garlic From the People's Republic of China, 64 FR 39115 (July 21, 1999); and Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 65 FR 33295 (May 23, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Fresh Garlic From the People's Republic of China, 64 FR 39115 (July 21, 1999)), as adverse facts available, we have preliminarily assigned to exports of subject merchandise by CJIETCC and Wonderful/Jiangsu Taifeng the PRC–wide rate of 129.60 percent, which is the PRC–wide rate established in the LTFV investigation and the highest dumping margin determined in any segment of this proceeding. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' See Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998).

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See SAA at 870. The SAA states that ''corroborate'' means to determine that the information used has probative value (id.). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. To examine the reliability of margins in the petition, we examine whether, based on available evidence, those margins reasonably reflect a level of dumping that may have occurred during the period of investigation by any firm, including those that did not provide us with usable information. This procedure generally consists of examining, to the extent practicable, whether the significant elements used to derive the petition margins, or the resulting margins, are supported by independent sources. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be relevant, the Department will attempt to find a more appropriate basis for facts available. See, e.g., Final Results of Antidumping Duty Administrative Review: Fresh Cut Flowers from Mexico, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

In the underlying LTFV investigation, we established the reliability and relevance of the petition margin (see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination:

Synthetic Indigo from the People's Republic of China, 64 FR 69723, 60726–69727 (December 14, 1999); and Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value, 65 FR 25706, 25707 (May 3, 2000). As there is no information on the record of this review that demonstrates that the petition rate is not an appropriate adverse facts available rate for the PRC–wide rate, we determine that this rate has probative value and, therefore, is an appropriate basis for the PRC– wide rate to be applied in this review to exports of subject merchandise by CJIETCC and Wonderful/Jiangsu Taifeng as facts otherwise available.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin applies for the period September 15, 1999, through May 31, 2001, for those imports where the exporter is CJIETCC or Wonderful/Jiangsu Taifeng:

Manufacturer/producer/exporter	Margin Percent
PRC–wide Rate	129.60

Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

In addition, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs. Any hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice, containing: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issued raised in the hearing will be limited to those raised in case and rebuttal briefs.

The Department will publish the final results of this administrative review with respect to subject merchandise exports by CJIETCC and Wonderful/Jiangsu Taifeng, including the results of its analysis of issues raised in any case or rebuttal briefs or at a hearing, not later than 120 days after the date of publication of these preliminary results.

Assessment Rates and Cash Deposit Requirements

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Upon publication of the final results of this administrative review, the cash deposit rate for all shipments by CJIETCC or Wonderful/Jiangsu Taifeng of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, will be the PRC–wide rate stated in the final results of this administrative review, as provided for by section 751(a)(1) of the Act. The cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding for which there was no request for administrative review will continue to be the rate assigned in that segment of the proceeding. The cash deposit rate for the PRC NME entity will continue to be 129.60 percent, and the cash deposit rate for non–PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213.

February 28, 2002.

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

[FR Doc. 02–5476 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–005. *Applicant*: The Pennsylvania State University, EM Facility, The Life Sciences Consortium, 519 Wartik Lab, University Park, PA 16802. *Instrument*: Slow Scan CCD Camera, Model TemCam F–224. *Manufacturer*: Tietz Video and Image Processing Systems GmbH, Germany. *Intended Use*: The instrument is intended to be used to study the following: (1) Organized chromatin domains in yeast minichromosomes, (2) viruses, cell organelles and whole cells, (3) ultrathin sections of tissues, (4) colloids, (5) nanostructures, and (6) biopolymers. Experiments in plant pathology involve the imaging of aphid vector viruses; those in analytical chemistry—barcode patterns built into metal rods during their synthesis via template-directed electrochemical disposition; those in neurochemistry — neurotransmitters in dense core vesicles and others in solid state synthesis—three-dimensional perovskites from two-dimensional precursors. *Application accepted by Commissioner of Customs*: February 21, 2002.

Docket Number: 02–006. *Applicant*: Saint Joseph's University, Department of Biology, 5600 City Avenue, Science Center, Philadelphia, PA 19131.

Instrument: Electron Microscope, Model JEM–1010. *Manufacturer*: JEOL, Ltd., Japan. *Intended Use*: The instrument is intended to be used to examine negative stained bacteria and ultrathin sections of various biological material. Research projects include:

(1) Characterization of the ultrastructural organization of vertebrate and invertebrate retina and associated cells, and cellular structures of a fungus.

(2) Observation of shark endoskeletal structures to characterize patterns of mineralization during development.

(3) Examination of the bacterium, Bdellivibrio bacteriovorus, to study the developmental life cycle.

(4) Qualitative examination of particle morphology and electron diffraction studies of synthesized metal oxides involving the role of metal oxides on the reduction of organic pollutants. Application accepted by Commissioner of Customs: February 22, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–5471 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University.

ACTION: Board of Visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held in the Packard Conference Center, Building 184, Fort Belvoir, Virginia on Tuesday, March 26, 2002 from 0900–1500. The purpose of this meeting is to report back to the BoV on continuing items of interest.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Kelley Berta at 703–805–5412.

Dated: March 1, 2002.

L.M. Bynum,

Alternate, OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 02–5364 Filed 3–6–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DOD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The meeting will be held on Monday, March 18, 2002 from 8:30 a.m. to 1:00 p.m. The closed Executive Session will be from 12:15 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Dining Room of Alumni Hall at the U.S. Naval Academy.

FOR FURTHER INFORMATION CONTACT: Commander Thomas E. Osborn, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of a partially closed meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of title 5, U.S.C.

Dated: February 28, 2002.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–5399 Filed 3–6–02; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD

ACTION: Notice to amend records systems.

SUMMARY: The Department of the Navy proposes to amend two systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on April 8, 2002 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, DNS10, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the systems of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The records systems being amended is set forth below, as amended, published in their entirety.

Dated: March 1, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01500–2

SYSTEM NAME:

Student/SMART Records (June 21, 2001, 66 FR 33240).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Student/SMART/VLS Records.'

SYSTEM LOCATION:

Delete entry and replace with 'Student records are located at schools and other training activities or elements of the Department of the Navy and Marine Corps. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Sailor/Marine American Council on Education Registry Transcript (SMART) database is maintained at the Naval Educational and Training Professional Development Technology Center, Code N6, 6490 Saufley Field Road, Pensacola, FL 32509–5237.

Vertical Launch System (VLS) records are maintained at the Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add a new paragraph 'VLS records cover civilians, active duty Navy members, and Department of the Navy contractors.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Add a new paragraph 'VLS records: Name, quiz scores, homework scores, and test scores. In those instances when the student has performed below the minimum requirements, copies of the minutes of the Academic Review Board will be included.'

* * * * *

PURPOSE(S):

Add to entry 'VLS records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; and provide guidance and counseling to students.'

* * * * *

RETENTION AND DISPOSAL:

Add a new paragraph 'VLS records: Destroyed 2 years after completion of training.'

* * * * *

N01500–2

SYSTEM NAME:

Student/SMART/VLS Records.

SYSTEM LOCATION:

Student records are located at schools and other training activities or elements of the Department of the Navy and Marine Corps. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Sailor/Marine American Council on Education Registry Transcript (SMART) database is maintained at the Naval Educational and Training Professional Development Technology Center, Code N6, 6490 Saufley Field Road, Pensacola, FL 32509–5237.

Vertical Launch System (VLS) records are maintained at the Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Student records cover present, former, and prospective students at Navy and Marine Corps schools and other training activities or associated educational institution of Navy sponsored programs; instructors, staff and support personnel; participants associated with activities of the Naval Education and Training Command, including the Navy College Office and other training programs; tutorial and tutorial volunteer programs; dependents' schooling.

SMART records cover Active duty Navy and Marine Corps members, reservists, and separated or retired Navy and Marine Corps members.

VLS records cover civilians, active duty Navy members, and Department of the Navy contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student records: Schools and personnel training programs administration and evaluation records. Such records as basic identification records i.e., Social Security Number, name, sex, date of birth, personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service, professional records i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes, test scores, psychological profile, basic test battery scores, and Navy advancement test scores. Educational records *i.e.,* education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories. Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

SMART records: Certified to be true copies of service record page 4; certificates of completion; college transcripts; test score completions; grade reports; Request for Sailor/Marine American Council on Education Registry Transcript.

VLS records: Name, quiz scores, homework scores, and test scores. In those instances when the student has performed below the minimum requirements, copies of the minutes of the Academic Review Board will be included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

PURPOSE(S):

Student records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; provide guidance and counseling to students; prepare required reports; and for other training administration and planning purposes.

SMART records: To provide recommended college credit based on military experience and training to colleges and universities for review and acceptance. Requesters may have information mailed to them or the college(s)/university(ies) of their choice.

VLS records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; and provide guidance and counseling to students.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records may be stored in file folders, card files, file drawers, cabinets, or other filing equipment. Automated records may be stored on magnetic tape, discs, or in personal computers.

RETRIEVABILITY:

Records are retrieved by name and Social Security Number.

SAFEGUARDS:

Access is provided on a 'need-to-know' basis and to authorized personnel only. Records are maintained in controlled access rooms or areas. Data is limited to personnel training associated information. Computer terminal access is controlled by terminal identification and the password or similar system. Terminal identification is positive and maintained by control points. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional managers. Information provided via batch processing is of a predetermined and rigidly formatted nature. Output is controlled by the functional managers who also control the distribution of output.

RETENTION AND DISPOSAL:

Student records: Destroyed after completion of training, transfer, or discharge, provided the data has been recorded in the individual's service record or on the student's record card.

SMART records: Automated SMART (transcripts) are retained permanently. Documents submitted to compile, update, or correct SMART records, which include service record page 4s, transcripts, and certificates, are destroyed after 3 years.

VLS records: Destroyed 2 years after completion of training.

SYSTEM MANAGER(S) AND ADDRESS:

For student records: The commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

For SMART records: Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509–5204.

For VLS records: Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division, 4363 Missile Way, Port Hueneme, CA 93043–4307.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate official below:

For student records: Address inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices. Requester should provide his full name, Social Security Number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present drivers license, military or Navy civilian employment identification card, or other similar identification.

For SMART records: Requester should address inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509–5204. Send a completed ''Request for Sailor/Marine American Council on Education Registry Transcript'' which solicits full name, command address, current rate/rank, Social Security Number, home and work telephone numbers, current status branch of service, etc., and must be signed.

For VLS records: Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307. Requester should provide full name, Social Security Number, military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the appropriate official below:

For student records: Address inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices. Requester should provide his full name, Social Security Number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present drivers license, military or Navy civilian employment identification card, or other similar identification.

For SMART records: Requester should address inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509–5204. Send a completed ''Request for Sailor/Marine American Council on Education Registry Transcript'' which solicits full name, command address, current rate/rank, Social Security Number, home and work telephone numbers, current status branch of service, etc., and must be signed.

For VLS records: Requester should address inquiries to the Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307. Requester should provide full name, Social Security Number, military, civilian or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; schools and educational institutions; Commander, Navy Personnel Command; Chief of Naval Education and Training; Commandant of the Marine Corps; Commanding Officer, Naval Special Warfare Center; Commander, Navy Recruiting Command; and instructor personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N04650–1

SYSTEM NAME:

Personnel Transportation System (September 9, 1996, 61 FR 47483).

CHANGES:

* * * * *

SYSTEM NAME:

Delete 'Personnel' and replace with 'Passenger'.

SYSTEM LOCATION:

Delete entry and replace with 'All Personnel Support Activity Detachments (PSD Dets) and Navy Passenger Transportation Offices Worldwide and Naval Support Activity, Bahrain. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the phrase 'requests for extension of time limit on travel by retired members to home of record;'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Date of travel or passenger name. Applications for dependent's travel are filed under name of sponsor.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are retained for three years and then destroyed.'

* * * * *

N04650–1

SYSTEM NAME:

Passenger Transportation System.

SYSTEM LOCATION:

All Personnel Support Activity Detachments (PSD Dets) and Navy Passenger Transportation Offices Worldwide and Naval Support Activity, Bahrain. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy military personnel (active and retired), civilian employees of the Navy, dependents, Midshipmen, and other individuals authorized through Navy commands to travel at Government expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for travel and, where applicable, for passports and visas; requests for exceptions of policies/procedures involving travel entitlements/eligibilities; supporting documents; correspondence, and approvals/disapprovals relating to the above records; travel arrangements in response to above applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5702 et seq. Travel, Transportation and Subsistence; 10 U.S.C. 2631–2635 and Chapter 7; 37 U.S.C. 404, Travel and Transportation Allowances-General; and E.O. 9397 (SSN).

PURPOSE(S):

To provide official travel services; determine eligibility for transportation; to authorize or deny transportation; and otherwise manage the Navy-wide passenger transportation system. Information is also used for audit or research purposes to obtain background information/data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of other departments and agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the provision of transportation; diplomatic, official, and other no-cost passports; and visas to subject individuals.

To Foreign embassies, legations, and consular offices—to determine eligibility for visas to respective countries, if visa is required.

To Commercial Carriers providing transportation to individuals whose applications are processed through this system of records.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes/disks. Manual records in file folders or file-card boxes, and microfiche or microfilm.

RETRIEVABILITY:

Date of travel or passenger name. Applications for dependent's travel are filed under name of sponsor.

SAFEGUARDS:

Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Computer terminals are controlled by password or other user code system.

RETENTION AND DISPOSAL:

Records are retained for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Chief of Naval Operations (N413), 2000 Navy Pentagon, Washington, DC 20350–2000.

RECORD HOLDERS:

Personnel Support Activity Detachments and Navy Passenger Transportation Offices Worldwide and Naval Support Activity, Bahrain. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the local activity where the request for transportation was initiated. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain date and location of travel, full name, address and signature of the requester.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the local activity where the request for transportation was initiated. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain date and location of travel, full name, address and signature of the requester.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; member's service record/civilian personnel file; officials and employees of the Department of the Navy, Department of Defense, State Department; and other agencies of the Executive Branch and components thereof; foreign embassies, legations, and consular offices reporting approval/disapproval of visas; and carriers reporting on provision of transportation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–5366 Filed 3–6–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of quarterly meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Educational Research Policy and Priorities 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 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 Mary Grace Lucier at (202) 219–2253 no later than March 15. 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.

Date: March 29, 2002.

Time: 9 a.m. to 4 p.m.

Location: Room 100, 80 F St., NW., Washington, DC 20208–7564.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Designated Federal Official, National Educational Research Policy and Priorities Board, 80 F St., NW., Washington, DC 20208–7564. Telephone: (202) 219-2253; fax: (202) 219–1528; e-mail: *Mary.Grace.Lucier@ed.gov.* Main telephone for Board office: (202) 208–0692.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The agenda for March 29 will cover a report from the National Research Council/National Academy of Sciences on the dissemination of a report of a study sponsored by the Board on Scientific Research in Education. The Board will also receive a briefing on legislation that will provide for improvement of Federal education research, statistics, evaluation, information, and dissemination. A final agenda will be available from the Board's office on March 22, and will be posted on the Board's web site, *http://www.ed.gov/offices/OERI/NERPPB/.*

Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, 80 F St. NW., Washington, DC 20208–7564.

Dated: March 1, 2002.

Rafael Valdivieso,

Executive Director.

[FR Doc. 02–5375 Filed 3–6–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of Availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–02NT15377 entitled ''Technology Development with Independents.'' The Department of Energy (DOE) National Energy Technology Laboratory (NETL), on behalf of its National Petroleum Technology Office (NTPO), seeks cost-shared applications for Research and Development advocating solutions for production problems experienced by small U.S. independent oil producing operators. Small independent oil producing operators are defined as (1) companies employing less than 50 full-time employees; and (2) having no affiliation with a major oil or gas producer (domestic or foreign) unless the combined number of employees of all affiliates is less than 50 full-time employees and total gross revenues of all affiliates is less than $100 million.

Proposed efforts must incorporate innovative field technologies for use by small U.S. independent oil producing operators to increase production, reduce operating costs, increase environmental compliance, or combinations thereof. The types of technologies to be considered are not limited to buy may include reservoir characterization, well drilling, completion or stimulation, environmental compliance, artificial lift, well remediation, secondary or tertiary oil recovery, and production management.

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) Web page located at *http://e-center.doe.gov* on or about 11 February 2002. Applicants can obtain access to the solicitation from the address above or through DOE/NETL's Web site at *http://www.netl.doe.gov/business.*

FOR FURTHER INFORMATION CONTACT: Mary Beth Pearse MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, 626 Cochrans Mill Rd., P.O. Box 10940, Pittsburgh, PA 15236–0940. E-mail Address: *pearse@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: The National Petroleum Technology Office of the Department of Energy (DOE) Office of Fossil Energy (FE) National Energy Technology Lab (NETL) is soliciting cost-shared applications for solutions for production problems and is restricted to small U.S. independent oil producing operators.

DOE anticipates issuing Financial Assistance (Grant) awards. DOE reserves the right to support or not support, with or without discussions, any or all applications received in whole or in part, and to determine how many awards will be made. Multiple awards are anticipated. Approximately $900,000 of DOE funding is planned over a one-year period for this solicitation. The program seeks to sponsor projects for a single budget/project period of 24 months or less. All applicants are required to cost share at a minimum of 50% of the project total, the estimated funding or cost sharing by the DOE being $75,000 per award, or less. Details of the cost sharing requirement, and the specific funding levels are contained in the solicitation.

Once released, the solicitation will be available for downloading from the IIPS internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751, or e-mail the Help Desk personnel at IIPS *HelpDesk@e-center.doe.gov.* The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business.* Once you subscribe, you will receive an announcement by e-mail that the solicitation has been released to the public. Telephone requests, written requests, e-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA, on 20 February 2002.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 02–5433 Filed 3–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–66–001]

Egan Hub Partners, L.P.; Notice of Petition To Amend

March 1, 2002.

Take notice that on February 20, 2002, Egan Hub Partners, L.P. (Egan Hub), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP01–66–001 a petition to amend the order issued June 14, 2001, in Docket No. CP01–66–000, pursuant to section 7 (c) of the Natural Gas Act to construct and operate a third cavern at its existing storage facility in Acadia Parish, Louisiana, to provide the same level of storage capacity certificated in the June 14 order, all as more fully set forth in the petition 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).

It is stated that by order issued June 14, 2001, Egan Hub was authorized to increase the combined maximum operating capacity of Cavern Nos. I and II in the Egan Storage Facility from 15.5 Bcf to 21.0 Bcf, thereby expanding the maximum operating capacities of each cavern individually from 7.75 Bcf to 10.5 Bcf; install an additional 19,130 HP of compression to increase the aggregate maximum average injection rate from 600 MMcfd to 800 MMcfd; and continue charging market-based rates for its storage and hub services.

Egan Hub maintains that due to changes in the nationwide storage market, net storage withdrawals have steadily declined, while storage inventories have either remained steady or have increased. Egan Hub states that this has resulted in increased inventories of parked gas in storage facilities. Consequently, use of conventional solution mining or the Solution Mining Under Gas technique to expand the cavern space of Cavern Nos. I and II in the Egan Storage Facility can no longer occur at a pace necessary for Egan Hub's market requirements. Therefore, Egan Hub states that it has had to examine alternative means in order to continue the expansion authorized by the June 14 order, while accommodating the increased storage inventories in the Egan Storage Facility. Accordingly, Egan Hub requests authorization to amend the June 14, 2001 order to provide for the construction and operation of a third storage cavern at the Egan Storage Facility (Cavern No. III).

Egan Hub states that the proposed Cavern No. III will be developed for the increment of capacity approved in the June 14 order but not yet constructed in the existing Cavern Nos. I and II. Egan Hub states that the total combined capacity of the three caverns will not exceed the certificated 21 Bcf, nor will the maximum capacity of any single cavern exceed 10.5 Bcf consistent with the June 14 order. Egan Hub maintains that since it does not propose to increase the certificated storage capacity nor the injection or withdrawal capability of the Egan Storage Facility, the proposal does not alter the Commission's determination that Egan Hub lacks significant market power and may charge market-based rates for storage and hub services.

Egan Hub requests waiver as to Exhibit K (cost of facilities), Exhibit L (financing), Exhibit N (revenues, expenses and income), and Exhibit O (depreciation and depletion) as required by Section 157.14 of the Commission's Regulations. In addition, Egan Hub requests waiver of Section 284.7(e) of the Commission's Regulations, which requires that natural gas companies providing Part 284 storage services charge reservation fees that recover all fixed costs based on the SFV rate design methodology, and the accounting and reporting requirements of Part 201 and Section 260.2 (Form No. 2A) which are also based on the presumption that cost-based rates are being charged and collected.

Questions regarding the details of this proposed project should be directed to Steven E. Tillman, Director of Regulatory Affairs, Egan Hub Partners, L.P., P.O. Box 1642, Houston, Texas 77251–1642 at (713) 627–5113.

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 March 22, 2002, 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 petition to amend 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5438 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–82–000]

Equitrans, L.P.; Notice of Application

March 1, 2002.

Take notice that on February 7, 2002, Equitrans, L.P. (Equitrans), 100 Allegheny Center Mall Pittsburgh, PA 15212, tendered for filing an abbreviated application for a certificate of public convenience and necessity pursuant to section 7(b) of the Natural Gas Act (NGA) to abandon certain service agreements, all as more fully set forth in the application, which is on file and open to public inspection. The application may be viewed on the Web at *www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' from the RIMS menu and follow the instructions (call (202) 208–2222 for assistance).

Equitrans requests authority to abandon firm storage services provided for Elizabethtown Gas Company (now NUI Corporation), New Jersey Natural Gas Company and South Jersey Gas Company provided under its Rate Schedule SS–3 and to abandon the firm transportation service provided to Elizabethtown Gas Company under its Rate Schedule STS–1. Equitrans asserts that the various agreements for storage and transportation with these shippers expire by the terms of the agreements on April 1, 2002. Equitrans further asserts that these shippers seek to discontinue service. Equitrans submits that the Commission authorized these service agreements in Docket No. CP85–876–000. No abandonment of any facility is proposed.

Any question regarding this application may be directed to Mr. Fredrick Dalena, Vice President, Equitrans, L.P., 100 Allegheny Center Mall Pittsburgh, PA 15212, at (412) 395–3270.

Any person desiring to be heard or to protest these filings should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, by or before March 22, 2002, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

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.

Take notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5440 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–64–000]

Northern California Power Agency; Notice of Petition for Declaratory Order

March 1, 2002.

Take notice that on February 28, 2002, the Northern California Power Agency (NCPA), filed with the Federal Energy Regulatory Commission (Commission or FERC) a Petition for Declaratory Order establishing certain existing contractual rights under PG&E FERC Rate Schedule No. 79 (Contract 2948A) between the Pacific Gas & Electric Company (PG&E) and the Western Area Power Administration (Western). The petition seeks to clarify the status of certain ongoing scheduling provisions pertaining to power that is wheeled from Western to NCPA members by PG&E, pursuant to the contract. NCPA is seeking to resolve a controversy over the continuing nature of these rights in light of PG&E's proposed termination of the NCPA/PG&E Interconnection Agreement, presently pending in Docket ER01–2998–000.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: March 11, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5441 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–153–002]

Tuscarora Gas Transmission Company; Notice of Amendment to Certificate of Public Convenience and Necessity

March 1, 2002.

Take notice that on February 25, 2002, Tuscarora Gas Transmission Company (Tuscarora), 1575 Delucchi Lane, Suite 225, Reno, Nevada 89520–3057, filed in Docket No. CP01–153–002 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations to amend the certificate of public convenience and necessity issued to Tuscarora on January 30, 2002 in Docket Nos. CP01–153–000 and CP01–153–001, all as more fully set forth in the application 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).

The January 30, 2002 certificate of public convenience and necessity (January 30 Order) authorized Tuscarora to construct, install, own, operate and maintain, 14.2 miles of 20-inch diameter natural gas pipeline, one valve site, two meter stations, three compressor stations, a booster compressor unit, and appurtenant facilities to provide up to 95,912 Dth per day of firm transportation service for four expansion shippers.

By this amendment, Tuscarora requests all authorizations necessary to amend its certificate to construct and operate the facilities authorized in the January 30 Order in two phases. Tuscarora states that this will allow it construct and operate all of the facilities necessary to provide service for its expansion shippers other than Duke Energy North America, L.L.C. (DENA) by the 2002–2003 heating season. Tuscarora states that the Phase 1 facilities will consist of: (i) Approximately 10.5 miles of pipeline extending from the Wadsworth Tap to the proposed Paiute Interconnect Meter Station, (ii) one new valve site, (iii) the Paiute Meter Station, (iv) a booster compressor unit, (v) the Radar Compressor Station, (vi) the Shoetree Compressor Station, and (vii) appurtenant facilities. Tuscarora states that the Phase 2 facilities necessary to provide the transportation service for DENA will consist of: (i) Approximately 3.7 miles of pipeline extending from the Paiute Interconnect Meter Station to the Washoe Energy Facility, (ii) the Washoe Meter Station, (iii) any necessary interconnecting facilities at the Washoe Energy Facility, and (iv) the Likely Compressor Station. Tuscarora requests that the Commission issue an amended certificate order by April 12, 2002 to enable Tuscarora to commence construction of the Phase 1 facilities before the end of April 2002 to enable Tuscarora to provide service to the Phase 1 customers by the 2002–2003 heating season.

Any questions concerning this application may be directed to Gregory L. Galbraith, Tuscarora Gas Transmission Company, 1575 Delucchi Lane, Suite 225, P.O. Box 30057, Reno, Nevada 89520–3057, call (775) 834–4292 or fax (775) 834–3886.

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 March 11, 2002, 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.

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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5439 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–98–000, et al.]

Lake Superior Power Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

February 28, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Lake Superior Power Limited Partnership

[Docket No. EG02–98–000]

Take notice that on February 26, 2002, Lake Superior Power Limited Partnership 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. The applicant states that it is a Canadian partnership that is engaged directly and exclusively in developing, owning, and operating a gas-fired 110 MW combined cycle power plant in Ontario, Canada, which is an eligible facility.

Comment Date: March 21, 2002.

2. Garnet Energy LLC

[Docket No. EG02–99–000]

Take notice that on February 26, 2002, Garnet Energy LLC, 3380 Americana Terrace, Suite 300, Boise, Idaho 83706 (Applicant), filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it is an Idaho limited liability company and a wholly

owned subsidiary of Garnet Power Company, an Idaho corporation (Garnet Power). Garnet Power is a wholly owned subsidiary of Ida-West Energy Company, an Idaho corporation (Ida-West). Ida-West is a wholly owned subsidiary of IDACORP, Inc., a publicly traded Idaho corporation.

Applicant states it will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, one or more eligible facilities (the Facilities) and selling wholesale electric energy from the Facilities. Once constructed, the Facilities will consist of a 270 MW combined-cycle natural gas-fired generation facility in Canyon County, Idaho and may also include another 270 MW combined-cycle natural gas-fired expansion facility at the same site.

Copies of the application have been served upon the Idaho Public Utilities Commission, the Public Utility Commission of Oregon and the Public Service Commission of Wyoming, each an ''affected state commission'' under 18 CFR 365.2(b)(3), and the Securities and Exchange Commission.

Comment Date: March 21, 2002.

3. Southern Company Services, Inc.

[Docket No. ER02–352–001]

Take notice that on February 25, 2002, Southern Company Services, Inc. (SCS), as agent for Georgia Power Company (Georgia Power), tendered for filing an amendment to the filing of the Interconnection Agreement between Georgia Power and Southern Power Company (Southern Power) for Goat Rock CC Unit 2 (the Agreement), as a service agreement under Southern Operating Companies' Open Access Transmission Tariff (FERC Electric Tariff, Fourth Revised Volume No. 5). The amendment contains SCS's response to the January 11, 2002, letter issued in Docket No. ER02–352–000 by Ms. Alice Fernandez, Director, Division of Tariff and Rates—East. *Comment Date:* March 18, 2002.

4. Southern Company Services, Inc.

[Docket No. ER02–430–002]

Take notice that on February 25, 2002, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APC), filed with the Federal Energy Regulatory Commission (Commission) a revised Interconnection Agreement (Agreement) between Blount County Energy, LLC and APC in compliance with a letter order of the Commission dated January 25, 2002.

Comment Date: March 18, 2002.

5. American Electric Power Service Corporation

[Docket No. ER02–1074–000]

Take notice that on February 25, 2002, Indiana Michigan Power Company tendered for filing an executed Interconnection and Operation Agreement between Indiana Michigan Power Company and Indeck-Niles, L.L.C. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of April 24, 2002. Copies of Indiana Michigan Power Company's filing have been served upon the Indiana Utility Regulatory Commission and Michigan Public Service Commission.

Comment Date: March 18, 2002.

6. American Electric Power Service Corporation

[Docket No. ER02–1075–000]

Take notice that on February 25, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing Service Agreements for new customers under the AEP Companies' Power Sales Tariffs. The Power Sales Tariffs were accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5 (Wholesale Tariff of the AEP Operating Companies) and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket ER98–542–000 (Market-Based Rate Power Sales Tariff of the CSW Operating Companies). AEPSC respectfully requests waiver of notice to permit the attached Service Agreements to be made effective on or prior to February 25, 2002.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: March 18, 2002.

7. Illinois Power Company

[Docket No. ER02–1076–000]

Take notice that on February 25, 2002, Illinois Power Company (Illinois Power), filed a First Revised Interconnection Agreement entered into with AmerGen Energy Company, L.L.C. (AmerGen) and subject to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of February 15, 2002 for the First Revised Interconnection Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has served a copy of the filing on AmerGen.

Comment Date: March 18, 2002.

8. Louisville Gas and Electric Company; Kentucky Utilities Company

[Docket No. ER02–1077–000]

Take notice that on February 25, 2002, Louisville Gas and Electric Company and Kentucky Utilities Company (the Companies) filed with the Federal Energy Regulatory Commission (Commission) a market-based rate tariff, including a form of umbrella Service Agreement and a Statement of Policy and Code of Conduct. The proposed market-based rate tariff does not replace the Companies' existing market-based rate tariff, currently on file as FERC Electric Tariff, Volume No. 2. The Companies have requested a waiver of the Commission's regulations to allow the proposed tariff to take effect March 1, 2002.

Comment Date: March 18, 2002.

9. Ameren Services Company

[Docket No. ER02–1078–000]

Take notice that on February 25, 2002, Ameren Services Company (Ameren Services) tendered for filing a Service Agreement for Network Integration Transmission Service and a Network Operating Agreement between Ameren Services and Central Illinois Light Company. Ameren Services asserts that the purpose of the Agreements is to permit Ameren Services to provide transmission service to Central Illinois Light Company pursuant to Ameren's Open Access Tariff.

Comment Date: March 18, 2002.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1079–000]

Take notice that on February 25, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act (FPA), 16 USC 824d (2000) and Part 35 of the Commission's Regulations proposed revisions to the Midwest ISO Open Access Transmission Tariff. The Midwest ISO proposes to modify existing terms and conditions of Schedule 14 (Regional Through and Out Rate) to allow for discounts on the RTOR surcharge (RTOR Adder).

The Midwest ISO has requested an effective date of March 1, 2002. Pursuant to the Commission's Regulations, the Midwest ISO has

served this filing on all parties on the official service list in this proceeding. In addition, the Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: March 18, 2002.

11. PacifiCorp

[Docket No. ER02–1080–000]

Take notice that on February 25, 2002, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Notice of Cancellation of a Sales Agreement between PacifiCorp and El Paso Merchant Energy, L.P. (originally in the name of Engage Energy US, L.P.) dated June 27, 1997.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: March 18, 2002.

12. Indeck-Oswego Limited Partnership

[Docket No. ER02–1081–000]

Take notice that on February 25, 2002, Indeck-Oswego Limited Partnership (Applicant) tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Federal Energy Regulatory Commission's regulations, a request for authorization to make sales of electrical capacity, energy, and certain ancillary services at market-based rates and for related waivers and blanket authorizations.

Comment Date: March 18, 2002.

13. Kansas City Power & Light Company

[Docket No. ER02–1082–000]

Take notice that on February 25, 2002, Kansas City Power & Light Company (KCPL) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to its Municipal Participation Agreement with Independence, MO. KCPL requests an effective date of April 1, 2002, and therefore requests a waiver of the Commission's notice requirement

Comment Date: March 18, 2002.

14. South Carolina Electric & Gas Company

[Docket No. ER02–1083–000]

Take notice that on February 25, 2002, South Carolina Electric & Gas Company (SCE&G) submitted a service agreement establishing Engage Energy America LLC as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date one day subsequent to the date of filing. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon Engage Energy America LLC and the South Carolina Public Service Commission.

Comment Date: March 18, 2002.

15. Alcan Power Marketing Inc.

[Docket No. ER02–1084–000]

Take notice that on February 22, 2002, Alcan Power Marketing Inc. (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves and ancillary services at market-based rates, and to reassign transmission capacity and resell Firm Transmission Rights.

Comment Date: March 18, 2002.

16. Keyspan-Ravenswood, Inc.

[Docket No. ER02–1085–000]

Take notice that on February 25, 2002, KeySpan-Ravenswood, Inc. (Ravenswood) filed an informational letter with the Federal Energy Regulatory Commission (Commission), pursuant to Section 35.15(c) of the Commission's rules notifying it that the following power sales agreements on file with the Commission terminated by their own terms: (1) Transition Capacity Agreement between Ravenswood and The Consolidated Edison Co. of New York, Inc. (Con Edison) accepted in Docket No. ER99–2376–000 and designated by the Commission as Ravenswood's Rate Schedule FERC No. 1 and the (2) Transition Energy Agreement between Ravenswood and Con Edison accepted in Docket No. ER99–3183–000 and designated by the Commission as Ravenswood's Rate Schedule FERC No. 2.

Comment Date: March 18, 2002.

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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5369 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–40–006]

Florida Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Compressor Station 31 Relocation Project, Request for Comments on Environmental Issues, and Notice of Site Visit

March 1, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts involved with Florida Gas Transmission Company's (FGT) construction and operation of Compressor Station 31 at its newly proposed location in Osceola County, Florida.[1] This EA/EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Background

FGT originally proposed to construct this station on a parcel owned by Osceola County adjacent to Osceola Parkway. This location, and alternative

[1] FGT's amended application was filed with the Commission under Sections 7(c) of the Natural Gas Act on January 22, 2002. The original application in Docket No. CP00–40–000 was filed by FGT on December 1, 1999.

locations, were analyzed in the Environmental Impact Statement (EIS) issued by the Commission in July 2001 for FGT's Phase V Expansion Project. The EIS also responded to the numerous comments received on the draft EIS expressing concerns and the proximity of the station to residences and other related issues.[2] The analysis in the EIS indicated that none of the alternative locations were environmentally preferable to the original location.

After consideration of the issues in the proceeding, the Commission approved FGT's Phase V Expansion Project, with conditions, in an Order granting a Certificate of Public Convenience and Necessity on July 27, 2001. Several of the environmental conditions in the Order specifically address the remaining concerns related to noise and visual impacts associated Compressor Station 31.

Recognizing the concerns surrounding the approved location, FGT reevaluated the engineering criteria used to design the compressor station. As a result, FGT determined that it could move the compressor station further than previously indicated, and consequently filed its amendment to requesting authorization from the Commission to move the station.

Summary of the Proposed Project

The proposed facilities consist of a single 2,500-horsepower, gas driven compressor and associated piping to be installed at milepost 12.6 on FGT's existing St. Petersburg Lateral. The compressor would be enclosed within a small building.

The proposed new location of the compressor station would be constructed near the intersection of Interstate 4 and County Road 545. Both the original site and newly proposed station site are shown on the map in appendix 1.[3]

Land Requirements for Construction

FGT has executed an option to purchase a 5-acre tract to construct the compressor station. Of the 5 acres, only 1 acre would be occupied by the compressor station during operation. The remaining 4 acres would be held as a buffer area.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[4] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Our independent analysis of the impacts that could occur as a result of the construction and operation of the proposed project will be in the EA. We will also evaluate possible alternatives to the project, and make recommendations on how to lessen or avoid impacts on the various resources. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

This notice is being sent to landowners of property within a half-mile radius of newly proposed location for Compressor Station 31; parties who commented on Compressor Station 31 in the EIS process; Federal, state, and local agencies; elected officials; Indian tribes that might attach religious and cultural significance to historic properties in the area of potential effects; environmental and public interest groups; and local libraries and newspapers. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 5.

Additional information about the Commission's process can be found on a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'', which was attached to the project notice FGT provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site, *www.ferc.gov*.

Currently Identified Environmental Issues

In general, the EA will address:

- geology and soils;
- wetlands;
- wildlife and vegetation;
- threatened and endangered species;
- land use and visual resources
- cultural resources;
- air quality and noise;
- public safety; and
- alternatives

We have already identified several specific issues that we think deserve attention based on a preliminary review of the environmental information provided by FGT. This preliminary list of issues may be changed based on your comments and our analysis.

- *Land Use and Visual Resources*

—proposed expansion of Interstate 4 in the vicinity of the to the station
—relocation of adjacent recreational vehicle park
—visibility of the station from the adjacent roadways
—potential for residential development near the station site

- *Public Safety*

—lightning strikes

- *Air Quality and Noise*

—compressor station emissions
—noise from compressor station equipment

- *Alternatives*

—comparison of approved and currently proposed sites

We will not discuss impacts to water resources and fisheries since these resources are not in the project area and would not be affected by the construction or operation of the proposed compressor station.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your

[2] The draft EIS was issued by the Commission in April 2001 for a 45-day comment period. The majority of comments on the draft EIS were related to Compressor Station 31.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[4] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

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

• Label one copy of the comments for the attention of OEP—Gas 1, PJ–11.1.

sbull; Reference Docket No. CP00–40–006.

• Mail your comments so that they will be received in Washington, DC on or before April 1, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Site Visit

We will also be visiting the proposed location on Wednesday, March 13, 2002 beginning at approximately 11:00 a.m. Anyone interested in participating in the site visit should contact the Commission's Office of External Affairs identified at the end of this notice for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[5] Only intervenors have the right to seek rehearing of the Commission's decision.

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

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 (direct line) or you can call the FERC operator at 1–800–847–8885 and ask for External Affairs. Information is also available on the FERC Web site, *www.ferc.gov*, using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

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

Magalie R. Salas,

Secretary.

[FR Doc. 02–5437 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

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

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM01–12–000, RT01–2–000, RT01–10–000, RT01–15–000, ER02–323–000, RT01–34–000, RT01–35–000, RT01–67–000, RT01–74–000, RT01–75–000, RT01–77–000, RT01–85–000, RT01–86–000, RT01–87–000, RT01–88–000, RT01–94–000, RT01–95–000, RT01–98–000, RT01–99–000, RT01–100–000, RT01–101–000, EC01–146–000, ER01–3000–000, RT02–1–000, EL02–9–000, EC01–156–000, ER01–3154–000, and EL01–80–000]

Electricity Market Design and Structure, (RTO Cost Benefit Analysis Report); Notice of Regional Teleconferences and Due Dates for Comments and Reply Comments

March 1, 2002.

The Federal Energy Regulatory Commission (FERC) issued an RTO Cost Benefit Report entitled ''Economic Assessment of RTO Policy'' at its regular open meeting on February 27, 2002. The report, prepared by ICF Consulting, is the result of a study commissioned by FERC to examine potential economic cost and benefits of a move toward Regional Transmission Organization (RTO's). The report is available on the Commission's Web site at *www.ferc.gov*. The Commission's Staff and ICF Consulting plan on holding a series of regional teleconferences with State Commissions, members of the industry and the public to discuss the results of the report from March 13–19, 2002. These teleconferences are designed to assist the participants in understanding the report results and in preparing written comments for submission to the Commission.

There will be four regional teleconferences with State Commissions and an additional four teleconferences with Industry and others as follows.

For State Commissioners

March 13th 10 a.m. EST to Noon, Midwest State Commissioners
2 p.m. EST to 4 p.m., Southeast State Commissioners
March 15th 10 a.m. EST to Noon, Northeast State Commissioners
2 p.m. EST to 4 p.m., Western State Commissioners

For Industry and Public

March 18th 10 a.m. EST to Noon, Midwest Region
2 p.m. EST to 4 p.m., Southeast Region
March 19th 10 a.m. EST to Noon, Northeast Region
2 p.m. EST to 4 p.m., Western Region

Instructions for participating in these teleconferences will be included in a

future notice. All of the regional teleconferences will be transcribed and be placed in appropriate and related dockets. Copies of the transcripts will be available from Ace-Federal Reporters (800–336–6646 or 202–347–3700) at cost and will be available on the Commission's Web site 10 days after receipt from Ace-Federal Reporters.

All written comments on the RTO Cost Benefit Report will be due on April 9, 2002. Reply comments will be due on April 23, 2002.

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 under the ''e-Filing'' link. Paper copies require the original and fourteen copies pursuant to the Commission's regulations.

Contact Information

For State Commissions

Edward Meyers 202–208–0004
Edward.meyers@ferc.gov

Thomas Russo 202–208–0004
Thomas.russo@ferc.gov

Federal Energy Regulatory Commission, 888 N. Capitol Street, NE, Washington DC 20426, 202–208–0004.

For Industry and Public

William Meroney 202–208–1069
William.meroney@ferc.gov

Charles Whitmore 202-208–1256
Charles.whitmore@ferc.gov

Federal Energy Regulatory Commission, 888 N. Capitol Street, NE., Washington DC 20426

Magalie R. Salas,
Secretary.

[FR Doc. 02–5443 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

March 1, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

EXEMPT

Docket No.	Date filed	Presenter or requester
1. CP01–361–000	02–28–02	John Wisniewski.
2. Project No. 10942–000	02–28–02	David Turner and Frank Winchell.
3. CP01–361–000	02–28–02	John Wisniewski.
4. Project No. 2342–011	02–28–02	P. Stephen DiJulio.
5. Docket Nos. RT02–2–000, RT01–67–000, RT01–74–000, RT01–75–00, RT01–77–000, RT01–100–000, RT01–1–000, RM98–1–002.	03–1–02	Commission*.

*Transcript of State-Federal Southeast Regional Panel Discussion convened 2/15/02 pursuant to the Commission's Notice issued 2/8/02 in Docket No. RT02–2–000, *et al.*

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02–5442 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; Ambient Air Quality Surveillance

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 renewal Information Collection Request (ICR) to the Office of Management and Budget (OMB): Ambient Air Quality Surveillance, OMB Number (2060–0084), EPA ICR # 0940.16 expires September 30, 2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed

information collections as described below.

DATES: Comments must be submitted on or before May 6, 2002.

ADDRESSES: Office of Air Quality Planning and Standards; Emissions, Monitoring, and Analysis Division (C339–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: David Lutz, Emissions, Monitoring, and Analysis Division (C339–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5476, FAX (919) 541–1903.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those State and local air pollution control agencies which collect and report ambient air quality data for the criteria pollutants to EPA.

Title: Ambient Air Quality Surveillance, OMB Number (2060–0084), EPA ICR # 0940.16 expires September 30, 2002.

Abstract: The general authority for the collection of ambient air quality data is contained in sections 110 and 319 of the Clean Air Act (42 U.S.C. 1857). Section 110 makes it clear that State generated air quality data are central to the air quality management process through a system of State implementation plans (SIP's). Section 319 was added via the 1977 Amendments to the Act and spells out the key elements of an acceptable monitoring and reporting scheme. To a large extent, the requirements of section 319 had already been anticipated in the detailed strategy document prepared by EPA's Standing Air Monitoring Work Group (SAMWG). The regulatory provisions to implement these recommendations were developed through close consultation with the State and local agency representatives serving on SAMWG and through reviews by ad-hoc panels from the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials. These modifications to the previous regulations were issued as final rules on May 10, 1979 (44 FR 27558) and are contained in 40 CFR part 58.

Major amendments which affect the hourly burdens, were made in 1983 for lead, 1987 for PM_{10}, 1993 for the enhanced monitoring for ozone, and 1997 for $PM_{2.5}$. The specific required activities for the burden include establishing and operating ambient air monitors and samplers, conducting sample analyses for all pollutants for which a national ambient air quality standard (NAAQS) has been established, preparing, editing, and quality assuring the data, and submitting the ambient air quality data and quality assurance data to EPA.

Some of the major uses of the data are for judging attainment of the NAAQS, evaluating progress in achieving/maintaining the NAAQS or State/local standards, developing or revising SIP's, evaluating control strategies, developing or revising national control policies, providing data for model development and validation, supporting enforcement actions, documenting episodes and initiating episode controls, documenting population exposure, and providing information to the public and other interested parties. 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.

In the previous ICR approval, OMB requested that EPA update the 1993 ''Guidance for Estimating Ambient Air Monitoring Costs for Criteria Pollutants and Selected Air Toxic Pollutants.'' The EPA agrees and is proceeding with this update.

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 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: It is estimated that there are presently 136 State and local agencies which are currently required to submit the ambient air quality data and quality assurance data to EPA on a quarterly basis. The current annual burden for the collection and reporting of ambient air quality data has been estimated on the existing ICR to be (2,404,606) hours, which would average out to be approximately (17,681) hours per respondent. As a part of this ICR renewal, an evaluation will be made of the labor burden associated with this activity.

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: February 22, 2002.

J. David Mobley,

Acting Director, Emissions, Monitoring, and Analysis Division.

[FR Doc. 02–5453 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–3]

Agency Information Collection Activities: Collection; See List of ICRs To Be Submitted in Section A

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 two current Information Collection Requests (ICR) have been forwarded to the Office of Management and Budget (OMB) for renewal: Best Management Practices (''BMP''), Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category (EPA ICR No. 1829.02), expiring on March 31, 2002, and Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category (EPA ICR No. 1877.02), expiring on February 28, 2002. OMB approved the current BMP information collection on March 2, 1999, and approved the current Milestones Plan collection on January 13, 1999. The ICRs describe the nature of the information collection and their expected burden and cost.

DATES: Comments must be submitted on or before April 8, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1829.02 and OMB Control No. 2040–0207, or EPA ICR No. 1877.02 and OMB Control No. 2040–0202 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, **FOR FURTHER INFORMATION:** For a copy of the ICR contact Susan Auby at EPA at (202) 260–4901, by e-mail at *auby.susan@epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1829.02 and 1877.02. For technical information about the collections, contact Mr. Ahmar Siddiqui by telephone at (202) 260–1826, or by e-mail at *siddiqui.ahmar@epa.gov.*

SUPPLEMENTARY INFORMATION: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is submitting the following two ICRs to the Office of Management and Budget (OMB) for renewal:

(1) Best Management Practices, Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207;

(2) Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1877.02, OMB Control No. 2040–0202.

(1) *Title:* Best Management Practices, Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207, Expires on 03/31/2002.

Abstract: EPA has established Best Management Practices (BMPs) provisions as part of final amendments to 40 CFR part 430, the Pulp, Paper and Paperboard Point Source Category promulgated on April 15, 1998 (*see* 63 FR 18504). These provisions, promulgated under the authorities of sections 304, 307, 308, 402, and 501 of the Clean Water Act, require that owners or operators of bleached papergrade kraft and soda mills and papergrade sulfite mills implement site-specific BMPs to prevent or otherwise contain leaks and spills of spent pulping liquors, soap and turpentine and to control intentional diversions of these materials (*see* 40 CFR 430.03).

EPA has determined that these BMPs are necessary because the materials controlled by these practices, if spilled or otherwise lost, can interfere with wastewater treatment operations and lead to increased discharges of toxic, nonconventional, and conventional pollutants. For further discussion of the need for BMPs, *see* section VI.B.7 of the preamble to the amendments to 40 CFR part 430 (*see* 63 FR 18561–18566).

The BMP program includes information collection requirements that are intended to help accomplish the overall purposes of the program by, for example, training personnel, *see* 40 CFR 430.03(c)(4), analyzing spills that occur, *see* 40 CFR 430.03(c)(5), identifying equipment items that might need to be upgraded or repaired, *see* 40 CFR 430.03(c)(2), and performing monitoring—including the operation of monitoring systems—to detect leaks, spills and intentional diversion and generally to evaluate the effectiveness of the BMPs, *see* 40 CFR 430.03(c)(3), (c)(10), (h), and (i). The regulations also require mills to develop and, when appropriate, amend plans specifying how the mills will implement the specified BMPs and to certify to the permitting or pretreatment authority that they have done so in accordance with good engineering practices and the requirements of the regulation (*see* 40 CFR 430.03(d), (e) and (f)). The purpose of those provisions is, respectively, to facilitate the implementation of BMPs on a site-specific basis and to help the regulating authorities to ensure compliance without requiring the submission of actual BMP plans. Finally, the recordkeeping provisions are intended to facilitate training, to signal the need for different or more vigorously implemented BMPs, and to facilitate compliance assessment (*see* 40 CFR 430.03(g)).

EPA has structured the regulation to provide maximum flexibility to the regulated community and to minimize administrative burdens on National Pollutant Discharge Elimination System (NPDES) permit and pretreatment control authorities that regulate bleached papergrade kraft and soda and papergrade sulfite mills. Although EPA does not anticipate that it will be necessary for mills to submit any confidential business information (CBI) or trade secrets as part of this ICR, all data claimed as CBI will be handled by EPA pursuant to 40 CFR part 2.

Comments to First Notice: EPA received no comments to the first notice of submission of this ICR to OMB.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 468 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: Entities potentially affected by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard; those operations that chemically pulp wood fiber using papergrade sulfite methods to produce pulp and/or paper; and State and local governments which regulate areas where such operations are located.

Estimated Number of Respondents: 130.

Frequency of response: Periodic.

Estimated Total Annual Hour Burden: 60,909.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

The recurring burden for a mill to periodically review and amend the BMP plan, prepare spill reports, perform additional monitoring, hold refresher training, and conduct recordkeeping and reporting is estimated to be 617, 641 and 665 hours annually per mill for simple, moderately complex, and complex mills, respectively. The total recurring cost for mills associated with the BMP requirements is estimated at $1,807,670.

The recurring burden to State NPDES and pretreatment control authorities is estimated at ten hours per year per facility for reviewing periodic (*e.g.,* annual or semi-annual) monitoring reports and conducting compliance reviews. The total recurring costs for State NPDES and pretreatment control authorities is estimated at $32,100.

(2) *Title:* Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1877.02, OMB Control No. 2040–0202, Expires on 02/28/2002.

Abstract: EPA established the Milestones Plan requirements as an element of the Voluntary Advanced

Technology Incentives Program (VATIP) codified at 40 CFR 430.24(b). The Milestone Plan requirements were promulgated as amendments to VATIP on July 7, 1999 (*see* 64 FR 36582) and are codified at 40 CFR 430.24(b)(3). The Milestones Plan provisions, promulgated under the authorities of sections 301, 304, 306, 308, 402, and 501 of the Clean Water Act, require owners or operators of bleached papergrade kraft and soda mills enrolled in the VATIP to submit information to describe each envisioned new technology component or process modification the mill intends to implement in order to achieve the VATIP Best Available Technology (BAT) limits, including a master schedule showing the sequence of implementing new technologies and process modifications and identifying critical-path relationships within the sequence.

EPA has determined that the Milestones Plan will provide valuable benchmarks for reasonable inquiries into progress being made by participating mills toward achieving interim and ultimate tier limits of the VATIP and will offer the necessary flexibility to the mill and the permit writer so that the milestones selected to be incorporated into the mill's NPDES permit reflect the unique situation of the mill.

The Milestones Plan must include the following information for each new individual technology or process modification: (1) A schedule of anticipated dates for associated construction, installation, and/or process changes; (2) the anticipated dates of completion for those steps; (3) the anticipated date that the Advanced Technology process or individual component will be fully operational; (4) and the anticipated reductions in effluent quantity and improvements in effluent quality as measured at the bleach plant (for bleach plant, pulping area and evaporator condensates flow and BAT parameters other than Adsorbable Organic Halides (AOX)) and the end of the pipe (for AOX) (*see* 40 CFR 430.24(c)(3)). For those technologies or process modifications that are not commercially available or demonstrated on a full-scale basis at the time of Plan development, the Plan must include a schedule for initiating and completing research (if necessary), process development, and mill trials (*see* 40 CFR 430.24(c)(3)(i)). The Plan must also include contingency plans in the event that any of the technologies or processes specified in the Milestones Plan need to be adjusted or alternative approaches developed to ensure that the ultimate tier limits are achieved by the deadlines specified in 40 CFR 430.24(b)(4)(ii) (*see* 40 CFR 430.24(c)(4)).

EPA has structured the Plan to provide maximum flexibility to the regulated community and to minimize administrative burdens on NPDES permit authorities that regulate bleached papergrade kraft and soda mills. All data claimed as CBI or trade secrets submitted by the mills as part of this ICR will be handled by EPA pursuant to 40 CFR part 2. Although EPA does not anticipate that it will be necessary for mills to submit any CBI or trade secrets as part of this ICR, if a mill claims all or part of the milestones plan as CBI, the mill must prepare and submit to the NPDES permitting authority a summary of the plan for public release (*see* 40 CFR 430.24(c)).

Comments to First Notice: EPA received no comments to the first notice of submission of this ICR to OMB.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 120 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: Entities potentially affected by this action are those existing, direct discharging mills with operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard and that choose to participate in the Voluntary Advanced Technology Incentives Program established under 40 CFR 430.24(b).

Estimated Number of Respondents: 29 mills.

Frequency of response: The burden for a mill (which chooses to participate voluntarily in the incentives program) to prepare and submit a Milestones Plan is estimated to average approximately 120 hours per respondent. This is a one-time burden. State NPDES permitting authorities burden to review the Milestones Plans is estimated at 16 hours per respondent as an initial burden with an average recurring annual review burden of 6 hours per respondent. There is no recurring burden for mill respondents associated with this information collection.

Estimated Total Annual Hour Burden: 1,418 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Dated: February 26, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–5449 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Operator Certification Guidelines and Operator Certification Expense Reimbursement Grants Program

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Operator Certification Guidelines and Operator Certification Expense Reimbursement Grants Program, OMB Control Number 2040–0236, expiration date February 28, 2002. 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 April 8, 2002.

ADDRESSES: Send comments, referencing EPA ICR #1955.02, and OMB Control No. 2040–0236 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue NW., Washington, DC, 20460; 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@epa.gov,* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR #1955.02. For technical questions about the ICR, contact Jenny Jacobs, Drinking Water Protection Division (Mailcode 4606M), Office of Ground Water and Drinking Water, U.S. EPA, 1200 Pennsylvania Avenue NW., Washington, DC, 20460. Ms. Jacobs may be contacted by phone at (202) 564–3836 or by E-mail at *jacobs.jenny@epa.gov.*

SUPPLEMENTARY INFORMATION: Operator Certification Guidelines and Operator Certification Expense Reimbursement Grants Program (OMB Control Number 2040–0236; EPA ICR Number 1955.02) expiring 2/28/02. This is an extension of a currently approved collection.

Abstract: This information collection is to determine if states are meeting the requirements of EPA's operator certification guidelines, which were published in the **Federal Register** on February 5, 1999 (64 FR 5916). Section 1419(a) of the Safe Drinking Water Act (SDWA) Amendments of 1996 requires EPA to develop operator certification guidelines for state operator certification programs and to publish final guidelines by February 6, 1999. Pursuant to section 1419(b) of the SDWA, beginning two years after the date on which EPA publishes operator certification guidelines (February 5, 2001), EPA shall withhold 20 percent of the funds a state is otherwise entitled to receive under SDWA section 1452 unless a state has adopted and is implementing a program that meets the requirements of EPA's operator certification guidelines. EPA is required under SDWA section 1419 to make an annual determination on whether to withhold 20 percent of a state's Drinking Water State Revolving Fund (DWSRF) allotment. In order to make these decisions, EPA must collect information from the states as required by EPA's guidelines. States, in turn, must collect information from water systems as required by their respective programs.

SDWA section 1419(d) requires EPA to reimburse (through grants to states) the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating community and nontransient noncommunity public water systems serving 3,300 persons or fewer that are required to undergo training pursuant to EPA's operator certification guidelines. Prior to awarding grants to states, EPA will need to collect information from states to ensure that the state has a plan for distributing the funds to small system operators. 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. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 2/28/01 (66 FR 12776); 1 comment was received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 4 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: Owners/operator of public water systems, State Environmental Water Quality Agencies, State Departments of Health.

Estimated Number of Respondents: 68,396.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 302,425 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $898,000.

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. 1955.02 and OMB Control No. 2040–0236 in any correspondence.

Dated: February 26, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–5450 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Clean Watersheds Needs Survey, EPA ICR No. 0318.09, OMB Control No. 2040–0050, Expiration Date February 28, 2002

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 EPA ICR No. 0318.09, OMB Control No. 2040–0050, expiration date February 28, 2002. 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 April 8, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 0318.09 and OMB Control No. 2040–0050, 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@epa.gov* or download off the internet or download off of the Internet at *http://www.epa.gov/icr* and refer to EPA ICR 0318.09. For technical questions about the ICR please call Sandra Perrin at (202) 564–0668 in the Office of Water.

SUPPLEMENTARY INFORMATION:

Title: Clean Watersheds Needs Survey (OMB Control No. 2040–0050; EPA ICR No. 0318.09; expiring 2/28/2002. This is a renewal of a currently approved collection.

Abstract: The Clean Watersheds Needs Survey is required by sections 205(a) and 516(b)(1) of the Clean Water Act. It is a periodic inventory of existing and proposed publicly owned wastewater treatment works (POTWs) and other water pollution control

facilities in the United States, as well as an estimate of how many POTWs are needed to be built. The Clean Watersheds Needs Survey is a voluntary joint effort of EPA and the States. The Survey records cost and technical data associated with all POTWs and other water pollution control facilities, existing and proposed, in the United States. The States provide this information to EPA. No confidential information is used, nor is sensitive information protected from release under the Public Information Act, used. EPA achieves national consistency in the final results through the application of uniform guidelines and validation techniques. 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. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on July 27, 2001; no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 2 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: The respondents are the States, District of Columbia, Puerto Rico, Virgin Islands and Pacific Territories.

Estimated Number of Respondents: 56.

Frequency of Response: every 4 years.

Estimated Total Annual Hour Burden: 7,672 hours.

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.0318.09 and OMB Control No. 2040–0050 in any correspondence.

Dated: February 26, 2002.

Oscar Morales, Director,

Collection Strategies Division.

[FR Doc. 02–5451 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Advisory Committee was established by P.L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Monday, March 18, 2002, at 9:30 AM to 12:45 PM. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: Agenda items include the introduction of this year's action plan, introduction of the 2002 Advisory Committee Members, and a legislative update.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to March 10, 2002, Nichole Westin, Room 1257, 811 Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3542 or TDD (202) 565–3377.

FURTHER INFORMATION: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3542.

Peter Saba,

General Counsel.

[FR Doc. 02–5384 Filed 3–6–02; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

March 1, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments May 6, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Herman, Federal Communications Commission, 445 12th Street, SW., Room 1-C804, Washington, DC 20554 or via Internet to *jbherman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith Herman at 202–418–0214 or via Internet at *jbherman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0835.

Title: Ship Inpsection Certificates.

Form Nos: FCC 806, 824, 827, and 829.

Type of Review: Extension of a currently approved collection.

Respondents: Business or Other for Profit.

Number of Respondents: 1,210.

Estimated Time Per Response: 5 minutes (.084 hours).

Total Annual Burden: 102 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: The Communications Act requires that the Commission must inspect the radio installation of large cargo ships and certain passenger ships at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act. Additionally, the communications Act requires the inspection of small passenger ships at least once every five years. The Safety Convention (which the United States is signatory) also requires an annual inspection, however, permits an Administration to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it. There, the United States can have other entities conduct the radio inspection of vessels for compliance with the Safety Convention. The Commission adopted Rules that FCC-licensed technicians provide a summary of the results of the inspection in the ship's log and provide the vessel with a ship inspection safety certificate.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–5398 Filed 3–6–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, March 12, 2002 at 10:00 A.M.

PLACE: 999 E. Street, NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

Items To Be Discussed

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g; 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, March 14, 2002 at 10:00 A.M.

PLACE: 999 E. Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

Items To Be Discussed

Correction and Approval of Minutes.

Final Rules and explanation and Justification for Independent Expenditure Reporting.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–5662 Filed 3–5–02; 2:54 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Request for Public Comments Regarding Extensions to Existing OMB Clearances

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Federal Maritime Commission (FMC or Commission) is preparing submissions to the Office of Management and Budget (OMB) for continued approval of the following information collections (extensions with no changes) under the provisions of the Paperwork Reduction Act of 1995, as amended: OMB No. 3072–0012 (Security for the Protection of the Public and Related Application Form FMC–131, Application for a Certificate of Financial Responsibility); OMB No. 3072–0018 (Licensing, Financial Responsibility Requirements and General Duties for Ocean Transportation Intermediaries and FMC Form 18); OMB No. 3072–0045 (Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984); OMB No. 3072–0060 (Controlled Carriers); OMB No. 3072–0061 (Marine Terminal Operator Schedules and Related Form FMC–1); OMB No. 3072–0064 (Carrier Automated Tariff Systems and Related Form FMC–1); and OMB No. 3072–0065 (Service Contracts). Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval and will become a matter of public record.

DATES: Comments must be submitted on or before May 6, 2002.

ADDRESSES: Send comments to: Austin L. Schmitt, Deputy Executive Director, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (Telephone: (202) 523–5800), *AustinS@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: Send requests for copies of the current OMB clearances to: George D. Bowers, Director, Office of Information Resources Management, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (Telephone: (202) 523–5835, *George@fmc.gov,* or visit our Website at *http://www.fmc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3072–0012 (Expires May 31, 2002).

Abstract: Sections 2 and 3 of Public Law 89–777 (46 U.S.C. app. 817(d) and (e)) require owners or charterers of passenger vessels with 50 or more passenger berths or stateroom accommodations and embarking passengers at United States ports and territories to establish their financial responsibility to meet liability incurred for death or injury to passengers and other persons, and to indemnify passengers in the event of nonperformance of transportation. The Commission's Rules at 46 CFR part 540 implement Public Law 89–777 and specify financial responsibility coverage requirements for such owners and charterers.

Needs and Uses: The information will be used by the Commission's staff to ensure that passenger vessel owners and charterers have evidenced financial responsibility to indemnify passengers and others in the event of nonperformance or casualty.

Frequency: This information is collected when applicants apply for a certificate or when existing certificants change any information in their application forms.

Type of Respondents: The types of respondents are owners, charterers and operators of passenger vessels with 50 or more passenger berths that embark passengers from U.S. ports or territories.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 60.

Estimated Time Per Response: The time per response ranges from .5 to 6 hours for complying with the regulations and 8 hours for completing Application Form FMC–131. The total average time for both requirements for each respondent is 34.66 person-hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 2,080 person-hours.

OMB Approval Number: 3072–0018 (Expires August 31, 2002).

Abstract: Section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718, provides that no person in the United States may act as an ocean transportation intermediary (OTI) unless

that person holds a license issued by the Commission. The Commission shall issue an OTI license to any person that the Commission determines to be qualified by experience and character to act as an OTI. Further, no person may act as an OTI unless that person furnishes a bond, proof of insurance or other surety in a form and amount determined by the Commission to insure financial responsibility. The Commission has implemented the provisions of section 19 in regulations contained in 46 CFR part 515, including financial responsibility forms FMC–48, FMC–67, FMC–68, and FMC–69, and its related license application form, FMC–18.

Needs and Uses: The Commission uses information obtained from Form FMC–18, as well as information contained in the Commission's files and letters of reference, to determine whether an applicant meets the requirements for a license. If the collection of information were not conducted, there would be no basis upon which the Commission could determine if applicants are qualified for licensing.

Frequency: This information is collected when applicants apply for a license or when existing licensees change certain information in their application forms.

Type of Respondents: Persons desiring to obtain a license to act as an OTI.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 3,450.

Estimated Time Per Response: The time per response for completing Application Form FMC–18 averages 1.5 hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 5,175 person-hours.

OMB Approval Number: 3072–0045 (Expires August 31, 2002).

Abstract: The Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.*, requires certain classes of agreements between and among ocean common carriers and marine terminal operators to be filed with the Commission, specifies the mandatory content of those agreements, and defines the Commission's authorities and responsibilities in overseeing those agreements. 46 CFR 535 establishes the form and manner for filing agreements and for the underlying commercial data necessary to evaluate agreements.

Needs and Uses: Under its pre-effectiveness review process, the Commission reviews agreement filings to determine statutory and regulatory compliance, as well as to assess any anti-competitive impact the agreement may have. After agreements become effective, the Commission continues to monitor agreement activities to ensure continued statutory and regulatory compliance. To accomplish this, the Commission continuously gathers, reviews, and interprets commercial data regarding the impact of agreements on competition, prices, and service in the U.S. foreign trades.

Frequency: The Commission has no control over how frequently agreements are entered into; this is solely a matter between the negotiating parties. When parties do reach an agreement that falls within the jurisdiction of the Commission, that agreement must be filed with the Commission. Ongoing surveillance of agreement activities is conducted through the review of minutes and quarterly monitoring reports filed by certain types of agreements the Commission has identified as having greater potential effects on competition.

Type of Respondents: Parties that enter into agreements subject to the Commission's oversight are ocean common carriers and marine terminal operators operating in the U.S. foreign trades.

Number of Annual Respondents: Over the last five years the Commission has averaged 362 agreement filings a year from an estimated potential universe of 682 regulated entities. Starting in 1996, certain agreements were required to file quarterly monitoring reports under these regulations. The number of annual respondents under this program will vary according to the number of agreements subject to the reporting obligation. Last year, agreements subject to the monitoring report requirements filed 221 reports.

Estimated Time Per Response: It is estimated that the time for preparing and filing an agreement ranges anywhere from as little as three person-hours to as much as 150 person-hours. The latest estimate of the average burden per respondent was 70 person-hours. Time required for preparing monitoring reports varies according to the complexity of the filing obligation. Class C agreements have the least burden, and it was estimated to be about 20 person-hours. Class A/B agreements require more detailed data and hence a greater burden. It was estimated that Class B monitoring reports require about 130 person-hours, and Class A reports about 170 person-hours. The latest estimated time per respondent under the record-keeping obligations of the regulation was five person-hours.

Total Annual Burden: The latest reported annual burden on respondents was estimated at 109,750 person-hours: 105,000 person-hours as the filing burden, and 4,750 person-hours as the record-keeping burden.

OMB Approval Number: 3072–0060 (Expires August 31, 2002).

Abstract: Section 9 of the Shipping Act of 1984 requires that the Federal Maritime Commission monitor the practices of controlled carriers to ensure that they do not maintain rates or charges in their tariffs and service contracts that are below a level that is just and reasonable; nor establish, maintain or enforce unjust or unreasonable classifications, rules or regulations in those tariffs or service contracts which result or are likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. 46 CFR part 565 establishes the method by which the Commission determines whether a particular ocean common carrier is a controlled carrier subject to section 9 of the Shipping Act of 1984. When a government acquires a controlling interest in an ocean common carrier, or when a controlled carrier newly enters a United States trade, the Commission's rules require that such a carrier notify the Commission of these events.

Needs and Uses: The Commission uses these notifications in order to effectively discharge its statutory duty to determine whether a particular ocean common carrier is a controlled carrier and therefore subject to the requirements of section 9 of the Shipping Act of 1984.

Frequency: The submission of notifications from controlled carriers are not assigned to a specific time frame by the Commission; they are submitted as circumstances warrant. The Commission only requires notification when a majority portion of an ocean common carrier becomes owned or controlled by a government, or when a controlled carrier newly begins operation in any United States trade.

Type of Respondents: Controlled carriers are ocean common carriers which are owned or controlled by a government.

Number of Annual Respondents: Although it is estimated that only 5 of the 14 currently-classified controlled carriers may respond in any given year, because this is a rule of general applicability, the Commission considers the number of annual respondents to be 10.

Estimated Time Per Response: The estimated time for compliance is 7 person-hours per year.

Total Annual Burden: The Commission estimates the person-hour burden required to make such

notifications at 70 person-hours per year.

OMB Approval Number: 3072–0061 (Expires August 31, 2002).

Abstract: Section 8(f) of the Shipping Act of 1984, 46 U.S.C. app. 1707(f), provides that a marine terminal operator (MTO) may make available to the public a schedule of its rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal, subject to section 10(d)(1), 46 U.S.C. app. 1709(d)(1), of the Act. The Commission's rules governing MTO schedules are set forth at 46 CFR part 525.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to determine the organization name, organization number, home office address, name and telephone number of the firm's representatives and the location of MTO schedules of rates, regulations and practices, and publisher, should the MTOs determine to make their schedules available to the public, as set forth in section 8(f) of the Shipping Act.

Frequency: This information is collected prior to an MTO's commencement of its marine terminal operations.

Type of Respondents: Persons operating as MTOs.

Number of Annual Respondents: The Commission estimates the respondent universe at 186.

Estimated Time Per Response: The Commission estimates an average of five hours per schedule.

Total Annual Burden: The Commission estimates the total person-hour burden at 930.

OMB Approval Number: 3072–0064 (Expires August 31, 2002).

Abstract: Except with respect to certain specified commodities, section 8(a) of the Shipping Act of 1984, 46 U.S.C. app. 1707(a), requires that each common carrier and conference shall keep open to public inspection, in an automated tariff system, tariffs showing its rates, charges, classifications, rules, and practices between all ports and points on its own route and on any through transportation route that has been established. In addition, individual carriers or agreements among carriers are required to make available in tariff format certain enumerated essential terms of their service contracts. 46 U.S.C. app. 1707(c). The Commission is responsible for reviewing the accessibility and accuracy of automated tariff systems, in accordance with its regulations set forth at 46 CFR part 520.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to ascertain the location of common carrier and conference tariff publications.

Frequency: This information is collected when common carriers or conferences publish tariffs.

Type of Respondents: Persons desiring to operate as common carriers or conferences.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 3000.

Estimated Time Per Response: The time per response averages five person-hours per respondent for Form FMC 1 and tariff publication matters.

Total Annual Burden: The Commission estimates the total person-hour burden at 313,400 person-hours.

OMB Approval Number: 3072–0065 (Expires August 31, 2002).

Abstract: The Shipping Act of 1984, 46 U.S.C. app. 1707, requires service contracts, except those dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper or paper waste, and their related amendments and notices to be filed confidentially with the Commission.

Needs and Uses: The Commission monitors service contract filings for acts prohibited by the Shipping Act of 1984.

Frequency: The Commission has no control over how frequently service contracts are entered into; this is solely a matter between the negotiating parties. When parties enter into a service contract it must be filed with the Commission.

Types of Respondents: Parties that enter into service contracts are ocean common carriers and agreements among ocean common carriers on the one hand, and shippers or shipper's associations on the other.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 155.

Estimated Time Per Response: The time per response ranges from one to eight hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 303,953.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–5358 Filed 3–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 008005–008.

Title: New York Terminal Conference Agreement.

Parties: American Stevedoring Inc., Port Newark Container Terminal L.L.C., Universal Maritime Service Corp.

Synopsis: The amendment restates the agreement and updates the list of the current members.

Agreement No.: 011493–003.

Title: C&S Shipping Joint Service Agreement.

Parties: LauritzenCool AB, Seatrade Group N.V.

Synopsis: The proposed agreement modification would authorize the parties to operate as a joint service in the trade from Australian ports to U.S. ports.

Agreement No.: 011665–003.

Title: Specialized Reefer Shipping Association.

Parties: LauritzenCool AB, NYK Star Reefers Limited, Seatrade Group N.V.

Synopsis: Nippon Yusen Kaisha is replaced by NYK Star Reefers Limited as member and LauritzenCool's address is updated.

Agreement No.: 011791.

Title: COSCON/KL/YMUK/Hanjin/Senator Asia/U.S. Pacific Coast Slot Exchange Agreement.

Parties: COSCO Container Lines Company, Limited, Kawasaki Kisen Kaisha, Ltd., Yangming (UK), Ltd., Hanjin Shipping Co., Ltd., Senator Lines GmbH.

Synopsis: The proposed agreement authorizes the parties to charter container space to and from each other and rationalize port calls and sailings in the trade between the U.S. Pacific Coast and Japan, Korea, China, Taiwan, Singapore, Malaysia, the Philippines, Vietnam, Thailand, India, Sri Lanka, Pakistan, and Bangladesh. This agreement will replace several existing vessel-sharing agreements between and among the parties.

By Order of the Federal Maritime Commission.

Dated: March 1, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–5360 Filed 3–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Sunny International Logistics Inc. dba Sunny Line 812 South Stoneman Ave., #A Alhambra, CA 91801 Officers: Yan Yun Sang, Vice President (Qualifying Individual) Sunny Pang, President.

Richfield Logistics, Inc. 939 Dodsworth Avenue Covina, CA 91724 Officers: Lyndon L.S. Fan, Vice President (Qualifying Individual) Daqiang Lin, President.

Trans World Freight Services, Inc. dba Trans Young Shipping Co. 165–55 148th Avenue Jamaica, NY 11434 Officers: Dal Pyo Lee, President (Qualifying Individual) Yeau Myung Yoon, Secretary.

Pacific-Net Logistics Inc. 1490 W. Walnut Parkway Compton, CA 90220 Officers: Kin Lau, Chief Operation Officer (Qualifying Individual) Michael Tsang, C.E.O.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

WK Trading & Cargo, Inc. 4055 NW 79th Avenue Miami, FL 33166 Officers: Julia Batista, Operation/Sales (Qualifying Individual) Walter Lavigne, President.

El Capitan International Inc. 2470 N.W. 102 Place, #104 Miami, FL 33172 Officer: Teresita Rodriguez-Adan, V.P. Operations (Qualifying Individual).

Interfreight Harmonized Logistics Inc. 221 Sheridan Blvd. Inwood, NY 11096 Officers: Ian C. Wilcken, Manager (Qualifying Individual) Thomas Staub, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

American Royal Shipping Line 14823 Elmont Drive Houston, TX 77095 M. Bashir Sarakbi Sole Proprietor.

Prince International Trading, LLC 9720 NW 114 Way, Suite 100 Miami, FL 33178 Officers: Mirgani O. Elgaali, President (Qualifying Individual) Nada M. Bushara, Vice President.

EP International Shipping 4570 Eucalyptus Avenue, Unit E Chino, CA 91710 Elliott C. Penalosa Sole Proprietor.

Dated: March 1, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–5359 Filed 3–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for public comment on draft Fiscal Year 2002 Program Guidelines/Application Solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the draft Fiscal Year 2002 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program to inform the public. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. This Solicitation merges all public sector grants into one category and allows the return of FMCS competitive grant funds to be awarded on a non-competitive basis.

DATES: Comments must be submitted with 30 days from the date this publication in the **Federal Register**.

ADDRESSES: Send Comments to: Jane A. Lorber, Director, Labor Management Grants Program, FMCS 2100 K Street, NW., Washington, DC 20427

FOR FURTHER INFORMATION CONTACT: Jane A. Lorber, 202–606–8181

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY2002

A. Introduction

The following is the draft solicitation for the Fiscal Year (FY) 2002 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978, which was initially implemented in FY81. The Act authorizes FMCS to provide assistance in the establishment and operation of company/plant, area, public sector, and industry-wide labor-management committees which:

(A) have been organized jointly by employers and labor organizations representing employees in that company/plant, area, government agency, or industry; and

(B) are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a company/plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the company/plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication

between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the fore mentioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (company), area, industry, or public sector levels.

A plant or company committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon a particular city, county, contiguous multicounty, or statewide jurisdiction. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 2002, competition will be open to company/plant, area, private industry, and public sector committees. Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.)

Required Program Elements

1. *Problem Statement*—The application should have numbered pages and discuss in detail what specific problem(s) face the company/plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the company/plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee will accomplish during the life of the grant. Applications that promise to provide objectives *after* a grant is awarded will receive little or no credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in *specific* and *measurable* terms. Applicants should focus on the outcome, impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts of the grantee, as well as the FMCS grants program.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) a discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) a listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or company/plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as résumés for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet (we require meetings at least every other month) as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees, a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 2002, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applicants must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under Section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) the submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) from existing committees, a copy of the existing staffing levels, a copy of the by-laws (if any), a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) a detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) an assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) an assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) the extends to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and *measurable* goals and objectives have been developed to address the problems/needs of the applicant.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the applications's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third-party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities that can document that a major purpose or function of their organization is the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third-parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are not eligible to re-apply. The only exception will be made for grantees that seek funds on behalf of an entirely different committee whose efforts are totally outside of the scope of the original grant.

D. Allocations

The FY2002 appropriation for this program anticipated to be $1.5 million, of which at least $1,000,000 available competitively for new applicants. Specific funding levels will not be established for each type of committee. The review process will be conducted in such a manner that at least two awards will be made in each category (company/plant, industry, public sector, and area), provided that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be considered according to merit without regard to category.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its non-reserved appropriation to be awarded on a non-competitive basis. These funds will be used only to support applications that have been solicited by the Director of the Service and are not subject to the dollar range noted in Section E. All funds returned to FMCS from a competitive grant award may be awarded on a non-competitive basis in accordance with budgetary requirements.

FMCS reserves the right to retain up to five percent of the FY2002 appropriation to contract from program support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants

Awards to expand existing or establish new labor-management committees will be for a period of up to 18 months. If successful progress is made during this initial budget period and all grant funds are not obligated within the specified period, these grants may be extended for up to six months. No continuation awards will be made.

The dollar range of awards is as follows:

—Up to $65,000 over a period of up to 18 months for company/plant committees or single department public sector applicants;

—Up to $125,000 per 18-month period for area, industry, and multi-department public sector committee applicants.

Applicants are reminded that these figures *represent maximum Federal funds only.* If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources. Applicants are also strongly encouraged to consult with their local or regional FMCS field office to determine what kinds of training may be available at no cost before budgeting for such training in their applications. A list of our field leadership team and their phone numbers is included in the application kit.

F. Cash Match Requirements and Cost Allowability

All applicants must provide at least 10 percent of the total allowable project costs in cash. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as ''in-kind'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for committee purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in committee training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* full-time staff as an expense or match contribution. For a

more complete discussion of cost allowability, applicants are encouraged to consult the FY2002 FMCS Financial and Administrative Grants Mutual, which will be included in the application kit.

G. Application Submission and Review Process

The Application for Federal Assistance (SF–424) form must be signed by *both* a labor and management representative. In lieu of signing the SF–424 form representatives may type their name, title, and organization on plain bond paper with a signature line signed and dated, in accordance with block 18 of the SF–424 form. Applications must be postmarked or electronically transmitted no later than June 28, 2002. No applications or supplementary materials will be accepted after the deadline. It is the responsibility of the applicant to ensure that the U.S. Postal Service or other carrier correctly postmarks the application. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW, Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored preliminarily by one or more Grant Review Boards. The Board(s) will recommend selected applications for rejection or further funding consideration. The Director, Labor-Management Grants Program, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process. Please be sure that person is available between June and September of 2002.

All FY2002 grant applicants will be notified of results and all grant awards will be made before October 1, 2002. Applications submitted after the June 28 deadline date or fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grants Program.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. Please consult the FMCS Web site (*www.fmcs.gov*) to download forms and information.

These kits and additional information or clarification can be obtained free of charge by contacting the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427; or by calling 202–608–8181.

George W. Buckingham,

Deputy Director, Federal Mediation and Conciliation Service.

[FR Doc. 02–5434 Filed 3–6–02; 8:45 am]

BILLING CODE 6737–01–M

FEDERAL RESERVE SYSTEM

Notice of Meeting of Consumer Advisory Council; Correction

This notice corrects a notice (FR Doc. 02-4490) published on page 8802 of the issue for February 26, 2002.

Under the Consumer Advisory Council, the entry is revised to read as follows:

The Consumer Advisory Council will meet on Thursday, March 14, 2002. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, DC, in Dining Room E on the Terrace level of the Martin Building. Anyone planning to attend the meeting should, for security purposes, register no later than Tuesday, March 12, by completing this form on line: http://www.federalreserve.gov/ConsumerRegistration.cfm. In addition, attendees must present photo identification to enter the building.

The meeting will begin at 9:00 a.m. and is expected to conclude at 1:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the various consumer financial services laws and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Home Mortgage Disclosure Act - Discussion of issues related to recent amendments to Regulation C, which implements the Home Mortgage Disclosure Act.

Equal Credit Opportunity Act - Discussion of issues raised by proposed rules in the review of Regulation B, which implements the Equal Credit Opportunity Act.

Community Reinvestment Act - Discussion of issues identified in connection with the current review of Regulation BB, which implements the Community Reinvestment Act.

Committee Reports - Council committees will report on their work.

Other matters initiated by Council members also may be discussed.

Persons wishing to submit views to the Council on any of the above topics may do so by sending written statements to Ann Bistay, Secretary of the Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Information about this meeting may be obtained from Ms. Bistay, 202-452-6470.

Board of Governors of the Federal Reserve System, March 1, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–5426 Filed 3–6–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Cooperative Agreement with Central State University for the Family and Community Violence Prevention Program

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice.

Authority: This program is authorized under section 1707(e)(1) of the Public Health Service Act (PHS), as amended.

SUMMARY: The purpose of the Family and Community Violence Prevention Program (FCVP) is to address the disproportionate incidence of violence and abusive behavior in low income, at-risk, minority communities by targeting these communities through the mobilization of community partners. The intent of this program is to demonstrate the merit of programs that involve institutions of higher education in partnership with primary and secondary schools, community organizations and community citizens to improve the community's quality of life. In order to have the anticipated impact, interventions conducted through partnerships must be directed to the individual, the family and the community as a whole, and must be designed to impact the academic and personal development of those who are at risk.

ADDRESSES: Send the original and two copies of the complete grant application to: Ms. Karen Campbell, Grants Management Officer, Division of Management Operations, Office of

Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852.

DATES: The grant application must be received by the Office of Minority Health (OMH) Grants Management Officer by 5:00 p.m. EST on May 6, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Campbell may be contacted for technical assistance on budget and business aspects of the application. She can be reached at the address above or by calling (301) 443–8441. For further explanations and answers to questions on programmatic aspects, contact: Ms. Cynthia H. Amis, Director, Division of Program Operations, Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852; or call: Cynthia Amis at (301) 594–0769.

SUPPLEMENTARY INFORMATION:

OMB Catalog of Federal Domestic Assistance: The Catalog of Federal Domestic Assistance Number for this program is 93.910.

Availability of Funds: Approximately $7,150,000 (indirect and direct costs) is expected to be available to fund one award to Central State University (CSU) of Wilberforce, Ohio in FY 2002 for a 12-month budget period. Assistance will be provided only to CSU. No other applications are solicited. Support may be requested for a total project period not to exceed 4 years.

CSU is uniquely qualified to administer this cooperative agreement because it has:

- An established infrastructure to manage a multi-faceted demonstration program, coordinated among widely dispersed and diverse institutions of higher education, which addresses family and community violence.
- In place a management staff with the background and experience to guide, develop and evaluate the FCVP Program; and
- Experience in carrying out a program designed to address the risk factors for youth violence in at-risk, minority communities.

As the single source recipient, CSU:

- Shall commence the FCVP program on August 1, 2002.
- Shall, in FY 2002, award $4,950,000 in continuation funds to the 23 undergraduate institutions currently funded under the FCVP program to support established Family Life Centers (FLCs).
- Shall, in FY 2002, award $900,000 in new awards to three additional undergraduate institutions to support the establishment of model FLCs.
- Will be able to apply for noncompeting continuation awards for an additional three years. After Year 1, funding will be based on:

1. The amount of money available, up to $7.4 million per year; and
2. Success or progress in meeting project objectives.

For the noncompeting continuation awards, CSU must submit continuation applications, written reports, and continue to meet the established program guidelines.

Use of Cooperative Agreement Funds: Budgets of up to $7.15 million total costs in Year 1 and up to $7.4 million for each of the three subsequent years (direct and indirect) may be requested to cover costs of:

- Personnel
- Consultants
- Supplies
- Equipment
- Grant Related Travel

Funds may not be used for:

- Medical Treatment
- Construction
- Building alterations or renovations

Note: All budget requests must be fully justified in terms of the proposed purpose, objectives and activities and include an explanation of how costs were computed for each line item.

Background

Despite an overall decline in crime since 1994, injuries and deaths due to violence and abusive behavior continue to be a widespread problem in the United States, costing the Nation over $200 billion annually. According to the Department of Justice, Bureau of Justice Statistics (BJS), minorities are disproportionately represented among both victims and perpetrators of violent crime. While violent crime rates have declined significantly for almost every demographic group examined, those most vulnerable to violent victimization in the past—males, teens and Blacks for example—continued to be the most vulnerable in 2000. The rates of violent crime victimization for Blacks, 35.3 per 1000, and Hispanics, 28.4 per 1000, are higher than the rate for whites, 27.1. The BJS report *American Indians and Crime* (1999) includes data from the National Victimization Survey which show that in 1996, American Indians accounted for 1.4 percent of all violent victimizations while representing only .9 percent of the U.S. population.

According to the *Healthy People 2000 Final Review* (National Center for Health Statistics, HHS 2001), the United States has the highest rates of lethal childhood violence when compared to other industrialized countries. In 1998, 5,506 young people aged 15 to 24 years were victims of homicide, an average of 15 homicides per day. Among youth aged 10 to 14 years, homicide is the third leading cause of death and among 15 to 19 year olds, it is the second leading cause (*Healthy People 2010 Objectives for Improving Health*, 2nd ed., HHS 2000). About one in every eight people murdered in 2000 was less than 18 years old.

According to *Youth Violence: A Report of the Surgeon General* (HHS 2001), youth violence begins either before puberty, before age 13, or later in adolescence. Those youth who become involved in violence before age 13 usually commit more crimes, exhibiting a pattern of escalating violence through childhood and sometimes through adulthood. The report further states that surveys have found that 30 to 40 percent of male youths and 15 to 30 percent of female youths have committed a serious violent offense by age 17.

Minority youth are victims and perpetrators of violent crime at a disproportionate rate. Homicide is the leading cause of death for African Americans 15 to 24 years of age. Young Black males and females are 11 and 4 times, respectively, more likely to be killed than white youth. Data published by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) show that 52 percent of juvenile murder victims in 1997 were minorities. Also in 1997, minorities accounted for 24 percent of the total juvenile population; however, minority males and females represented 63 and 50 percent, respectively, of the juveniles in residential placement. Further, minority juveniles represented approximately 69 percent of all juveniles in residential placement for violent offenses. Black juveniles had the highest rate of placement for violent offenses at 259 per 1,000. Additionally, the rates for violent offenses among Hispanics (138 per 1,000), American Indians (143 per 1,000) and Asians (59 per 1,000) all exceeded the rate for white juveniles (45 per 1,000) (Sickmund & Wan, 2001; analysis of OJJDP's *Census of Juveniles in Residential Placement 1997 and 1999)*.

Risk factors for violence and aggression are additive and follow a developmental sequence. Risk factors are also interdependent and are affected by a range of life experiences and influences involving family, peers, community, and culture, as well as an individual's personal physical and mental health status (*Youth and Violence, Medicine, Nursing and Public Health: Connecting the Dots to Prevent Violence,* Commission for the Prevention of Youth Violence, 2000). As stated in the Surgeon General's Report, ''risk factors and protective factors exist

in every area of life-individual, family, school, peer group, and community.'' The Report further states that risk and protective factors have varying influences depending on when they occur during a child's development. For example, substance abuse, involvement in serious (not necessarily violent) crime, being male, physical aggression, low family socioeconomic status or poverty, and antisocial parents are cited as the strongest risk factors for violent behavior during childhood. During adolescence, however, peer influences supplant those of the family and weak ties to conventional peers, ties to antisocial or delinquent peers, gang membership and involvement in other criminal acts become the strongest risk factors. Violence prevention programs that have been demonstrated to be highly effective combine components that address both individual risks and environmental conditions. Eliminating or reducing risk factors holds promise for reducing violence.

Since 1985, HHS has recognized violence as a leading public health problem in the United States and has supported initiatives to prevent violence. The Family and Community Violence Prevention Program (FCVP) is such an initiative supported through the Office of Minority Health (OMH).

Through this announcement OMH will continue its partnership with CSU and the FCVP initiative begun in 1994 as A Series of HBCU Models to Prevent Minority Male Violence. Sixteen Historically Black Colleges and Universities (HBCUs), collectively known as the Minority Male (Min-Male) Consortium were supported to conduct violence prevention programs targeted to minority males. Three more HBCUs joined the Consortium in 1995. In 1997, the program was renamed the Family Community and Violence Prevention Program (FCVP) and its focus expanded to include females and families. Seven institutions, including Hispanic Serving Institutions and Tribal Colleges/Universities, were added to the Program in 1999 in an effort to address the problem of youth violence among all of the racial/ethnic minority populations served by OMH. Currently, 23 minority institutions in 17 states, the District of Columbia and the U.S. Virgin Islands are supported through the FCVP.

In FY 2002 the FCVP will continue to support community-based interventions designed to address the risk factors for violence and enhance the protective factors for participating minority youth and their families. The award will be made to CSU via a cooperative agreement which provides for substantial federal programmatic involvement in the project (see OMH Responsibilities listed in this announcement).

Project Requirements

CSU will develop a project plan which must include:

- A management team comprised of personnel with appropriate background and experience to develop, guide and execute the FCVP; and
- An operational plan for coordinating the FCVP and its component parts (Advisory Board, Family Life Centers and Management Team) to achieve the purpose of the Program.

CSU Responsibilities and Activities

At minimum, CSU must:

- Develop and implement a plan for maintaining regular communication with OMH and the Family Life Centers (FLCs).
- Develop and implement guidelines for FLC operations, notice of availability of funds for FLC establishment, and guidelines for competitive application preparation.
- Development and implement a plan for conducting a yearly evaluation of the activities of each of the funded institutions, as well as the overall project.
- Develop by-laws for the operation of the Advisory Board and submit to OMH for review and approval.
- In FY 2002, award $4,950,000 in continuation funds to the 23 undergraduate institutions currently funded under the FCVP Program to support established FLCs.
- In FY 2002, award $900,000 in new awards to three additional undergraduate institutions to support the establishment of model FLCs.
- In FY 2003, solicit proposals from four-year undergraduate institutions historically identified as providing education primarily to minority students, or having a majority enrollment of minority students, and from two-year Tribal Colleges which are members of the American Indian Higher Education Consortium, to establish FLCs in low income, at-risk minority communities, and to implement programs that employ a variety of approaches that address violent and abusive behavior that meet their unique needs.
- In FY 2003, provide funding to up to 24 selected undergraduate institutions at a level of up to $250,000 each (total awards of $5,300,000) to conduct comprehensive programs of support and education for a defined community. The selected undergraduate institutions must:

—Establish a FLC within a 10 mile radius of the target community to facilitate access to the program's services/activities on a regular basis (FLCs established on American Indian reservations are excepted). The FLC can be located at the undergraduate school site, or at a facility of a community institution/organization with which it has an established partnership. The FLC is to be open year round (at least 45 weeks), with activities/services offered at various times (*e.g.* weekdays, evenings, weekends) to accommodate the target group(s).

—Offer project activities in the areas of Academic Enrichment, Personal Development, Family Bonding, Cultural/Recreational Enrichment, and Career Development for at least 25 at-risk youth and their families.

—Offer opportunities for the target population to participate in activities on campus or at other appropriate sites. At a minimum activities must:

- Address primary and/or secondary prevention (see Definitions section of this announcement);
- Involve parents, guardians and/or adult caretakers of participating youth;
- Include faculty and/or staff from the institution in program delivery;
- Include students from the institution serving as mentors and in other areas of program delivery; and
- Include a summer academic enrichment program of at least 3 weeks.

—Develop at least 3 formal arrangements/partnerships, one of which must be with a primary or secondary school. Other partners would include community organizations and citizens that provide in-kind contributions and/or assist in the implementation of program activities.

—Evaluate activities conducted using forms required by the Management Team and, if desired, other forms/instruments that are compatible with the overall FCVP evaluation plan. The evaluation design must include use of a random assignment or matched comparison group.

—Submit semi-annual reports describing program activities conducted and progress toward meeting objectives. Reports must meet formatting and content requirements prescribed by the Management Team.

- In FY 2003 and FY 2004 make continuation awards at a level of up to $300,000 each (total awards of $900,000) to the three institutions selected in FY 2002. These continuation awards will be based on satisfactory progress in meeting program requirements.

• In FY 2004 and FY 2005 make continuation awards at a level of up to $250,000 each (total awards of $5,200,000) to the institutions (up to 24) selected in FY 2003.

• Monitor the activities of the funded undergraduate institutions to ensure compliance with the intent of the FCVP Program.

• Each year conduct three technical assistance workshops for participating FLCs in conjunction with three meetings of the Advisory Board.

Note: The technical assistance workshop and the Advisory Board meeting are to be held concurrently or on consecutive dates at the same site.

• Provide technical assistance to individual FLCs, as needed, throughout each year of the project.

• Plan and conduct a national conference of the FCVP program to take place during Year 03 of the project period.

• Submit recommendations or requests for changes in program strategies, scope, evaluation activities and adjustments in funding levels of participating institutions to OMH for review and approval.

• Develop a manual or tool kit which documents procedures and methods for implementing successful violence prevention programs for specific types of communities (i.e. rural, urban, Indian reservation).

OMH Responsibilities and Activities

At a minimum, substantial federal programmatic involvement will include the following.

• Provide technical assistance and oversight for the overall design and operation of the FCVP program.

• Review and approve all documents prepared by the Management Team for the solicitation of proposals, including FLC operational and application guidelines.

• Develop the evaluation criteria for the selection and funding of FLC applications.

• Manage the objective review and selection of FLC applications.

• Appoint an 11-member Advisory Board based on nominations from the Management Team, FLC staff and federal agencies.

• Identify OMH staff to serve on the Advisory Board in an ex-officio capacity.

• Review and approve Management Team recommendations or requests for changes in program strategies, scope, evaluation activities and adjustments in funding levels of participating institutions.

• Participate in the planning of and attend all of the Advisory Board meetings, Technical Assistance Workshops for FLC staff and the national conference.

• Participate in site visits to the participating institutions as deemed appropriate by OMH staff.

Application Kit

• For this cooperative agreement, CSU must submit a proposal using Form PHS 5161–1 (Revised July 2000 and approved by OMB under Control Number 0348–0043).

• CSU is advised to pay close attention to the specific program guidelines and general instructions provided in the application kit.

• The application kit will be sent to CSU by the Grants Management Officer, OMH.

Review of Application

The application submitted by CSU will be reviewed by OMH to ensure that all program requirements are met and that the proposed plan is in compliance with the intent of the FCVP Program. Once the proposal has been approved by OMH, CSU will be notified and the award will be made.

Reporting and Other Requirements

General Reporting Requirements: The successful applicant under this notice will submit: (1) Progress reports; (2) an annual Financial Status Report; and (3) a final progress report and Financial Status Report in the format established by the OMH, in accordance with provisions of the general regulations which apply under 45 CFR part 74.51–74.52.

Healthy People 2010: The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a PHS-led national activity announced in January 2000 to eliminate health disparities and improve years and quality of life. More information may be found on the Healthy People 2010 web site: *http//www.health.gov/*People2010: Volumes I and II can be purchased (cost $70.00 for printed version; $19.00 for CD-ROM). Another reference is the Healthy People 2000 Review 1998–99.

For a free copy of Healthy People 2010, contact: The National Center for Health Statistics (NCHS), Division of Data Services, 6525 Belcrest Road, Hyattsville, MD 20782–2003; or telephone (301) 458–4636; as for DHHS Publications No. (PHS) 99–1256.

This document may also be downloaded from the NCHS web site *http://www.cdc.gov/nchs.*

Definitions

For purposes of this grant announcement, the following definitions are provided:

Hispanic Serving Institution (HSI)—Any local education agency or institution of higher education, respectively, whose student population is more than 25 percent Hispanic (Executive Order 12900, February 22, 1994, Education Excellence for Hispanic Americans, Section 5).

Historically Black College or University (HBCU)—An institution established prior to 1964, whose principal mission was, and is, the education of Black Americans. (National Center for Education Statistics. Compendium: Historically Black Colleges and Universities: 1976–1994. September 1996. [NCES 96–902]).

Majority Enrollment of Minority Students—Enrollment of minorities exceeding 50 percent of the total number of students enrolled (**Federal Register**, Vol. 53, No. 57, March 24, 1988).

Minority Populations—American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or Other Pacific Islander. (Revision to the Standards for the Classification of Federal Data on Race and Ethnicity, **Federal Register**, Vol. 62, No. 210, pg. 58782, October 30, 1997.)

Primary Prevention—Strategies and interventions targeting a broad population with universal programs designed to prevent the initial development of violent behaviors (From the Commission for the Prevention of Youth Violence, December 2000).

Risk Factor—The environmental and behavioral influences capable of causing ill health with or without predisposition.

Secondary Prevention—Strategies and interventions designed to serve specific populations at risk for or involved in violence (From the Commission for the Prevention of Youth Violence, December 2000).

Tribal College or University (TCU)—One of the institutions cited in section 532 of the Equity in Education Land-Grants Status Act of 1994 (U.S.C. 301 note) or that qualify for funding under the Tribally Controlled Community College Assistance Act of 1978, (25 U.S.C. 1801 *et seq*), and Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95–471, Title II (25 U.S.C. 640a note).

Dated: March 1, 2002.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 02–5363 Filed 3–6–02; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–29]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Healthcare Safety Network (NHSN)—New—National Center for Infectious Disease (NCID), Centers for Disease Control and Prevention (CDC). In 1970, OMB first approved the information collection now known as the ''National Nosocomial Infections Surveillance (NNIS) System'' (OMB No. 0920–0012) and in 1999 approved the ''Surveillance for Bloodstream and Vascular Access Infections in Outpatient Hemodialysis Centers'' (OMB No. 0920–0442). These two data collections have been modified and merged to create the NHSN and constitute the first phase of this national surveillance system to collect data on adverse events associated with healthcare. The NHSN will evolve with the addition of modules and healthcare institutions from a wide spectrum of settings.

The NHSN is a knowledge system for accumulating, exchanging, and integrating relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and to promote healthcare safety. Specifically, the data will be used to determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients with similar risks. They will be used to detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing patient risks.

Healthcare institutions that participate in NHSN voluntarily report their data to CDC through the National Electronic Disease Surveillance System that uses a web browser-based technology for data entry and data management. Data are collected by trained surveillance personnel using written standardized protocols. The cost to participating institutions is the salaries of data collector and data entry personnel, a computer capable of supporting an internet service provider (ISP), and access to an ISP. The amount expended for annual salaries will vary widely depending on the module(s) selected. Salaries will range from approximately $940.00 for collection of dialysis incident data to $3500.00 for collection of bloodstream infections data using the Device-associated Module in 2 ICUs. The table below shows the estimated annual burden in hours to collect and report data by form for the entire NHSN project. The estimated annualize cost to respondents will be $6,900.

Title	Number of respondents	Number of responses/respondent	Avg. burden per response (in hours)	Total Burden (in hours)
NHSN Application Annual Survey	350	1	1	350
Dialysis Application/Annual Survey	80	1	1	80
Patient Safety Monthly Reporting Plan	350	9	25/60	1,313
Patient Data	350	111	5/60	3,238
Surgical Site Infection (SSI)	200	27	25/60	2,250
Pneumonia (PNEU)	200	54	25/60	4,500
Primary Bloodstream Infection (BSI)	230	54	25/60	5,175
Urinary Tract Infection (UTI)	150	45	25/60	2,813
Dialysis Incident (DI)	80	90	12/60	1,440
Custom Event (not reported to CDC)	125			
Denominator for Procedure	200	540	5/60	9,000
Denominator for Specialty Care Area (SCA)	75	9	5	3,375
Denominator for Neonatal Intensive Care Unit (NICU)	100	9	4	3,600
Denominator for Intensive Care Unit (ICU)/Other locations (Not NICU or SCA)	245	18	5	22,050
Denominator for Outpatient	80	9	5/60	60
Antimicrobial Use and Resistance (AUR)—Microbiology Lab	20	45	3	2,700
Antimicrobial Use and Resistance (AUR)— Pharmacy	20	36	2	1,440
Total				63,384

Dated: February 28, 2002.

Julie Fishman,

Acting Deputy Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–5396 Filed 3–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0039]

Medical Devices; Draft Guidance for Industry and FDA on Premarket Notification Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA.'' This document provides guidance concerning the content and format of 510(k) submissions for medical sterilization packaging systems intended for the sterilization of medical devices in health care facilities. This guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on the draft guidance by June 5, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies on a 3.5 diskette of the draft guidance entitled ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed labels to assist that office in processing your request, or fax your request to 301–443–8818.

Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

Medical sterilization packaging systems encompass sterilization wrap, sterilization pouches or packages, sterilization containers, trays, cassettes, including mats, holders, or any other related component that is used for sterilization of medical devices. These devices are class II devices, regulated under 21 CFR 880.6850. The draft guidance provides advice on the kind of information and data needed to demonstrate the substantial equivalence of a medical sterilization packaging system device.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA.'' 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 statute and regulations.

III. Electronic Access

In order to receive the draft guidance entitled ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1388) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. A search capability for all CDRH guidance documents is available at http://www.fda.gov/cdrh/guidance.html. Guidance documents are also available at http://www.fda.gov/ohrms/dockets.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance by June 5, 2002. 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 document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 26, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–5489 Filed 3–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects [section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13], the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Health Care for the Homeless Program User/Visit Surveys—New

The Bureau of Primary Health Care (BPHC) of HRSA is planning to conduct User/Visit Surveys of the Health Care for Homeless Program (HCHP). The purpose of this study is to conduct nationally representative surveys, which have the following components: (1) A personal interview survey of HCHP site users; and (2) a record-based study of visits to HCHP sites.

The HCHP is the Federal program with the sole responsibility for addressing the critical primary health care needs of homeless individuals. The HCHP is administered by the BPHC. The BPHC is interested in knowing more about the general and specific characteristics of the HCHP users and their visits to the HCHP sites. As a consequence, a personal interview survey (User Survey) will be administered to a nationally representative sample of HCHP users and a representative sample of medical visits of HCHP sites (Visit Survey) will be examined as well. These surveys are designed and intended to be primary sources of information on the health and visits of the HCHP users. The information will provide policymakers with a better understanding of the services that HCHP users are receiving at HCHP sites and how well these sites are meeting the needs of HCHP users.

Data from the surveys will provide quantitative information on the homeless population served by the HCHP, specifically: (a) Sociodemographic characteristics, (b) health care access and utilization, (c) health status and morbidity, (d) health care experiences and risk behaviors, (e) content of medical encounters, (f) preventive care, and (g) living conditions. These surveys will provide data useful to the HCHP and will enable HRSA to provide data required by Congress under the Government Performance and Results Act of 1993.

The estimated burden on respondents and HCHP site staff is as follows:

Form	Number of respondents	Hours per respondent	Total hour burden
Users of HCHP Sites	1000	1	1000
Abstraction of Visit Records by HCHP Site Staff	1000	.25	250
Total	1000		1,250

Send comments to Susan Queen, Ph.D., HRSA Reports Clearance Officer, Room 11–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 4, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–5488 Filed 3–6–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meetings; Addendum

In **Federal Register** Document 01–28108, appearing on pages 56689–56690 in the issue for Friday, November 9, 2001, the following meetings for the Health Professions and Nurse Education Special Emphasis Panel have been added:

Name: Allied Health Projects.
Date and Time: April 8–11, 2002.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: April 8, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 8, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 9–11, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Quentin N. Burdick Program for Rural Interdisciplinary Training.
Date and Time: April 8–11–2002.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: April 8, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 8, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 9–11, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.)

Name: Residency Training in Primary Care.
Date and Time: April 22–25, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: April 22, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 22, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 23–25, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Physician Assistant Training in Primary Care.
Date and Time: April 22–25, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: April 22, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 22, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 23–25, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Faculty Development Training in Primary Care.
Date and Time: April 29–May 2, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: April 29, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 29, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 30–May 2, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Geriatric Education Centers.
Date and Time: April 29–May 2, 2002.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: April 29, 8:00 a.m. to 10:00 a.m.
Closed on: April 29, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 30–May 2, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Residency Training in Primary Care.
Date and Time: May 6–9, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: May 6, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: May 6, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 7–9, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Residencies in the Practice of Pediatric Dentistry and Residencies and Advanced Education in the Practice of General Dentistry.
Date and Time: May 6–9, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: May 6, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: May 6, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May

7–9, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Predoctoral Training in Primary Care.

Date and Time: May 13–16, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: May 13, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: May 13, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 14–16, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Geriatric Training for Physicians, Dentists, and Behavioral and Mental Health Professionals.

Date and Time: May 13–16, 2002.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Open on: May 13, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: May 13, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 14–16, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Academic Administrative Units in Primary Care.

Date and Time: May 20–23, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: May 20, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: May 20, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 21–23, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Geriatric Academic Career Awards.

Date and Time: June 3–6, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: June 3, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: June 3, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); June 4–6, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Health Education and Training Centers.

Date and Time: June 10–13, 2002.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Open on: June 10, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: June 10, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); June 11–13, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Graduate Psychology Education Program.

Date and Time: July 29–August 1, 2002.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Open on: July 29, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: July 29, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); July 30–August 1, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: National Research Service Awards.

Date and Time: August 5–6, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: August 5, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: August 5, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); August 6, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Dated: March 1, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–5357 Filed 3–6–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunity for a Cooperative Research and Development Agreement (CRADA) To Develop Live Attenuated Dengue Viruses for Use as Vaccines in Humans

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases (NIAID) of the National Institutes of Health (NIH) is seeking Capability Statements from parties interested in entering into a Cooperative Research and Development Agreement (CRADA) on a project to develop live attenuated dengue viruses for use as vaccines to prevent dengue hemorrhagic fever and dengue shock syndrome in humans. This project is part of ongoing vaccine development activities in the Laboratory of Infectious Diseases (LID), Division of Intramural Research, NIAID.

DATES: Only written CRADA Capability Statements received by the NIAID on or before April 18, 2002, will be considered.

ADDRESSES: Capability Statements should be submitted to Dr. Michael R. Mowatt, Office of Technology Development, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 31 Center Drive MSC 2137, Building 31, Room 3B62, Bethesda, MD 20892–2137; Tel: 301/496–2644, Fax: 301/402–7123; Electronic mail: *mmowatt@nih.gov.*

SUPPLEMENTARY INFORMATION: The CRADA will employ attenuated dengue virus strains (types 1 through 4) developed in LID using recombinant DNA methodologies to (1) identify and characterize the mutations responsible for attenuation, (2) engineer viral strains suitably attenuated for use as human vaccines, and (3) evaluate the attenuated viruses as live vaccines in animals, including rhesus monkeys, and humans. The Public Health Service (PHS) has filed patent applications both in the U.S. and internationally related to these technologies.

The LID has extensive experience in evaluating the safety, immunogenicity and efficacy of various human viral pathogens and vaccines thereof both in experimental animals and human volunteers. The LID has identified two approaches to produce attenuated dengue virus vaccine candidates each incorporating a stable, clinically tested deletion mutation capable of attenuating dengue viruses for humans. In addition, a large set of additional attenuating mutations have been identified that will be available to further attenuate vaccine candidates that prove to be incompletely attenuated in human trials. The Collaborator in this endeavor is expected to commit several scientists off-site to support the activities defined by the CRADA Research Plan. These scientists, in collaboration with investigators in the LID, would coordinate the production and release testing of the candidate vaccines, generate monoclonal antibodies or other antibodies needed for production and characterization of clinical lots, and use molecular virologic techniques to generate attenuating mutations suitable for use in live vaccine candidates. The LID and Collaborator will identify the best candidate dengue virus attenuated derivatives for each of the four dengue virus serotypes to formulate a tetravalent vaccine. In addition, it is expected that the Collaborator will provide funds to supplement LID's research budget for the project and would make a major funding commitment to support the safety, immunogenicity and efficacy studies for candidate vaccines developed under the CRADA.

The capability statement must address, with specificity and providing appropriate examples, each of the following selection criteria: (1) The technical expertise of the Collaborator's Principal Investigator and laboratory group in molecular virology; (2) The number of personnel that the Collaborator plans to assign to this project; (3) Ability of Collaborator to manufacture experimental vaccine lots for parenteral administration under Good Manufacturing Practices (GMP) conditions and the number of lots that could be produced annually, (4) Access to a qualified bank of cells for vaccine manufacture, specifically Vero cells or DBS FRhL–2 cells, (5) Capability to manage regulatory affairs attendant to licensure by FDA and international regulatory bodies, and (6) Ability to provide adequate and sustained funding to support pre-clinical development at NIH and at collaborator's site and for the

requisite vaccine safety, immunogenicity, and efficacy studies in humans.

Dated: February 28, 2002.

Michael R. Mowatt,

Director, Office of Technology Development, NIAID.

[FR Doc. 02–5504 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable 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 Cancer Institute Special Emphasis Panel.

Date: March 15, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Boulevard, Rockville, MD 20892. (Telephone Conference Call).

Contact Person: Raymond A. Petryshyn, PHD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., 8th Fl., Room 8133, Bethesda, MD 20892. 301/594–1216.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5493 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel Comparative Medicine.

Date: March 20, 2002.

Time: 1:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Camille M. King, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892–7965. (301) 435–0810. *kingc@ncrr.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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5496 Filed 3–6–02; 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: April 16, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Jon M. Ranhand, PhD, 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: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5491 Filed 3–6–02; 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 paternable 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 General Medical Sciences Special Emphasis Panel.

Date: March 25, 2002.

Time: 11:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Room 1AS–13, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Helen R. Sunshine, PhD, Chief, Office of Scienifitic Review, NIGMS, Natcher Building, Room 1AS–13, Bethesda, MD 20892, (301) 594–2881.

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: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5492 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, March 26, 2002, 7:00 PM to March 28, 2002, 6:00 PM, Hawthorn Suites Hotel, 300 Meredith Drive, Durham, NC, 27713 which was published in the **Federal Register** on February 22, 2002, 67 FR 8278.

The starting date of this meeting will change to March 27 at 8:30 a.m. The meeting is closed to the public.

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5494 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Allergy and Infectious Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Secretary's Advisory Committee on Xenotransplantation, March 11–12, 2002, 8:00 am, Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD, which was published in the **Federal Register** on February 19, 2002, 67 FR 7391.

In addition to the topics described in the earlier FR notice, on the second day of the meeting, March 12, the Committee will hear a presentation on, and then discuss, the FDA Draft Guidance for Industry: Precautionary Measures to Reduce the Possible Risk of Transmission of Zoonoses by Blood and Blood Products from Xenotransplantation Product Recipients and their Intimate Contacts.

Individuals who wish to provide public comment (oral or written) should contact the SACX Executive Director, Mary Groesch, by telephone at 301–496–0785 or e-mail at *groeschm@od.nih.gov.*

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5498 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: April 11, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Nasrin Nabavi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301 496–2550. *nn30t@nih. gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5499 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Flavivirus Infections: Pathogenesis and Prevention.

Date: March 20, 2002.

Time: 10:00 AM to 3:00 PM.

Agenda: to review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Yen Li, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301 496–2550. *yli@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5500 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Acute Infection and Early Disease Research Program.

Date: April 2–3, 2002.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Georgetown, DC 20007.

Contact Person: Hagit David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2117, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610. 301–496–2550. *hdavid@mercury.niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5501 Filed 3–6–02; 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 hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Gene Therapy for Alzheimer's Disease.

Date: March 4–5, 2002.

Time: 6:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The Lodge at Torrey Pines, 11480 North Torrey Pines Road, La Jolla, CA 92037.

Contact Person: Louise L. Hsu, PhD, 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, Age, Race, and Ethnicity in Prostate Cancer.

Date: March 19–20, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn, Conference Room, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arthur D. Schaerdel, DVM, 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: March 25–26, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Louise L. Hsu, PhD, 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, Aging Auditory System: Presbycusis and its Neural Bases.

Date: March 25–26, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard By Marriott Brighton, 33 Corporate Woods, Rochester, NY 14623.

Contact Person: Ramesh Vemuri, PhD, National Institute on Aging, 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, Lipid Oxidation Products in Alzheimer's Disease.

Date: March 28–29, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Lowes Vanderbilt Hotel, 2100 West End Ave., Nashville, TN 37203.

Contact Person: Arthur D. Schaerdel, DVM, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892. (301) 496–9666.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5502 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 11–12, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Latham Hotel, 3000 M Street, NW, Washington, DC 20007.
Contact Person: Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892. (301) 435–1211.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 12, 2002.
Time: 4 p.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892. (301) 435–1037. *dayc@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 12, 2002.
Time: 5 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Joyce C. Gibson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892. 301–435–4522. *gibsonj@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 8 a.m. to 9:14 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 9:15 a.m. to 9:44 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 9:45 a.m. to 10:29 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 10 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892. (301) 435–1169. *dowellr@drg.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 10:30 a.m. to 10:59 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 11 a.m. to 11:29 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 11:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW, Washington, DC 20007–3701.
Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892. (301) 435–1169. *dowellr@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892. (301) 435–1019.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892. (301) 435–0676. *siroccok@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 9:00 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, NW, Washington, DC 20009.
Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892. 3014350902. *krausem@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 2:00 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7840, Bethesda, MD 20892. (301) 435–1195.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 2:00 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: HIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Michael A. Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892. 301–435–3565. *oxmanm@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 17–19, 2002.
Time: 7:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Rochester, 125 East Main Street, Rochester, NY 14604.
Contact Person: Tracy E. Orr, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 5118, Bethesda, MD 20892. (301) 435–1259. *orrt@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Empahsis Panel.
Date: March 18, 2002.
Time: 8:00 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892. (301) 435–1728.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18, 2002.
Time: 8:00 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 28017.
Contact Person: Peter Lyster, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7806, Bethesda, MD 20892. (301) 435–1256. *lysterp@mail.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18–19, 2002.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18–19, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, Washington, DC 20037.
Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892. (301) 435–3566. *cooperc@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18–19, 2002.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892. (301) 435–0692. *tathamt@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18, 2002.
Time: 10 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 220892. (Telephone Conference Call).
Contact Person: Michael A. Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892. (301) 435–3565. *oxmanm@mail.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18, 2002.
Time: 4 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892. (301) 435–1718.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 18, 2002.

Time: 12 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD. 20892. (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892. (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.983, National Institutes of Health, HHS)

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5490 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(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: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 9:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD. 20892. (Telephone Conference Call).

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, levinv@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333; Clinical Research, 93.333; 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institute of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5497 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2002.

Time: 10:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892. 301–435–0695.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2002.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: David J. Remondini, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892. (301) 435–1038. *remondid@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2002.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Sherry L. Stuesse, PHD, Scientific Review Administrator, Division of Clinical and Population-Based Studies, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892. 301–435–1785. *stuesses@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 17–19, 2002.

Time: 7 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: University Guest House, 110 S. Fort Douglas Boulevard, Salt Lake City, UT 84113.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19, 2002.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20814.

Contact Person: Peter Lyster, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7806, Bethesda, MD 20892. (301) 435–1256. *lysterp@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19, 2002.

Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)
Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892. (301) 435–1022. *ehrenspeckg@nih.csr.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 19, 2002.
Time: 4 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892. (301) 435–1777.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20–21, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Grand Westin Hotel, 2350 M Street, NW., Washington, DC 20037–1417.
Contact Person: Michael Nunn, PhD, Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892. (301) 435–1257.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 8 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: The American Inn, 8130 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892. (301) 435–1044.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review and Special Emphasis Panel.
Date: March 20, 2002.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesdsa, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 2:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692. 301–435–3504. *fungv@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 3 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892. (301) 435–0692. *tathamt@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892. (301) 435–1718.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892. (301) 435–0902. *krausem@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel
Date: March 20, 2002.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892. (301) 435–1779. *riverse@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications
Place: Westin Grand Hotel, 2350 M Street, NW, Washington, DC 20037–1417.
Contact Person: Carole L. Jelsema, PhD, Scientific Review Administrator, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD @20892. (301) 435–1248. *jelsemac@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21–22, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 Twenty-Fifth Street, NW, Washington, DC 20037.
Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892. (301) 435–1024. *rodewair@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21–22, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Jay Cinque, MSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892. (301) 435–1252.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2002.
Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW, Washington, DC 20009.

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 74848, Bethesda, MD 20892. (301) 435–0692.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892. (301) 435–1169. *dowellr@drg,nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892. (301) 435–1261.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 704, Bethesda, MD 20814–9692. (301) 435–3504. *fungv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892. (301) 435–1044.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 12:15 p.m. to 1:15 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jeffrey W. Elias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892. (301) 435–0913.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Westin Hotel, 2350 M Street, NW, Washington, DC 20037–1417.

Contact Person: Anne E. Schaffner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7850, Bethesda, MD 20892. (301) 435–1239. *schaffna@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Syed Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892. (301) 435–1043. *amirs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: Donald L. Schneider, PhD, Director, DMCM, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892. (301) 435–1727.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892. (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892. (301) 435–1152. *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892. (301) 435–1779. *riverse@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5503 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center.

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: Board of Governors of the Warren Grant Magnuson Clinical Center.

Date: March 22, 2002.

Time: 9 a.m. to 1 p.m.

Agenda: For discussion of planning and operational issues.

Place: National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Warren Grant Magnuson Clinical Center, National Institutes of Health, Building 10, Room 2C146, Bethesda, MD 20892. 301/496–2897.

Information is also available on the Institute's/Center's home page: *www.cc.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5495 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of the Special Trustee for American Indians

Office of Trust Transition

Office of the Secretary; Tribal Consultation of Indian Trust Asset Management

AGENCY: Office of the Secretary, Bureau of Indian Affairs, Office of the Special Trustee for American Indians, Office of Trust Transition, Interior.

ACTION: Notice of tribal consultation meetings; reopening of comment period.

SUMMARY: The Office of the Secretary, the Bureau of Indian Affairs, the Office of the Special Trustee for American Indians, and the Office of Indian Trust Transition have been conducting consultation meetings with the public as noticed in the **Federal Register** publications of December 5, 2001, December 11, 2001, and January 31, 2002. In the **Federal Register** notice of December 5, 2001 (66 FR 234), the Department noted that all written comments must be received by February 15, 2002. In a subsequent **Federal Register** notice (67 FR 28), the Department extended this comment period to February 28, 2002. This notice reopens the comment period to April 30, 2002.

DATES: All written comments must be received by April 30, 2002.

ADDRESSES: Office of the Assistant Secretary—Indian Affairs, 1849 C Street, NW., MS 4040 MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Wayne R. Smith, Deputy Assistant Secretary—Indian Affairs, 1849 C Street, NW., MS 4140 MIB, Washington, DC 20240 (202/208–7163).

SUPPLEMENTARY INFORMATION: The purpose of the consultation meetings was to involve affected and interested parties in the process of organizing the Department's trust asset management responsibility functions. The Department has determined that there is a need for dramatic change in the management of Indian trust assets. An independent consultant has analyzed important components of the Department's trust reform activities and made several recommendations, including the recommendation that the Department consolidate trust functions under a single entity. The Department has held eight (8) consultation meetings across the country to discuss the merits of this reorganization. Because of the overwhelming public response to this effort, the Department believes it prudent to reopen the comment period further to April 30, 2002. This reopening of the comment period will facilitate the maximum direct participation of all interested parties in this important Departmental process.

Dated: March 1, 2002.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–5383 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

[Permit No. TE–050508]

Applicant: Melanie Pavlas, Dripping Springs, Texas. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Golden-cheeked warbler (*Dendroica chrysoparia*) and Black-capped vireo (*Vireo atricapillus*) within Texas.

[Permit No. TE–819471]

Applicant: SWCA Environmental Consultants, Salt Lake City, Utah. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Black-footed ferret (*Mustela nigripes*) within Utah, Colorado, Wyoming, Montana, and Arizona; Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona, California, and Nevada; Kanab ambersnail (*Oxyloma haydeni kanabensis*) within Utah and Arizona; and Utah valvata snail (*Valvata utahensis*) within Utah.

[Permit No. TE–051581]

Applicant: David Baggett, Huntsville, Texas. Applicant requests a permit for recovery purposes to allow nest monitoring, banding, installation of artificial cavities and cavity restrictors, capture and translocation to and from donor populations of Red-cockaded woodpeckers (*Picoides borealis*) within Texas.

[Permit No. TE–051143]

Applicant: Donald J. Melton, Georgetown, Texas. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Houston toad (*Bufo houstonensis*), Black-capped vireo (*Vireo atricapillus*) and Golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

[Permit No. TE–019805]

Applicant: Angela Barclay, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the Southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

[Permit No. TE–050490]

Applicant: Rion Bowers, Phoenix, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), Lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), Gila topminnow (*Poeciliopsis occidentalis*), Razorback sucker (*Xyrauchen texanus*) within Maricopa, Pinal and Santa Cruz counties of Arizona.

[Permit No. TE–051195]

Applicant: USDA National Resource Conservation Service, Parker, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Southwestern willow flycatcher (*Empidonax traillii extimus*) and Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona and California.

[Permit No. TE–051150]

Applicant: Amy Gibbons, Tempe, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), Lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*) and Black-footed ferret (*Mustela nigripes*) within Arizona.

[Permit No. TE–051189]

Applicant: Bureau of Land Management-Yuma Field Office, Yuma, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*) and Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*) within Arizona.

[Permit No. TE–833868]

Applicant: URS Corporation, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the Yuma clapper rail *(Rallus longirostris yumanensis)* within Arizona.

[Permit No. TE–828640]

Applicant: Harris Environmental Group, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Interior least tern *(Sterna antillarum)* and Northern aplomado falcon *(Falco femoralis septentrionalis)* within Arizona and Texas.

[Permit No. TE–051372]

Applicant: Wildlife Plus Consulting, Alto, New Mexico. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Black-footed ferret *(Mustela nigripes)* and Northern aplomado falcon *(Falco femoralis septentrionalis)* within Lea County, New Mexico.

[Permit No. TE–052289]

Applicant: Darling Environmental & Surveying, Ltd., Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Southwestern willow flycatcher *(Empidonax traillii extimus),* Sonoran tiger salamander *(Ambystoma tigrinum stebbinsi)* and Gila topminnow *(Poeciliopsis occidentalis)* within Arizona.

[Permit No. TE–010472]

Applicant: Geo-Marine, Inc., Newport News, Virginia. Applicant requests an amendment to an existing permit to allow presence/absence surveys and monitoring of breeding, nesting, and feeding for the Interior least tern *(Sterna antillarum)* within Arizona, New Mexico and Texas.

[Permit No. TE–051716]

Applicant: Gretchen VanReyper, Austin, Colorado. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the Southwestern willow flycatcher *(Empidonax traillii extimus)* within the Four Corners area of New Mexico, Arizona, Utah and Colorado.

[Permit No. TE–025197]

Applicant: Lockheed Martin Environmental Services, Las Vegas, Nevada. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Virgin river chub *(Gila robusta semidnuda)* and Woundfin *(Plagopterus argentissimus)* within Utah.

[Permit No. TE–028605]

Applicant: SWCA, Inc., Environmental Consultants-Flagstaff, Flagstaff, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Gila topminnow *(Poeciliopsis occidentalis),* Gila trout *(Oncorhynchus gilae),* Desert pupfish *(Cyprinodon elegans),* Rio Grande silvery minnow *(Hybognathus amarus)* and Yaqui chub *(Gila purpurea)* within Arizona, New Mexico, and Texas.

[Permit No. TE–039468]

Applicant: Cecelia M. Smith, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Black-footed ferret *(Mustela nigripes),* Lesser long-nosed bat *(Leptonycteris curasoae yerbabuenae),* Sonoran pronghorn *(Antilocapra americana sonoriensis),* Hualapai Mexican vole *(Microtus mexicanus hualpaiensis),* Jaguar *(Panthera onca),* Sinaloan jaguarundi *(Herpailurus yagouaroundi tolteca)*, Ocelot *(Leopardus pardalis)*, Mexican gray wolf *(Canis lupus)*, Sonoran tiger salamander *(Ambystoma tigrinum stebbinsi)*, Southwestern willow flycatcher *(Empidonax traillii extimus)*, Masked bobwhite *(Colinus virginianus ridgwayi)*, California condor *(Gymnogyps californianus)*, Yuma clapper rail *(Rallus longirostris yumanensis)*, Gila trout *(Oncorhynchus gilae)* Bonytail chub *(Gila elegans)*, Humpback chub *(Gila cypha)*, Virgin River chub *(Gila robusta seminuda)*, Colorado pikeminnow *(Ptychocheilus lucius)*, Yaqui chub *(Gila purpurea)*, Desert pupfish *(Cyprinodon macularius)*, Razorback sucker *(Xyrauchen texanus)*, Gila topminnow *(Poeciliopsis occidentalis)*, Woundfin *(Plagopterus argentissimus)* and Kanab ambersnail *(Oxyloma haydeni kanabensis)* within Arizona.

[Permit No. TE–824573]

Applicant: Texas Department of Transportation , Austin, Texas. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: jaguarundi *(Herpailurus (=Felis) yagouaroundi)*, ocelot *(Leopardus (=Felis) pardalis)*, northern aplomado falcon *(Falco femoralis septentrionalis)*, Attwater's greater prairie-chicken *(Tympanuchus cupido attwateri)*, and Texas wild-rice *(Zizania texana).*

Written comments on these permit applications must be received within 30 days of the date of publication.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Steven C. Helfert,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 02–5400 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit; Endangered and Threatened Species

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director

(address below) and must be received within 30 days of the date of this notice.

Applicant: Los Angeles Zoo, California, PRT–052638.

The applicant requests a permit to import 1.3 captive bred yellow-footed rock wallabies (*Petrogale xanthopus xanthopus*) from Monarto Zoological Park in Australia for the purpose of enhancement of the survival of the species.

Applicant: James Edward Thompson, Dallas, TX, PRT–052734.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Samuel L. Maxwell, Bellevue, WA, PRT–052709.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Wayne Webber, Houston, TX, PRT–052890.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Western Hudson Bay polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: February 11, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–5417 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit; Endangered Species

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Barbara & Yaro Hoffmann, Gibsonton, FL, PRT–053061.

The applicant requests a permit to re-export and re-import captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: February 15, 2002.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–5418 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability; Draft Environmental Impact Statement on Resident Canada Goose Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability for public comment.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared a Draft Environmental Impact Statement (DEIS) which is available for public review. The DEIS analyzes the potential environmental impacts of alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce goose-related damages. The analysis provided in the DEIS is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comment received during the scoping period; and disclose the direct, indirect, and cumulative environmental effects of the proposed actions and each of the alternatives. The Service invites the public to comment on the DEIS.

DATES: Written comments on the DEIS must be received by May 30, 2002.

ADDRESSES: Requests for copies of the DEIS should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street NW., Washington, DC 20240. Comments on the DEIS should be sent to the above address.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, or Ron Kokel (703) 358–1714.

SUPPLEMENTARY INFORMATION: On August 19, 1999, a notice was published in the **Federal Register** (64 FR 45269) announcing that the Service intended to prepare an Environmental Impact Statement for resident Canada goose management. Comments were received and considered and are reflected in the

DEIS made available for comment through this notice. This notice is provided pursuant to Fish and Wildlife Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6).

Several public hearings will be held throughout the country during the comment period to solicit oral comments from the public. The dates and locations of these hearings are yet to be determined. A notice of public meetings with the locations, dates, and times will be published in the **Federal Register**.

We will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations (40 CFR 1506.6(f)). Our practice is to make comments available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

The DEIS evaluates alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce goose-related damages. The objective of the DEIS is to provide a regulatory mechanism that would allow State and local agencies, other Federal agencies, and groups and individuals to respond to damage complaints or damages by resident Canada geese. The DEIS is a comprehensive programmatic plan intended to guide and direct resident Canada goose population growth and management activities in the conterminous United States. The DEIS analyzes seven management alternatives: (1) No Action (Alternative A); (2) Increase Use of Nonlethal Control and Management (excludes all permitted activities) (Alternative B); (3) Increase Use of Nonlethal Control and Management (continued permitting of those activities generally considered nonlethal) (Alternative C); (4) New Regulatory Options to Expand Hunting Methods and Opportunities (Alternative D); (5) Integrated Depredation Order Management (consisting of an Airport Depredation Order, a Nest and Egg Depredation Order, a Agricultural Depredation Order, and a Public Health Depredation Order) (Alternative E); (6) State Empowerment (PROPOSED ACTION) (Alternative F); and (7) General Depredation Order (Alternative G). Alternatives were analyzed with regard to their potential impacts on resident Canada geese, other wildlife species, natural resources, special status species, socioeconomics, historical resources, and cultural resources.

Our proposed action (Alternative F) would establish a regulation authorizing State wildlife agencies (or their authorized agents) to conduct (or allow) management activities, including the take of birds, on resident Canada goose populations. Alternative F would authorize indirect and/or direct population control strategies such as aggressive harassment, nest and egg destruction, gosling and adult trapping and culling programs, expanded methods of take to increase hunter harvest, or other general population reduction strategies. The intent of Alternative F is to allow State wildlife management agencies sufficient flexibility, within predefined guidelines, to deal with problems caused by resident Canada geese within their respective States. Other guidelines under Alternative F would include criteria for such activities as special expanded harvest opportunities during the portion of the Migratory Bird Treaty closed period (August 1–31), airport, agricultural, and public health control, and the non-permitted take of nests and eggs.

Dated: February 14, 2002.

Steve Williams,

Director.

[FR Doc. 02–5420 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council (Council) Meeting Announcement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Council will meet to select North American Wetlands Conservation Act (NAWCA) proposals for recommendation to the Migratory Bird Conservation Commission. The meeting is open to the public.

DATES: March 6, 2002, 9 a.m.–12 noon.

ADDRESSES: The meeting will be held at the Aspen Wye River Conference Center, 201 Wye Woods Way, Queenstown, MD 21658. The Council Coordinator is located at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 110, Arlington, Virginia, 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Council Coordinator, (703) 358–1784 or *dbhc@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to, and final funding approval by, the Migratory Bird Conservation Commission. Proposals require a minimum of 50 percent non-Federal matching funds.

Dated: February 7, 2002.

Paul R. Schmidt,

Acting Assistant Director, Migratory Birds and State Programs, Fish and Wildlife Service.

[FR Doc. 02–5416 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Approval

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for approval.

SUMMARY: The public is invited to comment on the following application for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

DATES: Written data, comments, or requests for a copy of this complete application must be received by April 8, 2002.

ADDRESSES: Written data, comments, or requests for a copy of this complete application should be sent to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Andrea Gaski, Chief, Branch of CITES Operations, Division of Management Authority, at 703–358–2095.

SUPPLEMENTARY INFORMATION:

Applicant: Mr. William Sanders of Norco, California.

The applicant wishes to establish a cooperative breeding program for black goshawk (*Accipiter melanoleucus*), red-necked falcon (*Falco chicquera*), orange-breasted falcon (*Falco deiroleucus*), red-napped shaheen (*Falco peregrinus babylonicus*), African peregrine (*Falco peregrinus minor*), black shaheen (*Falco peregrinus peregrinator*), Bonelli's eagle (*Hieraaetus fasciatus*), Blyth's hawk-eagle (*Spizaetus alboniger*), changeable hawk-eagle (*Spizaetus cirrhatus*), and ornate hawk-eagle (*Spizaetus ornatus*). The applicant wishes to be an active participant in this program along with three other individuals. The California Raptor Breeder's Association has agreed to assume oversight responsibility of this program if it is approved.

Documents and other information submitted with this application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice.

Dated: February 8, 2002.

Andrea Gaski,

Chief, Branch of CITES Operations, Division of Management Authority.

[FR Doc. 02–5419 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–933–1430–ET; A–023002]

Public Land Order No. 7514; Extension of Public Land Order No. 6244; AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends Public Land Order No. 6244 for an additional 20 years. This extension is necessary to continue the protection of the Department of the Army's Fort Richardson Military Reservation known as the Davis Range Tract M.

EFFECTIVE DATE: May 13, 2002.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 6244, which withdrew public lands to protect the Fort Richardson Military Reservation known as the Davis Range Tract M, is hereby extended for an additional 20-year period following its date of expiration.

2. This withdrawal will expire May 12, 2022, unless as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: February 15, 2002.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–5435 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meetings and conference call.

SUMMARY: The Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMP provides an organization and process to ensure the use of scientific information in decision making concerning Glen Canyon Dam operations and protection of the affected resources consistent with the Grand Canyon Protection Act. The AMP has been organized and includes a federal advisory committee (the AMWG), a technical work group (the TWG), a monitoring and research center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and information for the AMWG to act upon.

Date and Location: The Glen Canyon Dam Adaptive Management Work Group will conduct the following public meeting:

Phoenix, Arizona—April 24–25, 2002. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. on the first day and will begin at 8 a.m. and conclude at 3 p.m. on the second day. The meeting will be held at the Bureau of Indian Affairs, —Western Regional Office, 2 Arizona Center, Conference Rooms A and B (12th Floor), 400 North 5th Street, Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss experimental flows, non-native fish control, the Strategic Plan, Information Needs, FY 2004 AMP Budget, public outreach, environmental compliance, and other administrative and resource issues pertaining to the AMP.

Date and Location: The Glen Canyon Dam Technical Work Group will conduct the following:

Conference Call: March 20, 2002, from 9 a.m to 2 p.m. (MST) to discuss a proposed experimental flow design. Members and the public may register for the call by contacting Linda Whetton at (801) 524–3880.

Phoenix, Arizona—May 16–17, 2002. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. on the first day and will begin at 8 a.m. and conclude at 3 p.m. on the second day. The meeting will be held at the Bureau of Indian Affairs, —Western Regional Office, 2 Arizona Center, Conference Rooms A and B (12th Floor), 400 North 5th Street, Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss the management objectives and information needs as contained in the Draft Strategic Plan, experimental flows, non-native fish control, 2001 monitoring results, Aquatic and Cultural Resources Protocol Evaluation Panel (PEP) results, FY 2004 AMP budget, environmental compliance, and other administrative and resource issues pertaining to the AMP.

Agenda items may be revised prior to any of the meetings. Final agendas will be posted 15 days in advance of each meeting and can be found on the Bureau of Reclamation website under Environmental Programs at: *http://www.uc.usbr.gov.* (providing the Reclamation web site is available). If not, they may request a faxed copy of the proposed agenda by calling (801) 524–3880. Time will be allowed on each agenda for any individual or organization wishing to make formal oral comments (limited to 10 minutes) at the meetings.

To allow full consideration of information by the AMWG or TWG members, written notice must be provided to Randall Peterson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1147; telephone (801) 524–3758; faxogram (801) 524–3858; E-mail at *rpeterson@uc.usbr.gov* at least FIVE (5) days prior to the meeting. Any written comments received will be provided to

the AMWG and TWG members at their respective meetings.

FOR FURTHER INFORMATION CONTACT: Randall Peterson, telephone (801) 524–3758; faxogram (801) 524–3858; *rpeterson@uc.usbr.gov.*

Dated: March 1, 2002.

Randall V. Peterson,

Manager, Adaptive Management and, Environmental Resources Division.

[FR Doc. 02–5397 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–MN–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–925 (Final)]

Greenhouse Tomatoes From Canada

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: February 27, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: On October 5, 2001, the Commission established a schedule for the conduct of the final phase of the subject investigation (66 FR 57112, November 14, 2001). The applicable stature directs that the Commission make its final injury determination within 45 days after the final determination by the U.S. Department of Commerce, which was on February 26, 2002 (67 FR 8781). The Commission, therefore, is revising its schedule.

The Commission's new schedule for the investigation is as follows: party posthearing briefs are due on March 4, 2002; the Commission will make its final release of information on March 25, 2002; and final party comments are due on March 27, 2002.

For further information concerning this investigation see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 1, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–5356 Filed 3–6–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-Day notice of information collection under review; Application for Permission to Reapply for Admission into the United States after Deportation or Removal; Form I–212.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 6, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Permission to Reapply for Admission into the United States after Deportation or Removal.

(3) *Agency from number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–212. Information Services Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information furnished on Form I–212 will be used by the Immigration and Naturalization Service to adjudicate applications filed by aliens requesting the Attorney General's consent to reapply for admission to the United States after deportation, removal, or departure, as provided under section 212.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,200 responses at hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,400 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: March 1, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–5407 Filed 3–6–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 28, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (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 OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Standard on the Control of Hazardous Energy Sources (Lockout/Tagout)—29 CFR 1910.147.

OMB Number: 1218–0150.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government; and Federal Government.

Frequency: On occasion; Initially, and Annually.

Type of Response: Recordkeeping and Third-party disclosure.

Number of Respondents: 2,351,014.

Number of Responses: 93,801,974.

Average Time per Response: Varies from five seconds to notify an employer after removing a lockout or tagout device to two and one-half hours to develop and document an energy-control procedure.

Annual Burden Hours: 1,109,040.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The collections of information contained in 29 CFR 1910.147 are needed to reduce injuries and deaths in the workplace that occur when employees are engaged in maintenance, repair, and other service-related activities requiring the control of potentially hazardous energy.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–5412 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 27, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E–Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Title 29 CFR part 29—Labor Standards for the Registration of Apprenticeship Programs.

OMB Number: 1205–0223.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Frequency: On occasion.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 238,929.

Number of Annual Responses: 238,929.

Estimated Time Per Response: Varies from 15 minutes to complete the Apprenticeship Agreement Form (ETA–671) to 2 hours to develop a written apprenticeship plan.

Total Burden Hours: 47,520.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Title 29 part 29 sets forth labor standards to safeguard the welfare of apprentices and to extend the application of such standards by prescribing policies and procedures concerning registration of apprenticeship programs.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–5413 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 28, 2002.

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: OMB Desk Officer MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Examinations and Tests of Electrical Equipment.

OMB Number: 1219–0067.

Affected Public: Business or other for-profit.

Frequency: On occasion; Weekly; Monthly; and Annually.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 2,407.

Annual Responses: 1,591,866.

Average Time per Response: Varies from 15 minutes to record examination results to 1 hour to conduct an examination of facilities.

Annual Burden Hours: $1,055,542.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 75.512, 75.703–3(d)(11), 77.502, 75.800–1 thru 4, 75.900, and 75.1001–1(b) require coal mine operators to frequently examine, test, and properly maintain all electrical equipment and to keep records of the results of the examinations and tests. These information collection requirements are needed to ensure that electrical equipment is properly maintained to avoid electrical accidents that could seriously injure coal miners.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Applications for Approval of Sanitary Toilet Facilities.

OMB Number: 1219–0101.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Type of Reporting: Recordkeeping and Reporting.

Number of Respondents: 2.

Number of Annual Responses: 2.

Average Time per Response: 8.

Annual Burden Hours: 16.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 71.500 and 75.1712–6 requires manufactures of sanitary toilet facilities to obtain MSHA approval of units prior to use at coal mine operations. This approval process is necessary to ensure healthy an environment for miners.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Records of All Certified and Qualified Persons and Man Hoist Operators' Physical Fitness.

OMB Number: 1219–0127.

Affected Public: Business or other for-profit.

Frequency: On occasion and Quarterly.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 2,365.

Number of Annual Responses: 11,875.

Estimated Time Per Response: 8 hours to develop a training plan and 5 minutes to update the list of certified and qualified man hoist operators.

Total Burden Hours: 20,888.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 75–155, 75–159, 75–160, 75–161, 77–105, 77–107, 77–107–1, and 77–106 requires mine operators to maintain a list of persons who are certified and qualified as hoisting engineers, and to provide a training program to train and retain both certified and qualified persons.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–5414 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 26, 2002.

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 Marlene Howze at ((202) 219–8904 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those

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

Type of Review: Revision of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Certification of Funeral Expenses.

OMB: 1215–0027.

Affected Public: Business or other for-profit.

Frequency: On Occasion.

Number of Annual Respondents: 195.

Number of Annual Responses: 195.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 49.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operation/maintaining systems or purchasing services): $0.

Description: Section 9(a) of the Longshore and Harbor Workers' Compensation Act provides that reasonable funeral expenses not to exceed not to exceed $3,000 shall be paid in all compensable death cases. Form LS–265 has been provided for use in submitting the funeral expenses for payment. The information collected by this form is incorporated into a compensation order at the time death benefits are ordered paid in a case. It it also used to certify the amount of funeral expenses incurred in the case. if the information were not collected, payable funeral expenses could not be determined.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Comparability of Current Work to Coal Mine Employment; (2) Coal Mine Employment Affidavit; (3) Affidavit of Deceased Miner's Condition.

OMB Number: 1215–0056.

Affected Public: Individuals or households.

Frequency: On Occasion.

Responses and Estimated Burdens:

Form	Annual responses	Per response (min.)	Total burden hours
CM–913	1,500	30	750
CM–918	6,000	10	17
CM–1093	5,000	20	33
Total	26,000		800

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $1,200.96.

Description: The Black Lung Benefits Act of 1977, as amended, 30 U.S.C. 901 *et seq.*, provides for the payment of benefits to coal miners who have contracted black lung disease as a result of coal mine employment, and their dependents and survivors. Once a miner has been identified as having performed non-coal mine work subsequent to coal mine employment, the miner or the miner's survivor is asked to complete Form CM–913 to compare coal mine work to non-coal mine work. This employment, along with medical information, is used to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment. Form CM–918 is an affidavit used to gather coal mine employment evidence only when primary evidence, such as pay stubs, W–2 forms, employer and union records, and Social Security records are unavailable or incomplete. Form CM–1093 is an affidavit form for recording lay medical evidence, used in survivor's claims in which evidence of the miner's medical condition is insufficient. For each of these forms (CM–913, CM–918, and CM–1093), the information is collected only if needed at the time the claim is received. If the information were not collected on these forms, the determination as to eligibility for benefits under the Black Lung Benefits Act would be severely limited.

Ira L. Mills,

Departmental Clearance Officer.

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BILLING CODE 4510–CF–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act: Indian and Native American Employment and Training Programs; Solicitation for Grant Applications: Final Grantee Designation Procedures for Program Years 2002 and 2003

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of final designation procedures for grantees.

SUMMARY: This document contains the procedures by which the Department of Labor (DOL) will select and designate service providers for Program Years 2002 and 2003 for Indian and Native American Employment and Training Programs under section 166 of the Workforce Investment Act (WIA). Grantees or potential eligible providers participating in Public Law 102–477 Demonstration Projects must apply for designation if they wish to receive or continue to receive WIA funds for Program Years 2002 and 2003. Public Law 102–477 allows Federally-recognized tribes to consolidate their formula-funded employment and training and related dollars under a single service plan administered by the Bureau of Indian Affairs. This notice provides the information that applicants need to submit appropriate requests for designation.

DATES: Notices of Intent must be received in the Department March 22, 2002. All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to the recent concerns involving anthrax contamination. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission; that is, if because of these mail problems, the Department does not receive an application or receives it too late to give it proper consideration, even if it was timely mailed, the Department is not required to consider the application.

ADDRESSES: Send a signed original and two copies of the Notice of Intent to Mr. James C. DeLuca, Chief, Division of Indian and Native American Programs, Room N–4641 FPB ATTN: MIS Desk, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION: We recommend that you confirm receipt of this submission by contacting Ms. Andrea T. B. Brown, U.S. Department of Labor, Division of Indian and Native American Programs, telephone number (202) 693–3736 [this is not a toll-free number].

SUPPLEMENTARY INFORMATION:

Workforce Investment Act; Indian and Native American Programs; Final Designation Procedures for Program Years 2002 and 2003

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Introduction: Scope and Purpose of This Notice

Section 166 of the Workforce Investment Act (WIA) authorizes programs to serve the employment and training needs of Indians and Native Americans.

Requirements for these programs are set forth in WIA section 166 and its regulations, codified at 20 CFR part 668, published at 65 FR 49294, 49435 (August 11, 2000). The specific eligibility and application requirements for designation are set forth at 20 CFR Part 668, Subpart B. It should be noted that community and faith-based organizations are eligible to apply for these grants, but only if they are Native-American controlled as defined in this announcement. Under these requirements, the Department of Labor (DOL) selects entities for funding for a two-year period. Designated service providers will be funded annually during the designation period, contingent upon all other grant award requirements being met and the continuing availability of Federal funds.

The Notice of Intent (*see* Part III, below) must be submitted by all applicants. Any organization interested in being designated as a Native American section 166 grantee should be aware of and comply with the procedures in all parts of this SGA.

The amount of WIA section 166 funds to be awarded to designated Native American organizations is determined under the procedures set by 20 CFR 668.296.

I. General Designation Principles

The following general principles reflect the WIA and regulatory language which underpin the designation process. These principles do not, in any way, constitute evaluation criteria for review of applications. Those criteria appear exclusively in Part IV below:

(1) *All applicants* for designation must comply with the requirements found at 20 CFR part 668, subpart B, which contains the basic eligibility, application, and designation requirements. Potential applicants should be aware that a non-incumbent entity must have a population within the designated geographic service area which would provide formula funding under 20 CFR 668.296(b) [and 20 CFR 668.440(a) if the entity is eligible to receive Supplemental Youth Services funding] in the amount of at least $100,000 per program year. *See* 20 CFR 668.200(a)(3). Federally-recognized tribes wishing to participate in the demonstration under Public Law 102–477 must have a service area and population which generates at least $20,000 per year in total section 166 formula funds. For those tribes wishing to participate in the ''477'' demonstration, exceptions may be made to this $20,000 WIA designation threshold if: (1) The total resources to be included in the ''477 plan'' exceed $100,000; (2) the amount of section 166 formula funding is close to the $20,000 limit; and (3) the plan is otherwise approvable. Determinations of this exception (and resultant WIA designation or non-designation) will be made on a case-by-case basis.

(2) High unemployment, lack of training, lack of employment opportunity, societal and other barriers exist within predominantly INA communities and among INA groups residing in other communities. The underlying philosophy of this program is that Indians and Native Americans are best served by a responsible Indian and Native American organization directly representing them, with the demonstrated knowledge and ability to coordinate resources within the respective communities. The WIA and the implementing regulations (20 CFR 668.210) establish priorities for Indian and Native American organizations. Those priorities are the basis for the steps which will be followed in designating grantees.

(3) *A Federally-recognized tribe, band or group on its reservation (including former reservation areas in Oklahoma), and Alaska Native entities defined in the Alaska Native Claims Settlement Act (ANCSA) (or consortia that include a tribe or an ANCSA entity)* are given highest priority over any other organization if they have the capability to administer the program and meet all eligibility and regulatory requirements. This priority applies only to the areas over which the organizations have legal jurisdiction. See 20 CFR 668.210(a). Consistent with the holding in *Narragansett Indian Tribe* v. *U.S. Department of Labor,* [ALJ Case No. 2000-WIA–6 (12/20/2000) and ARB Case No. 01–027 (07/20/2001)], we interpret 20 CFR 668.210(a) as requiring that we give priority only to a Federally-recognized tribe on its reservation, to a Federally-recognized Oklahoma tribe over its members on its former reservation, and to an Alaska Native Corporation (or its designated entity) within its corporation area as defined under ANCSA.

In the event that such a tribe, band or group (including an Oklahoma and/or Alaska Native entity) is not designated to serve its reservation or geographic service area, the DOL will consult with the governing body of such entities when designating alternative service deliverers. Such consultation may be accomplished in writing, in person, or by telephone, as time and circumstances permit. When it is necessary to select alternative service deliverers, the Grant Officer will, in accordance with 20 CFR 668.280, whenever possible, accommodate the views and recommendations of the INA community leaders and the Division of Indian and Native American Programs (DINAP). Whenever possible, the Grant Officer will attempt to select an experienced alternative service provider(s) from a contiguous area. However, if necessary, the Grant Officer may divide the service area between two or more entities and/or, if necessary, select an alternative service provider from a non-contiguous area. If time permits, the Grant Officer will solicit the views of other Federally-recognized tribal entities within the service area, if any. See 20 CFR 668.210(b).

(4) In designating Native American section 166 grantees for areas not covered by the highest priority in accordance with (3) above, DOL will designate Indian and Native American-controlled organizations as service providers. This would include the group referred to in (3) applying for off-reservation areas. As noted in (3) above, when vacancies occur, the Grant Officer will select alternates in accordance with 20 CFR 668.280.

(5) Incumbent and non-incumbent applicants seeking additional areas are expected to clearly demonstrate a working knowledge of the community that they plan to serve, including available resources, resource utilization and acceptance by the service population.

(6) Special employment and training services for Indian and Native American people have been provided through an established service delivery network for the past year under the Workforce Investment Act, and for 25 years under the authority of JTPA section 401 and its predecessor, section 302 of the Comprehensive Employment and Training Act (CETA). The DOL intends to exercise its designation authority to both preserve the continuity of services to the INA population and to preserve the viability of existing geographic service areas by rejecting applications for service areas which would not satisfy 20 CFR 668.200(a)(3).

(7) The Grant Officer will accord some preference for those Native American organizations which have demonstrated their capability to deliver employment and training services within an established geographic service area. However, this preference does not

preclude the selection of a new grantee that clearly demonstrates a significant superiority in providing services in another service area. Such preference will be determined through input and recommendations from the Chief of DOL's Division of Indian and Native American Programs (DINAP) and DOL's Division of Federal Assistance (DFA). This preference is reflected in the language of Part IV which provides that an incumbent will be required to compete for continuation as a grantee only where the Grant Officer determines that a competitor has demonstrated the potential for superiority over the incumbent.

(8) In preparing applications for designation, applicants should bear in mind that the purpose of section 166 of WIA is ''to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.''

It should be noted that these ''General Designation Principles'' are not intended as ''hard and fast rules'' which must be followed to the letter in any and all designation activities. In particular, they do not supplement or supersede the criteria set by Part IV, below. In cases of competition between or among Native American groups, the Grant Officer's primary consideration is the protection of Federal funds, followed closely by the mandate to select the entity best able to provide the required services to the individuals residing in the given service delivery area. These principles in no way expand the rights of incumbent and potential grantees under the existing statute and regulations.

II. Waiver Provisions

WIA section 166(c)(2) states:

> The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirement for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

Because a ''full competition'' for the first designation under WIA was held two years ago, the Department is exercising this waiver option for this two-year designation period. All incumbent grantees that have performed ''satisfactorily,'' both programmatically and administratively, under their present grant may receive a waiver from competition for the PY 2002–2003 designation period. The responsibility review criteria at 20 CFR 667.170 will serve as the baseline criteria for determining ''satisfactory performance,'' although the seriousness of the factors supporting a finding of unsatisfactory performance will be less than that required to support a finding of non-responsibility, and other factors such as program performance may be involved. As in previous designation cycles under the Job Training Partnership Act where a waiver option has been utilized by the Department, the minimum performance period needed to qualify a grantee for a waiver of competition is two consecutive program years.

Incumbent grantees will not have to request this waiver. Based on the standards described above, the Department has determined which grantees qualify for a waiver, and has included the list of those grantees in Part VIII of this announcement. Incumbent grantees, including Federally-recognized tribes serving areas outside their reservations, which are not granted waivers will be subject to the competitive process published in this solicitation.

Incumbent grantees receiving a waiver will be required to submit only a properly completed SF–424 for their currently-designated service area(s), postmarked by February 1, 2002, or fifteen days from the date of publication of this solicitation, whichever is later, and a certification that their applicant organization's status has not changed from its original designation (*see* Part III.2.A).

Non-incumbent entities that qualify for priority designation (*see* Part I.(3) above) may apply for and be designated to serve their priority service area (*i.e.,* reservation), providing these applicants are otherwise eligible under the regulations at 20 CFR 668.200(a)(3). For those Federally-recognized tribes (or consortia thereof) wishing to participate in the demonstration under Public Law 102–477 and unable to qualify under the $100,000 funding ceiling, a ''477 plan'' must have been received by the Bureau of Indian Affairs before the March 1, 2002 designation determination date set forth at 20 CFR 668.260(a).

Incumbent tribes and organizations that have been participating in the demonstration under Public Law 102–477 will be granted waivers from competition, unless they have outstanding and serious unresolved issues with the Department(s) providing their ''477 funding'' which would affect their continued WIA designation. Otherwise, ''477 tribes'' whose legal status has not changed need only submit a properly completed SF–424 to be designated for the PY 2002–2003 funding period.

III. Notice of Intent

1. Dates and Address for Submittal

Send a signed original and two copies of the completed Notice of Intent (NOI) to Mr. James C. DeLuca, Chief, Division of Indian and Native American Programs, Room N–4641 FPB, ATTN: MIS Desk, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

Notices of Intent that comply with the requirements of this solicitation must be received by or postmarked by February 1, 2002, or 15 days from date of publication of this solicitation in the **Federal Register**, whichever is later. NOI's not received by the deadline will be accepted only with an official, U.S. Postal Service postmark indicating timely submission. Dates indicating submission by private express delivery service or by metered mail are unacceptable as proof of submission. All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to the recent concerns involving anthrax contamination. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission; that is, if because of these mail problems, the Department does not receive an application or receives it too late to give it proper consideration, even if it was timely mailed, the Department is not required to consider the application.

When more than one eligible organization applies to provide services in the same area, a review of the applicants will be conducted and, when necessary, a competitive selection will be made. Competing applicants will be notified of such competition as soon as possible, and may submit revised Notices of Intent to be received by the Department or postmarked no later than February 15, 2002, or a date 15 days after the applicant is notified of the competition. At a minimum, revised Notices of Intent should include the information required in Part A as applicable and Part B. All Notices of Intent must be submitted to the Chief of DINAP at the above address.

2. Submission of Notice of Intent Via E-Mail

Due to the erratic mail delivery in the Washington, DC area, the applicant has the option of submitting its Notice of Intent *via* e-mail, *sboyd@doleta.gov.* However, due to the high volume of applications, the return receipt option must be utilized in order to verify receipt of the application. Should the applicant choose to e-mail the Notice of Intent, an originally-signed signature sheet, along with a copy of the applicant's e-mail/written verification of receipt, must follow *via* overnight mail. E-mailed Notices of Intent will be accepted in Microsoft WORD or WordPerfect only.

3. Instructions for Obtaining Return Receipt

Before sending the e-mail, click on ''file,'' go to ''properties, return notification,'' and finally click on ''mail receipt.'' The sender will automatically receive an e-mail notification when the e-mail is opened. Please note that faxed applications will not be accepted.

4. Notice of Intent Content and Procedure

The information required in *Part A* must be provided by *all applicants,* except for those incumbent Federally-recognized tribes participating in the demonstration under Public Law 102–477 whose status has not changed. Additionally, *competing organizations* will be required, if notified by the Grant Officer, to provide the information in *Part B.*

Part A

1. A completed SF–424, ''Application for Federal Assistance,'' signed by the authorized signatory official. For those current grantees receiving a waiver under WIA section 166(c)(2), the SF–424, accompanied by a statement that the designated organization remains intact, is all that must be submitted. Consortium grantees, even if receiving a waiver, must also submit either an updated consortium agreement or a statement signed by all members indicating that the consortium remains intact. Applicants receiving a waiver and *not* applying for additional service area(s) need not complete items 2 through 6;

2. An identification of the applicant's legal status, including articles of incorporation or consortium agreement as appropriate;

3. A specific description of the territory being applied for, by State(s), counties, reservation(s) or similar area, or service population;

4. A very brief summary, including the funding source, contact person and phone number of the employment and training or human resource development programs serving Native Americans that the entity currently operates or has operated within the previous two-year period;

5. A brief description of the planning process used by the entity, including involvement of the governing body and local employers;

6. Evidence to establish an entity's ability to administer funds under 20 CFR 668.220 and 668.230 which should at a minimum include:

(a) A statement that the organization is in compliance with the Department's debt management procedures; and

(b) A statement that fraud or criminal activity has not been found in the organization, or a brief description of the circumstance where it has been found and a description of resolution, corrective action and current status; and

(c) A narrative demonstrating that an entity has or can acquire the necessary program and management personnel to safeguard federal funds and effectively deliver program services that support the purposes of the Workforce Investment Act; and

(d) If not otherwise provided, a narrative demonstrating that an entity has successfully carried out or has the ability to successfully carry out activities that will strengthen the ability of the individuals served to obtain or retain unsubsidized employment, including the past two-year history of publicly funded grants/contracts administered including identification of the fund source and a contact person.

In addition, grantees not receiving a waiver as the result of failure to perform satisfactorily (as opposed to not having been in operation for two full, consecutive years) must specifically enumerate and explain actions taken to correct deficiencies identified by the Department, including specific time frames for completion. The Grant Officer may require additional or clarifying information or action, including a site visit, before designating those applicants.

Part B

If the Grant Officer determines that there is competition for all or part of a given service area, the following information will be required of the competing entities:

(1) Evidence that the entity represents the community proposed for services such as: Demonstration of support from Native American-controlled organizations, State agencies, or other entities with specific knowledge of the applicant's operational capability; and

(2) Submission of a service plan and other information expanding on the information required at Part A which the applicant feels can strengthen its case, including information on any unresolved or outstanding administrative problems.

Exclusive of charts or graphs and letters of support, the additional information submitted to augment the Notice of Intent in a situation involving competition should not exceed *75* pages of double-spaced, unreduced type.

Incumbent and non-incumbent Federally-recognized tribes, and Hawaiian and Alaska Native entities, need not submit evidence of support regarding their own reservations or areas of legal jurisdiction. However, such entities are required to provide such evidence for any area which they wish to serve beyond their reservation boundaries, or their Congressionally-mandated or Federally-established service areas.

All applicants for non-contiguous geographic service areas must prepare a separate, complete Notice of Intent (including the above-referenced supplementary information if applicable) for each such area.

An applicant whose Notice of Intent contains all of the information otherwise required in Part B need not supplement the NOI.

IV. Use of Panel Review Prodecure

An initial review of all applicants, conducted by DINAP and with the concurrence of the Grant Officer, will identify priority applicants and recommend those areas requiring further competition. In areas under competition, a formal panel review process will be utilized under the following circumstances:

(1) When one or more new applicants, none qualifying for the highest priority for the requested area, can demonstrate the potential for superiority over the non-priority incumbent organization; or

(2) When two or more applicants, none qualifying for the highest priority, request an area and the incumbent organization fails to apply for designation, or is required to compete.

When further competition occurs, the Grant Officer will convene a review panel to score the information submitted with the Notice of Intent (Part A *and* B). This panel will include individuals with knowledge of or expertise in programs dealing with Indians and Native Americans. The purpose of the panel is to review and evaluate an organization's potential, *based on its application (including the*

supplemental information required in Part B), to provide services to a specific Native American community, to rate the proposals in accordance with the rating criteria described below and to make recommendations to the Grant Officer. The panel will be provided the information described in the Notice of Intent.

It is DOL's policy that no information affecting the panel review process will be solicited or accepted after the deadlines for receipt of applications set in this Notice. All information provided before these deadlines must be in writing.

This policy does not preclude the Grant Officer from requesting additional information independent of the panel review process.

During the review, the panel will not give weight to undocumented assertions. Any information must be supported by adequate and verifiable documentation, e.g., supporting references must contain the name of the contact person, an address, and telephone number. Panel recommendations are advisory to the Grant Officer.

The factors listed below will be considered in evaluating the applicants approach to providing services.

Established Native American-controlled organizations	Maximum allowable points
1. (a) Previous experience or demonstrated capabilities in successfully operating an employment and training program established for and serving Indians and Native Americans.	30 points.
(b) Previous experience in operating or coordinating with other human resources development programs serving Indians or Native Americans.	10 points.
(c) Approach to providing services, including identification of the training and employment problems and needs in the requested area, and approach to addressing such needs.	10 points.
2. Demonstration of the ability to maintain continuity of services to Indian or Native American participants consistent with those previously provided in the community.	10 points.
3. (a) Description of the entity's planning process and demonstration of involvement with the INA community	5 points.
(b) Demonstration of involvement with local employers within the service area, and with local Workforce Investment Boards and Youth Councils, etc.	5 points.
4. Demonstration of coordination and linkages with Indian and non-Indian employment and training resources within the community, including, but not limited to, community and faith-based organizations and One-Stop systems (as applicable), to eliminate duplication of effort.	15 points.
5. Demonstration of support and recognition by the Native American community and service population, including local tribes and adjacent Indian organizations and the client population to be served.	15 points.
Total	100 points.

V. Notification of Designation/ Nondesignation

The Grant Officer will make the final designation decision giving consideration to the following factors: the review panel's recommendation, in those instances where a panel is convened; input from DINAP, other offices within the Employment and Training Administration, and the DOL Office of the Inspector General; and any other available information regarding the organization's financial and operational capability, and responsibility. The Grant Officer will select the entity that demonstrates the ability to produce the best outcomes for its customers. If at all possible, designation decisions will be made by the March 1, 2002 deadline, and will be provided to applicants as follows:

(1) *Designation Letter.* The designation letter signed by the Grant Officer will serve as official notice of an organization's designation. The letter will include the geographic service area for which the designation is made. It should be noted that the Grant Officer is not required to adhere to the geographical service area requested in the Notice of Intent. The Grant Officer may make the designation applicable to all of the area requested, a portion of the area requested, or if acceptable to the designee, more than the area requested.

(2) *Conditional Designation Letter.* Conditional designations will include the nature of the conditions, the actions required to be finally designated and the time frame for such actions to be accomplished. Failure to satisfy such conditions may result in a withdrawal of designation. Organizations with no prior grant history with the Department may be conditionally designated pending an on-site review and/or a six-month assessment of program progress.

(3) *Non-Designation Letter.* Any organization not designated, in whole or in part, for a geographic service area requested will be notified formally of the Non-Designation and given the basic reasons for the determination. An applicant for designation which is refused such designation, in whole or in part, will be afforded the opportunity to appeal its Non-Designation as provided at 20 CFR 668.270.

VI. Special Designation Situations

(1) *Alaska Native Entities.* DOL has established geographic service areas for Alaska Native employment and training grantees based on the following: (a) the boundaries of the regions defined in the Alaska Native Claims Settlement Act (ANCSA); (b) the boundaries of major sub-regional areas where the primary provider of human resource development-related services is an Indian Reorganization Act (IRA)-recognized tribal council; and (c) the boundaries of the one Federal reservation in the State. Within these established geographic service areas, DOL will designate the primary Alaska Native-controlled human resource development services provider or an entity formally selected by such provider. In the past, these entities have been regional nonprofit corporations, IRA-recognized tribal councils, and the tribal government of the Metlakatla Indian Community. DOL intends to follow these principles in designating Native American grantees in Alaska for Program Years 2002 and 2003.

(2) *Oklahoma Indians.* DOL has established a service delivery system for Indian employment and training programs in Oklahoma based on a preference for Oklahoma Indian tribes and organizations to serve portions of the State. Generally, service areas have been designated geographically as countywide areas. In cases in which a significant portion of the land area of an individual county lies within the traditional jurisdiction(s) of more than one tribal government, the service area has been subdivided to a certain extent on the basis of tribal identification information contained in the most recent Federal Decennial Census of Population. Wherever possible,

arrangements mutually satisfactory to grantees in adjoining or overlapping geographic service areas will be honored by DOL. Where mutually satisfactory arrangements cannot be made, DOL will designate and assign service area to Native American grantees in a manner which is consistent with WIA and that will preserve the continuity of services and prevent unnecessary fragmentation of the programs.

VII. Designation Process Glossary

In order to ensure that all interested parties have the same understanding of the process, the following definitions are provided:

(1) *Indian or Native American-Controlled Organization.* This is defined as any organization with a governing board, more than 50 percent of whose members are Indians or Native Americans. Such an organization can be a tribal government, Native Alaska or Native Hawaiian entity, consortium, or public or private nonprofit agency. For the purpose of designation determinations, the governing board must have decision-making authority for the WIA section 166 program. It should be noted that, under WIA section 166(d)(2)(B), individuals who were eligible to participate under section 401 of JTPA on August 6, 1998, will be eligible to participate under WIA. Organizations serving such individuals will be considered ''Indian controlled'' for WIA section 166 purposes if they meet the criteria of this paragraph.

(2) *Service Area.* This is defined as the geographic area described as States, counties, and/or reservations for which a designation is made. In some cases, it will also be defined in terms of the specific population to be served. The service area is identified by the Grant Officer in the formal designation letter. Grantees must ensure that all eligible population members have equitable access to employment and training services within the service area.

(3) *Incumbent Organizations.* Organizations which are current grantees under WIA section 166, during PY 2001, are considered incumbent grantees for the existing service area, for the purposes of WIA.

VIII. Waivers of Competition

Alabama

Inter-Tribal Council of Alabama
Poarch Band of Creek Indians

Alaska

Aleutian-Pribilof Islands Association
Association of Village Council Presidents
Bristol Bay Native Association
Central Council of Tlingit and Haida Indian Tribes of Alaska
Chugachmiut
Cook Inlet Tribal Council, Inc.
Kawerak, Incorporated
Kenaitze Indian Tribe
Kodiak Area Native Association
Maniilaq Manpower, Inc.
Metlakatla Indian Community
Orutsararmuit Native Council
Tanana Chiefs Conference, Inc.

Arizona

Affiliation of Arizona Indian Centers, Inc.
American Indian Association of Tucson
Colorado River Indian Tribes
Gila River Indian Community
Hualapai Reservation and Trust Land
Hopi Tribal Council
Native Americans for Community Action, Inc.
The Navajo Nation
Phoenix Indian Center, Inc.
Quechan Indian Tribe
Salt River/Pima-Maricopa Indian Community
San Carlos Apache Tribe
Tohono O'Odham Nation
White Mountain Apache Tribe

Arkansas

American Indian Center of Arkansas, Inc.

California

California Indian Manpower Consortium
Candelaria American Indian Council
Indian Human Resources Center, Inc.
Northern California Indian Development Council, Inc.
Southern California Indian Center, Inc.
United Indian Nations, Inc.
Ya-Ka-Ama Indian Education & Development

Colorado

Denver Indian Center, Inc.
Southern Ute Indian Tribe
Ute Mountain Ute Tribe

Delaware

Nanticoke Indian Association, Inc.

Florida

Florida Governor's Council on Indian Affairs
Miccosukee Corporation
Seminole Tribe of Florida

Hawaii

Alu Like, Inc.

Idaho

Nez Perce Tribe
Shoshone-Bannock Tribes

Kansas

Mid-American All Indian Center, Inc.
United Tribes of Kansas and Southeast Nebraska, Inc.

Louisiana

Inter-Tribal Council of Louisiana, Inc.

Maine

Penobscot Nation

Massachusetts

Mashpee-Wampanoag Indian Tribal Council, Inc.
North American Indian Center of Boston, Inc.

Michigan

Grand Traverse Band of Ottawa and Chippewa
Inter-Tribal Council of Michigan, Inc.
Michigan Indian Employment and Training Services, Inc.
The Pokagon Band of Potawatomi Indians
Sault Ste. Marie Tribe of Chippewa Indians
Southeastern Michigan Indians, Inc.

Minnesota

American Indian Opportunities Industrialization Center
Fond Du Lac Reservation Business Council
Leech Lake Reservation Tribal Council
Mille Lacs Band of Chippewa Indians
Minneapolis American Indian Center
Red Lake Tribal Council
White Earth Reservation Business Council

Mississippi

Mississippi Band of Choctaw Indians

Missouri

American Indian Council, Inc.

Montana

Assiniboine & Sioux Tribes
Blackfeet Tribal Business Council
Confederated Salish & Kootenai Tribes
Crow Tribe of Indians
Fort Belknap Indian Community
Northern Cheyenne Tribe

Nebraska

Indian Center, Inc.
Omaha Tribe of Nebraska
Winnebago Tribe of Nebraska

Nevada

Inter-Tribal Council of Nevada, Inc.
Las Vegas Indian Center, Inc.
Shoshone-Paiute Tribes

New Jersey

Powhatan Renape Nation

New Mexico

Alamo Navajo School Board, Inc.
All Indian Pueblo Council, Inc.
Eight Northern Indian Pueblos Council

Five Sandoval Indian Pueblos
Jicarilla Apache Tribe
Mescalero Apache Tribe
National Indian Youth Council
Pueblo of Acoma
Pueblo of Laguna
Pueblo of Taos
Pueblo of Zuni
Ramah Navajo School Board, Inc.
Santa Clara Indian Pueblo
Santo Domingo Tribe

New York

American Indian Community House, Inc.
Native American Community Services of Erie & Niagara Counties
Native American Cultural Center, Inc.
St. Regis Mohawk Tribe

North Carolina

Cumberland County Association for Indian People
Eastern Band of Cherokee Indians
Guilford Native American Association
Haliwa-Saponi Indian Tribe, Inc.
Lumbee Regional Development Association, Inc.
Metrolina Native American Association
North Carolina Commission of Indian Affairs

North Dakota

Spirit Lake Sioux Tribe
Standing Rock Sioux Tribe
Turtle Mountain Band of Chippewa Indians
United Tribes Technical College

Ohio

North American Indian Cultural Center, Inc.

Oklahoma

Absentee Shawnee Tribe of Oklahoma
American Indian Education, Training & Employment Center, Inc.
Cherokee Nation of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Chickasaw Nation
Choctaw Nation of Oklahoma
Citizen Potawatomi Nation
Comanche Indian Tribe
Delaware Tribe of Oklahoma
Four Tribes Consortium of Oklahoma
Inter-Tribal Council of N.E. Oklahoma
Kiowa Tribe of Oklahoma
Muscogee (Creek) Nation of Oklahoma
Osage Nation
Pawnee Tribe of Oklahoma
Ponca Tribe of Oklahoma
Seminole Nation of Oklahoma

Oregon

Confederated Tribes of Siletz Indians
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs
Organization of Forgotten Americans, Inc.

Pennsylvania

Council of Three Rivers, Inc.

Rhode Island

Rhode Island Indian Council, Inc.

South Carolina

South Carolina Indian Development Council, Inc.

South Dakota

Cheyenne River Sioux Tribe
Oglala Sioux Tribe
Rosebud Sioux Tribe
Sisseton-Wahpeton Sioux Tribe
United Sioux Tribes Development Corporation

Texas

Alabama-Coushatta Indian Tribal Council
Dallas Inter-Tribal Center
Ysleta Del Sur Pueblo/Tigua Indian Tribe

Utah

Indian Center Employment Services, Inc.
Ute Indian Tribe

Vermont

Abenaki Self-Help Association/New Hampshire Indian Council

Virginia

Mattaponi-Pamunkey-Monacan Consortium

Washington

American Indian Community Center
Colville Confederated Tribes
Lummi Indian Business Council
Makah Tribal Council
Seattle Indian Center, Inc.
The Tulalip Tribes
Western Washington Indian Employment and Training Program

Wisconsin

Ho-Chunk Nation
Lac Courte Oreilles Tribal Governing Board
Lac Du Flambeau Band of Lake Superior Chippewa
Menominee Indian Tribe of Wisconsin
Milwaukee Area American Indian Manpower Council, Inc.
Oneida Tribe of Indians of Wisconsin
Wisconsin Indian Consortium

Wyoming

Eastern Shoshone Tribe
Northern Arapaho Tribe

BILLING CODE 4510–30–P

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School District.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required face sheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item:	Entry:
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans, and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

SF 424 (REV 4-88) Back

Signed at Washington, DC, this 1st day of March, 2002.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 02–5487 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–30–C

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Replacement of the Old American Canal, Located in El Paso, TX; Notice of Final Finding of No Significant Impact; Notice of Availability

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of availability of a final finding of no significant impact and a final environmental assessment.

SUMMARY: Based on the Draft Environmental Assessment (EA) and the public comments received, the United States Section, International Boundary and Water Commission (USIBWC), finds that the proposed action of replacement of the existing American Canal is not a major federal action that would have a significant adverse effect on the quality of the human environment. An Environmental Impact Statement will not be prepared for the project. The Final Finding of No Significant Impact (FONSI) and Final EA have been forwarded to the United States Environmental Protection Agency and various Federal, State and local agencies and interested parties for information only. No comments are requested. The final FONSI and EA are also available on the USIBWC Home Page at *http://www.ibwc.state.gov* under ''What's New,'' and at the reference desk at The University of Texas at El Paso Library and the El Paso Main Library. A limited number of copies of these documents are available upon request from Mr. Fox at USIBWC, 4171 North Mesa Street #C–310, El Paso, TX 79902; Telephone: (915) 832–4736; E-mail: *stevefox@ibwc.state.gov.*

The proposed replacement and enlargement of the 1.98-mile-long American Canal involves demolishing the deteriorating concrete open channel segments of the canal and replacing them with reinforced concrete-lined canal segments. The USIBWC is authorized under the Rio Grande American Canal Extension Act of 1990 (''RGACE'' or the Act of 1990), Public Law 101–438, dated October 15, 1990, to construct, operate, and maintain an extension of the existing American Canal in El Paso, Texas; which would provide for a more equitable distribution of waters between the United States and Mexico, reduce water losses, and minimize many hazards to public safety.

Water for both irrigation and domestic use in El Paso County is diverted into the American Canal at the American Dam located on the Rio Grande approximately 3 miles upstream from downtown El Paso. The American Dam and American Canal were constructed from 1937 to 1938, within United States territory to divert United States waters away from the Rio Grande, and to allow into the international reach of the Rio Grande only those waters assigned to the Republic of Mexico under the Convention of 1906. This ensured that United States waters diverted at the American Dam would be completely retained within the United States.

In the Act of 1990, the United States Congress also authorized the negotiation of international agreements for the RGACE to convey Mexican waters authorized under the 1906 Convention. In view of the conveyance water losses and the safety issues inherent in Mexico's existing canal system, the RGACE was designed to accommodate Mexico's annual 60,000 acre-foot allotment of water at 335 cubic feet per second (cfs), should Mexico request its allotment delivered at this location.

Alternatives Considered

Five alternatives were considered during the preparation of the environmental assessment, including the Open Channel Alternative (the Proposed Action Alternative) and the No Action Alternative. All four action alternatives include (1) increasing the canal capacity to 1535 cfs, (2) demolition of existing canal structures and open channel concrete lining, (3) reconstructing and enlarging the 400-foot open channel segment immediately downstream from the headgates and the 100-foot open channel segment upstream from the gaging station, (4) not repairing or replacing the two closed conduit segments under West Paisano Drive, (5) installing fences to minimize entrance into the canal, (6) installing safety equipment to reduce canal drownings, (7) removing the Smelter Bridge and the abutments of Harts Mill Bridge, and (8) providing mitigation for the loss of the Smelter Bridge by preparing Historic American Engineering Record (HAER) Level III documentation of the structure (including existing and original construction drawings, captioned photographs, and written data). The alternatives are summarized below:

Alternative 1—Closed Conduit Alternative: All existing open channel segments (Upper, Middle, and Lower) between the American Dam and International Dam would be replaced with closed conduits, with the two excepted open reaches in the Upper Open Channel segment. This Alternative would be the most expensive to construct and would lose the historic predominantly open visual character of the canal.

Alternative 2—Closed Conduit/Open Channel Alternative A: The Middle Open Channel segment would be replaced with a closed conduit. The Upper and Lower Open Channel segments would be reconstructed and enlarged. This alternative would accomplish all the stated objectives, but would lose some of the historic predominantly open visual character of the canal. Choosing this alternative would likely both reduce the number of drownings in the canal, but increase the number of pedestrian traffic fatalities on nearby highways. If final engineering design studies determine the necessity of a closed conduit for the middle canal segment, this alternative would become the preferred alternative.

Alternative 3—Closed Conduit/Open Channel Alternative B: The Middle and Lower Open Channel segments would be replaced with closed conduits. The Upper Open Channel segment would be reconstructed and enlarged. This alternative would accomplish all the objectives, but at a cost second highest among the action alternatives. It would also likely triple the number of pedestrian traffic deaths on nearby highways.

Alternative 4—Open Channel Alternative (the Proposed Action Alternative): The Upper, Middle, and Lower Open Channel segments would be reconstructed and enlarged. This Alternative would accomplish all the necessary objectives at the lowest construction cost. It would result in the lowest number of pedestrian traffic fatalities on nearby highways. Though the original canal lining would be replaced, this Alternative would preserve the historic predominantly open visual character of the canal. (It should be noted that if final engineering design studies for the replacement of the old American Canal determine the necessity of a closed conduit for the middle canal segment, the proposed action alternative would become Alternative 2.)

Alternative 5—No Action Alternative: The three open channel segments would be left untouched, with no replacements, enlargements, or repairs of any canal segments. While this alternative preserves intact the historic Smelter Bridge, it does not accomplish any of the stated objectives. The annual number of drownings in the Canal would not be reduced. Without reconstruction or major repair of the canal, a serious canal failure is likely within the next five years, especially during the peak irrigation period with

the highest canal flow. Such a canal failure would likely close the American Canal for at least one month during costly emergency repairs. If the canal flow was disrupted for just one month due to repairs, the El Paso Water Utilities production of potable water would be reduced by 80 to 120 million gallons per day, and over a thousand El Paso County farmers could lose their crops, likely resulting in up to 500 bankruptcies. The No Action Alternative is not considered to be a viable alternative.

The preliminary engineering design studies for the replacement of the old American Canal indicate that a closed design may become the preferred alternative for the middle canal segment. Limited right-of-way constraints and existing infrastructure restrictions will dictate the proper design and construction methods to minimize the adverse effects to the public and adjacent landowners along the project. The reported project conditions will remain the same, but the aesthetics of the predominantly open canal will change. The USIBWC will consult with the Texas State Historic Preservation Officer should the preliminary canal design study recommend that the subject portion of the open canal be replaced with pre-cast box culvert.

The Draft FONSI and Draft EA were distributed November 21, 2000. The Notice of Draft FONSI for the Draft EA was published in the **Federal Register** on November 29, 2000. The Legal Notice of the Draft FONSI and Draft EA was published in the El Paso Times on December 2, 2000. The Public Comment period extended from November 21, 2000 through January 2, 2001. Public comments received were compiled into the Final EA, dated October 31, 2001. The Final EA finds that the proposed action does not constitute a major federal action that would cause a significant local, regional, or national adverse impact on the environment, because the Proposed Action Alternative would:

1. Improve structural stability of the American Canal, providing a reliable conveyance structure to transport flows of allocated water from the Rio Grande to El Paso County farms and to existing and planned El Paso Water Utilities water treatment facilities. The Rio Grande will be unchanged from existing conditions under USIBWC jurisdiction;

2. Minimize seepage loss through the cracks in the canal lining;

3. Provide the full design capacity (1535 cfs) influent into the RGACE;

4. Improve safety and reduce the risk of accidental drownings in the American Canal by installing fences and safety equipment;

5. Preserve the historic predominantly open channel character of the Canal; and

6. Preserve historical and photographic documentation of the historic Smelter Bridge per HAER Level III Standard.

Based on the Final Environmental Assessment and the implementation of the proposed historical mitigation, it has been determined that the proposed action will not have a significant adverse effect on the environment, and an Environmental Impact Statement is not warranted.

Dated: March 1, 2002.

Mario Lewis,

General Counsel.

[FR Doc. 02–5395 Filed 3–6–02; 8:45 am]

BILLING CODE 4710–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–031)]

Debt Collection Improvement Act of 1966: Administrative Wage Garnishment

AGENCY: National Aeronautics And Space Administration (NASA).

ACTION: NASA's adoption of the Department of Treasury's regulation as described in 31 CFR 285.11, Administrative Wage Garnishment.

SUMMARY: The National Aeronautics and Space Administration hereby gives notice that the Agency has adopted the provisions contained in the Debt Collection Improvement Act Of 1996 (DCIA). Wage Garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditors in satisfaction of a withholding order. The DCIA authorizes Federal agencies administratively to garnish the disposable pay of an individual to collect delinquent non-tax debts owned to the United States.

DATES: Effective: March 7, 2002.

ADDRESSES: NASA Headquarters, Code BFZ, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Melvin Denwiddie, (202) 358–0983.

Stephen J. Varholy,

Deputy Chief Financial Officer.

[FR Doc. 02–5402 Filed 3–6–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–030)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that EnviroMetal Technologies Inc. of Waterloo, Ontario, Canada, has applied for an exclusive patent license for the Use of Ultrasound to Improve the Effectiveness of a Permeable Treatment Wall, U.S. Patent No. 6,013,232, which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Randall M. Heald, Assistant Chief Counsel/Patent Counsel, and John F. Kennedy Space Center.

DATES: Responses to this Notice must be received by March 22, 2002.

FOR FURTHER INFORMATION CONTACT: Randall M. Heald, Assistant Chief Counsel/Patent Counsel, John F. Kennedy Space Center, Mail Code: CC–A, Kennedy Space Center, FL 32899, telephone (321) 867–7214.

Dated: March 1, 2002.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 02–5401 Filed 3–6–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL COUNCIL ON THE HUMANITIES

Meeting

March 1, 2002.

Pursuant to the provisions of the Federal Advisory Committee Act (Public L. 92–463, as amended), notice is hereby given the National Council on the Humanities will meet in Washington, DC on March 21–22, 2002.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A

portion of the morning and afternoon sessions on March 21–22, 2002, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on March 21, 2002 will be as follows:

Committee Meetings

(Open to the Public) Policy Discussion

9:00—10:30 a.m.
- Education Programs—Room M–07
- Preservation and Access/Challenge Grants—Room 415
- Public Programs—Room 426
- Research Programs—Room 315

(Closed to the Public) Discussion of specific grant applications and programs before the Council

10:30 a.m. until Adjourned
- Education Programs
- Preservation and Access/Challenge Grants
- Public Programs
- Research Programs

1:30 p.m. until Adjourned
- Federal/State Partnership

The morning session on March 22, 2002 will convene at 9:00 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Staff Report
C. Congressional Report
D. Reports on Policy and General Matters
1. Overview
2. Research Programs
3. Education Programs
4. preservation and Access/Challenge Grants
5. Public Programs

The remainder of the proposed meeting will be given to the consideration of specific applications and programs before the Council and closed to the public for the reasons stated above. Further information about this meeting can be obtained from Ms. Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Laura S. Nelson,

Advisory Committee, Management Officer.

[FR Doc. 02–5394 Filed 3–6–02; 8:45 am]

BILLING CODE 7536–01–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* March 18, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2002 deadline.

2. *Date:* March 25, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2002 deadline.

3. *Date:* March 26, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Special Projects, submitted to the Division of Public Programs at the February 1, 2002 deadline.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 02–5393 Filed 3–6–02; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Atomic Safety and Licensing Board

[Docket No. 72–22–ISFSI, ASLBP No. 97–732–02–ISFSI]

Private Fuel Storage, LLC, (Independent Spent Fuel Storage Installation); Notice of Evidentiary Hearing and of Opportunity To Make Limited Appearance Statements

March 1, 2002.

This Atomic Safety and Licensing Board hereby gives notice that, beginning on Monday, April 8, 2002, it will convene an evidentiary hearing in Salt Lake City, Utah, to receive testimony and exhibits and to allow the cross-examination of witnesses relating to certain matters at issue in this proceeding. The hearing involves the June 1997 application of Private Fuel Storage, L.L.C. (PFS) for a license under 10 CFR part 72 to construct and operate an independent spent fuel storage installation (ISFSI) on the reservation of the Skull Valley Band of Goshute Indians in Skull Valley, Utah.

The State of Utah and three organizations—Ohngo Gaudadeh Devia (OGD), Confederated Tribes of the Goshute Reservation, and the Southwest Utah Wilderness Alliance (SUWA)—are among those who intervened in the proceeding to oppose the plans of PFS (which is a consortium of electric utility companies) to construct within the State's borders a temporary storage facility for spent fuel generated from various nuclear power plants in the United States. At the hearing, the Board will receive evidence on their challenges to the PFS license application concerning several contentions, or issue statements, involving geotechnical/seismic stability, ''credible accident'' scenarios,

hydrological impact, species affected by the facility, placement of the connecting railroad to the facility, and environmental justice.

In addition, the Board gives notice that, in accordance with 10 CFR 2.715(a), it will also entertain oral limited appearance statements from members of the public in connection with this proceeding. Information about these statements appears in Section B below.

A. Nature, Timing and Location of Evidentiary Hearing

The evidentiary hearing is currently scheduled to cover six issues. Two of these are safety related. The first, embodied in Contention Utah K/ Confederated Tribes B, ''Inadequate Consideration of Credible Accidents,'' involves the possible hazards created from aircraft and ordnance originating from sources nearby to the facility. The second, embodied in Contention Utah L, ''Geotechnical,'' and Contention Utah QQ, ''Seismic Stability,'' questions the ability of the PFS facility to withstand possible earthquakes.

In addition to the safety matters, the Board will hear evidence concerning the adequacy of the analysis of certain environmental issues in the Environmental Impact Statement mandated by the National Environmental Policy Act. Three of these address the natural environment. Contention Utah O, ''Hydrology,'' focuses on potential contamination of groundwater from non-radiological waste sources at the facility. Contention Utah DD, ''Ecology and Species,'' concerns whether the facility will disrupt the nesting habits of a pair of peregrine falcons located near the facility. Contention SUWA B, ''Low Rail Line Alternatives,'' questions whether the Environmental Impact Statement adequately addresses alternatives to the placement of the proposed connecting railway to the facility. The fourth environmental contention, OGD O, ''Environmental Justice Issues Are Not Addressed,'' concerns claims of that nature made by certain members of the Skull Valley Band who oppose the project.

To accommodate the State's request that the entire hearing take place in Utah rather than at the Licensing Board's Hearing Room in Rockville, Maryland, and because of the difficulty encountered in reserving suitable hearing space for lengthy periods, the hearing will take place at several different locations in Salt Lake City. The hearing schedule set out below accommodates other planned activities, the availability of witnesses, and the availability of space. The specific dates, times, and locations of the hearing, along with the subject matter now scheduled to be addressed each day, are as follows (all times are Mountain Daylight Time):

1. *Date: Monday, April 8, 2002.*
Location: Salt Palace Convention Center, Room 251, 100 South West Temple, Salt Lake City, Utah 84101.
Time: 9 a.m. to Noon*.
Topic: Opening Statements.
* Afternoon and evening sessions will be devoted to limited appearance statements (see Section B below).

2. *Date: Tuesday, April 9, 2002.*
Location: Little America Hotel, Ballroom C, 500 South Main Street, Salt Lake City, Utah 84101.
Time: 3:30 p.m. to 7:30 p.m.
Topic: Safety Contention Utah K/ Confederated Tribes B (''Credible Accidents'').

3. *Dates: Wednesday, April 10, through Saturday, April 13, 2002.*
Location: Utah State Capitol, Room 129, 350 North Main, Salt Lake City, Utah 84114.
Times: 10:30 a.m. to 5:30 p.m. on Wednesday, 9 a.m. to 5:30 p.m. Thursday through Saturday.
Topic: Continuation of Utah K/ Confederated Tribes B.

4. *Dates: Monday, April 22 through Thursday, April 25, 2002.*
Location: Sheraton City Centre Hotel, Wasatch Room, 150 West 500 South, Salt Lake City, Utah 84101.
Time: 9 a.m. to 5:30 p.m.
Topics: Environmental Contentions (see above).

5. *Dates: Monday, April 29 through Friday, May 3, 2002, (and Saturday, May 4, 2002 if needed).*
Monday, May 6 through Friday, May 10, 2002, (and Saturday, May 11, 2002 if needed).
Location: Sheraton City Centre, Wasatch Room, 150 West 500 South, Salt Lake City, Utah 84101.
Time: 9 a.m. to 5:30 p.m.
Topics: Safety Contentions Utah L and Utah QQ, (Geotechnical and Seismic Stability).

6. *Dates: Monday, May 13 through Friday, May 17, 2002.*
Location: Sheraton City Centre Hotel, Wasatch Room, 150 West 500 South, Salt Lake City, Utah 84101.
Time: 9 a.m. to 5:30 p.m.
Topic: If needed to complete other issues.

The hearing on these issues shall continue from day-to-day until concluded. As the hearing proceeds, the Board may make changes in the proposed schedule, lengthening or shortening each day's session or canceling a session, as deemed appropriate to allow for witnesses' availability and other matters arising during the course of the proceeding. The Board will attempt to make these day-to-day scheduling adjustments accessible on the NRC website at *http://www.nrc.gov*, which is being rebuilt because of security concerns; in any event, news media covering the hearing will be alerted to any schedule changes.

Members of the public are encouraged to attend any and all of the sessions listed above, but should note that those sessions are adjudicatory proceedings open to the public for observation only. (Those who wish to participate are invited to offer limited appearance statements as provided in Section B, below.) Conduct of members of the public at NRC adjudicatory proceedings is governed by 66 FR 31719 (June 12, 2001), an excerpt from which follows this notice.

Attendees are strongly advised to arrive sufficiently early to allow time to pass through a security screening checkpoint. Further, in the interest of permitting prompt access to the hearing room, attendees are requested to refrain from bringing any unnecessary hand carried items (such as packages, briefcases, backpacks, and other items that might need to be examined individually). There will be no facilities available for storing any items outside the hearing room, and attendees with items requiring inspection may be delayed in obtaining entry. Items that could readily be used as weapons will not be permitted in the hearing room.

B. Oral Limited Appearance Statement Sessions

1. Date, Time, and Location

The Board will conduct sessions to provide members of the public with an opportunity to make oral limited appearance statements on the following dates at the specified locations and times:

a. *Date: Monday, April 8, 2002.*

Location: Salt Palace Convention Center, Room 251, 100 South West Temple, Salt Lake City, Utah 84101.

Times: Afternoon Session—2 p.m. to 5 p.m., Evening Session—7 p.m. to 9:30 p.m.

b. *Date: Friday, April 26, 2002.*

Location: Tooele High School Auditorium, 240 West 100 South, Tooele, Utah 84074.

Times: Afternoon Session—3:30 p.m. to 5:30 p.m., Evening Session—7 p.m. to 9:30 p.m.

2. Participation Guidelines for Oral Limited Appearance Statements

Any person not party to the proceeding has the opportunity, as specified below, to make an oral statement setting forth his or her position on matters of concern relating to this proceeding. Although these statements will be transcribed, and will become part of the record of the proceeding for future reference, they do not constitute evidence upon which a decision may be based.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as may be sufficient to accommodate the speakers who are present (if all scheduled and unscheduled speakers present at a session have made a presentation, the Licensing Board reserves the right to terminate the session before the ending times listed above). The Licensing Board also reserves the right to cancel any session scheduled above if there has not been a sufficient showing of public interest as reflected by the number of preregistered speakers.

In order to accommodate as many speakers as feasible, the time allotted for each statement normally will be no more than three minutes. That time limit may be altered, depending on the number of written requests that are submitted in accordance with subsection 3 below, and/or the number of persons present at the designated times. The same security guidelines applicable to the hearing will be applicable to the limited appearance sessions as well, although the limited appearance sessions are not deemed to be ''adjudicatory proceedings'' within the meaning of those guidelines.

3. Submitting a Request To Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request to do so will be given priority over those who have not filed such a request. In order to be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received at NRC Headquarters by 4:30 p.m. EST on *Monday, April 1, 2002.* In light of possible mail delivery delays, persons able to do so may wish to use fax or e-mail to assure that their requests are timely received.

The request must specify the day and time of the session at which the oral statement is to be made (specify Monday, April 8 or Friday, April 26, 2002, and specify afternoon or evening). Based on its review of the requests received at NRC headquarters by April 1, 2002, the Licensing Board may, as noted above, decide to cancel one or more sessions due to lack of interest. Any such cancellation will be communicated to local news media and, if possible, posted on the NRC website.

Written requests to make an oral statement are to be submitted to:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–1101 (verification (301) 415–1966).

E-mail: hearingdocket@nrc.gov.

In addition, using the same method of service, *a copy of the request must be sent to the Licensing Board as follows:*

Mail: PFS Limited Appearance Box, Atomic Safety and Licensing Board Panel, Mail Stop T–3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–5599 (verification (301) 415–7550).

E-mail: mrm@nrc.gov.

Phone requests to make limited appearance statements will not be accepted.

4. Submitting Written Limited Appearance Statements

A written limited appearance statement may be submitted at any time. Such statements should be sent to the Office of the Secretary using the methods prescribed above, with a copy to the Licensing Board as noted above.

* * * * *

Documents relating to the PFS license application at issue in this proceeding are now on file at the Commission's Public Document Room, 11545 Rockville Pike, Rockville, Maryland, 20850, and at the University of Utah, Marriott Library, Documents Division, 295 S. 1500 East, Salt Lake City, Utah 84112–0860, and may also be obtained through ADAMS, the electronic Agencywide Documents Access and Management System, accessible through the NRC website.

Dated: Rockville, Maryland, March 1, 2002.

For the Atomic Ssfety and Licensing Board.

Michael C. Farrar,

Administrative Judge.

Excerpt from **Federal Register** notice published on June 12, 2001 (66 FR 31719):

In order to balance the orderly conduct of government business with the right of free speech, the following procedures regarding attendance at NRC public meetings and hearings have been established:

Visitors (other than properly identified Congressional, press, and government personnel) may be subject to personnel screening, such as passing through metal detectors and inspecting visitors' briefcases, packages, etc.

Signs, banners, posters and displays will be prohibited from all NRC adjudicatory proceedings (Commission and Atomic Safety and Licensing Board Panel hearings) because they are disruptive to the conduct of the adjudicatory process. Signs, banners, posters and displays not larger than 18″ × 18″ will be permitted at all other NRC proceedings, but cannot be waved, held over one's head or generally moved about while in the meeting room. Signs, banners, posters and displays larger than 18′ × 18′ will not be permitted in the meeting room because they are disruptive both to the participants and the audience. Additionally, signs, banners, posters, and displays affixed to any sticks, poles or other similar devices will not be permitted in the meeting room.

The presiding official will note, on the record, any disruptive behavior and warn the person to cease the behavior. If the person does not cease the behavior, the presiding official may call a brief recess to restore order and/or ask one of the security personnel on hand to remove the person.

Copies of this notice were sent this date by Internet e-mail transmission to counsel for (1) Applicant PFS; (2) intervenors Skull Valley Band, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State of Utah; and (3) the NRC Staff.

[FR Doc. 02–5458 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–311]

PSEG Nuclear LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–75 issued to PSEG Nuclear LLC (the licensee) for operation of the Salem Nuclear Generating Station, Unit No. 2, located in Salem County, New Jersey.

The proposed amendment would revise Technical Specification (TS) Section 6.8.4.f, ''Primary Containment Leakage Rate Testing Program.'' The proposed change would allow a one-time test interval extension for the Salem Nuclear Generating Station, Unit No. 2, Type A Integrated Leakage Rate Test (ILRT) from a maximum 10-year interval to a maximum 15-year interval.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), § 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

The proposed change to TS Section 6.8.4.f would not involve a significant increase in the probability or consequences of an accident previously evaluated. The current containment ILRT test interval of 10 years would be extended, on a one-time basis, to 15 years from the most recent ILRT. Because the ILRT test extension does not involve a modification to plant systems or result in a change to plant operations that could initiate an accident, there would be no increase in the probability of an accident previously evaluated. Furthermore, the proposed extension to Type A testing does not involve a significant increase in the consequences of an accident. NRC staff research documented in NUREG–1493, ''Performance-Based Containment Leak-Test Program,'' found that very few potential containment leakage paths fail to be identified by Type B and C tests. The study concluded that changing ILRT testing frequency to once every 20 years would lead to an imperceptible increase in the consequences of an accident. As a result, the proposed one-time extension to the ILRT test interval does not involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed.

The proposed revision to Section 6.8.4.f does not create the possibility of a new or different kind of accident from any accident previously analyzed. Because there are no physical changes, or changes in operation of the plant involved, the proposed TS amendment could not introduce a new failure mode or create a new or different kind of accident. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from that previously analyzed.

The proposed TS change does not involve a significant reduction in the margin of safety. The NRC staff's study on the effects of extending containment leakage testing found that a reduction in the ILRT frequency would lead to an imperceptible decrease in the margin of safety. The estimated increase in risk is very small because ILRTs identify only a few potential leakage paths that cannot be identified through local leakage rate testing (Type B and C tests). At Salem, Type B and C testing will continue to be performed at a frequency currently required by the TS. Therefore, the proposed changes do not involve a significant reduction in margin of safety.

Based on the NRC staff's analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 8, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the

subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, PO Box 236, Hancocks Bridge, NJ 08038, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated [date], which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.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 e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 1st day of March, 2002.

For the Nuclear Regulatory Commission.

Robert Fretz,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–5461 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Florida Power and Light Co.; Saint Lucie Plant, Units 1 and 2

Notice of Intent to Prepare An Environmental Impact Statement And Conduct Scoping Process; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on February 28, 2002 (67 FR 9333), that informs the public that the NRC will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process. This action is necessary to correct an incomplete electronic address.

FOR FURTHER INFORMATION CONTACT: Dr. Michael T. Masnik, Office of Nuclear Reactor Regulation, telephone (800) 368–5642, extension 1191.

SUPPLEMENTARY INFORMATION: On page 9334, in the third column, second paragraph, in the third sentence, the e-mail address is corrected to read: " *St Lucie EIS@nrc.gov.*"

Dated at Rockville, Maryland, this 1st day of March, 2002.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 02–5460 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request to Amend a License to Export Highly-Enriched Uranium

Pursuant to 10 CFR 110.70(b)(2) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following request to amend an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or

petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the request to amend a license to export special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this amendment request follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application number, docket number	Description of material		End use	Country of destination
	Material type	Total qty		
Transnuclear, Inc., February 26, 2002, February 26, 2002, XSNM03171/02, 11005236.	Highly-Enriched Uranium (93.30%).	Additional 10.0 kg Uranium (9.33 kg U–235).	To fabricate targets for irradiationin the NRU Reactor to produce medical radioisotopes and to extend expiration date to 4/30/03.	Canada.

For the Nuclear Regulatory Commission,

Dated this 28th day of February 2002 at Rockville, Maryland.

Donna C. Chaney,

Acting Deputy Director, Office of International Programs.

[FR Doc. 02–5457 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension: Form N–14, SEC File No. 270–297, OMB Control No. 3235–0336.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') request for extension of the previously approved collection of information discussed below.

Form N–14—Registration Statement Under the Securities Act of 1933 for Securities Issued in Business Combination Transactions by Investment Companies and Business Development Companies. Form N–14 is used by investment companies registered under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''Investment Company Act'') and business development companies as defined by section 2(a)(48) of the Investment Company Act to register securities under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] to be issued in business combination transactions specified in Rule 145(a) (17 CFR 230.145(a)) and exchange offers. The securities are registered under the Securities Act to ensure that investors receive the material information necessary to evaluate securities issued in business combination transactions. The Commission staff reviews registration statements on Form N–14 for the adequacy and accuracy of the disclosure contained therein. Without Form N–14, the Commission would be unable to verify compliance with securities law requirements. The respondents to the collection of information are investment companies or business development companies issuing securities in business combination transactions. The estimated number of responses is 485 and the collection occurs only when a merger or other business combination is planned. The estimated total annual reporting burden of the collection of information is approximately 620 hours per response for a new registration statement, and approximately 350 hours per response for an amended Form N–14, for a total of 257,770 annual burden hours. Providing the information on Form N–14 is mandatory. Responses will not be kept confidential. Estimates of the burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. The Commission 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.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 28, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5387 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Pacific Exchange, Inc. (BellSouth Corporation, Common Stock, $1.00 Par Value) File No. 1–8607

March 1, 2002.

BellSouth Corporation, a Georgia 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, $1.00 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Issuer stated in its application that it has complied with the Rules of the PCX that governs the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the PCX, the Issuer considered the direct and indirect cost associated with maintaining multiple listing. The Issuer stated in its application that the Security has been listed on the New York Stock Exchange

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

(''NYSE'') since the company began operations in 1983. The Issuer represented that it will maintain its listing on the NYSE.

The Issuer's application relates solely to the Security's withdrawal from listing on the PCX 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]

Any interested person may, on or before March 20, 2002 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 PCX 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. 02–5427 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–U

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Boston Stock Exchange, Inc. (BellSouth Corporation, Common Stock, $1.00 Par Value) File No. 1–8607

March 1, 2002.

BellSouth, Georgia 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, $1.00 par value (''Security''), from listing and registration on the Boston Exchange, Inc. (''BSE'' or ''Exchange'').

The Issuer stated in its application that it has complied with the Rules of the BSE that governs the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the BSE, the Issuer considered the direct and indirect cost associated with maintaining multiple listing. The Issuer stated in its application that the Security has been listed on the New York Stock Exchange (''NYSE'') since the company began operations in 1983. The Issuer represented that it will maintain its listing on the NYSE.

The Issuer's application relates solely to the Security's withdrawal from listing on the BSE 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]

Any interested person may, on or before March 20, 2002 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 BSE 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. 02–5429 Filed 3–6–02; 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 *1*(b).

[4] 15 U.S.C. 78*1*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25449; 812–12780]

American Century Companies, Inc. et al.; Notice of Application March 1, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under sections 6(c), 10(f), 17(b), and rule 17d–1 of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 10(f), 12(d)(3), and 17(a), and an order pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

Summary of Application: Applicants request an order that would permit certain registered investment companies to engage in securities transactions involving a broker-dealer or bank that is an affiliated person of an affiliated person of the investment companies (''Securities Transactions'').

Applicants: American Century Mutual Funds, Inc.; American Century Capital Portfolios, Inc.; American Century Premium Reserves, Inc.; American Century Strategic Asset Allocations, Inc.; American Century World Mutual Funds, Inc.; American Century California Tax-Free and Municipal Funds; American Century Quantitative Equity Funds; American Century Government Income Trust; American Century International Bond Funds; American Century Investment Trust; American Century Municipal Trust; American Century Target Maturities Trust; American Century Variable Portfolios, Inc.; American Century Variable Portfolios II, Inc.; Mainstay VP Series Fund, Inc.; and any registered investment company in the future advised by the Adviser or by a person controlling, controlled by or under common control with the Adviser (collectively, the ''Funds''); American Century Investment Management, Inc. (''Adviser''); American Century Companies, Inc. (''ACC''); and J.P. Morgan Chase & Co. (''JPM''); JPMorgan Chase Bank; J.P. Morgan Securities Inc. and J.P. Morgan Securities Ltd.[1]

Filing Dates: The application was filed on February 15, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 26, 2002, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants: ACC, 4500 Main Street, Kansas City, MO 64111, Attn: Charles A. Etherington, Esq.; and JPM, 522 Fifth Avenue, New York, NY 10036, Attn: Paul Scibetta, Esq.

[1] The term ''JPM'' includes all entities now or in the future controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with J.P. Morgan Chase & Co., Any existing entity or future entity that in the future intends to rely on the requested order will do so only in accordance with the terms and conditions of the application.

FOR FURTHER INFORMATION CONTACT: Janet M. Grossnickle, Branch Chief, or Nadya B. Roytblat, Assistant Director, 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).

Applicants' Representations

1. ACC, a Delaware corporation, is the holding company of the Adviser. ACC is controlled by its founder, James E. Stowers, Jr., and certain of his family members and related entities (collectively, the ''Stowers Family''), and its stock is not publicly traded. The Adviser, a Delaware corporation, is a wholly-owned subsidiary of ACC that is registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Adviser serves as investment adviser to each of the Funds. Each existing Fund is an open-end management investment company registered under the Act and is organized as a Maryland corporation, a California corporation or a Delaware business trust.

2. JPM, a Delaware corporation, is one of the largest bank holding companies in the United States. JPM conducts most of its broker-dealer business through J.P. Morgan Securities, Inc., a broker-dealer registered under the Securities Exchange Act of 1934, and J.P. Morgan Securities, Ltd., a broker-dealer regulated by the Financial Services Authority in the United Kingdom. JPMorgan Chase Bank, a New York state-chartered bank regulated by the New York State Banking Department and the Board of Governors of the Federal Reserve System, issues letters of credit and money market instruments and trades in corporate and government debt securities.[2]

3. On January 15, 1998, JPM purchased approximately 45% of ACC's outstanding common stock (the ''Purchase''). Because ACC has two classes of voting stock and JPM purchased the shares of the lower voting class, JPM is entitled to 8.71% of the voting power of ACC. Under a stockholders agreement, JPM has certain minority stockholder contractual rights, including the right to designate one member of ACC's board of directors (which currently consists of eleven persons) and the right to replace certain members of ACC's management upon the occurrence of certain extraordinary events. ACC also agreed not to take certain actions without JPM's prior consent.

4. Applicants state that the Stowers Family continues to own the largest block of shares of common stock of ACC, representing 49.35% of the outstanding equity interest and at least 70.75% of the voting power of ACC. Applicants represent that JPM has no current plan to purchase additional voting securities of ACC.

5. Applicants state that since the Purchase, ACC and JPM have continued and will continue to operate independently (other than in certain areas, including marketing, distribution, and certain sub-advisory and joint advisory agreements).[3] Applicants further represent that while JPM and ACC are developing certain aspects of their businesses jointly, ACC's management of investments for the Funds and other clients is entirely separate from the management of investments for clients of JPM. Applicants state that a ''firewall'' separates the broker-dealer entities within JPM from the investment management operations of both ACC and other entities that are within JPM. Applicants state that all decisions by the Funds to enter into securities transactions are determined solely by the Adviser in accordance with the investment objectives of the relevant Fund. Applicants further represent that the personnel responsible for Fund investments will be employed solely by the Adviser and their compensation would in no instance be affected by the amount of business done by the Funds they manage with JPM.

6. Applicants represent that JPM will not be in a position to cause any Securities Transactions between the Funds and JPM and will not act in concert with the Adviser in connection with any Securities Transactions. Applicants state that there is not, and will not be, any express or implied understanding between JPM and ACC or the Adviser that the Adviser will cause a Fund to enter into Securities Transactions or give preference to JPM in effecting such transactions between the Fund and JPM.

Applicants' Legal Analysis

1. Section 10(f), in relevant part, prohibits a registered investment company from purchasing securities from an underwriting syndicate in which an affiliated person of the investment company's investment adviser acts as a principal underwriter. Section 10(f) also authorizes the Commission to exempt any transaction or class of transactions from the prohibitions of section 10(f) if the exemption is consistent with the protection of investors.

2. Section 12(d)(3) of the Act generally prohibits a registered investment company from acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting. Rule 12d3–1 under the Act provides an exemption from the provisions of section 12(d)(3), but not with respect to a purchase of a security issued by an affiliated person of the investment adviser or principal underwriter of the registered investment company.

3. Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such person (''second-tier affiliate''), acting as principal, from knowingly selling to or purchasing from the company any security or other property. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if evidence establishes that: (i) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person; (ii) the proposed transaction is consistent with the policy of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the Act.

4. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any second-tier affiliate, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by order. Rule 17d–1 provides that, in passing upon an application for such an order, the Commission will consider whether the participation of a registered investment

[2] In December 2000, J.P. Morgan & Co. Incorporated consummated a merger (the ''Merger'') with and into The Chase Manhattan Corporation (''Chase''). Chase and entities it controlled prior to the Merger are referred to as the ''Chase Entities.''

[3] JPM and the Adviser have entered into, and may enter into additional, sub-advisory agreements with each other. JPM and the Adviser also may enter into agreements to manage jointly one or more registered investment companies. The relief requested in the application would not apply to any registered investment company for which JPM acts as sub-advisory. Further, JPM and ACC will consider the existence and nature of such sub-adviser or joint advisory arrangements when designing the Firewall Procedures (as defined below) and when making the certifications required by condition 6 below.

company in a joint transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other applicants.

5. Section 6(c) of the Act permits the Commission to exempt any person or transaction or any class or classes of persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (i) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (ii) any person 5% or more of whose outstanding voting securities are directly or indirectly owned; and (iii) any person directly or indirectly controlling, controlled by, or under common control with, the other person.

7. Applicants state that the Adviser is a wholly-owned subsidiary of ACC, and JPM owns more than 5% of the outstanding voting securities of ACC. Applicants state that JPM is an affiliated person of ACC, and thus could be deemed to be a second-tier affiliate of each Fund. In such event, applicants state that Securities Transactions by the Funds involving JPM would be subject to sections 10(f), 12(d)(3), 17(a) and/or 17(d) of the Act.

8. Applicants request relief under sections 6(c), 10(f) and 17(b) of the Act and pursuant to rule 17d–1 under the Act to permit Securities Transactions, entered into in the ordinary course of business, by a Fund involving JPM under the circumstances described in the application. Applicants state that the requested exemption would apply only where JPM is deemed to be a second-tier affiliate of a Fund solely because of the JPM's ownership interest in ACC.

9. Applicants submit that, among other reasons, section 10(f) of the Act was enacted to prevent an underwriter from ''dumping'' unmarketable securities on a registered investment company by causing the company to purchase the securities from the affiliated underwriter itself, or by causing or encouraging the company to purchase securities from another member of the underwriting syndicate. Applicants further submit that section 12(d)(3) and rule 12d3–1 were designed to prevent conflicts of interest that may arise when a registered investment company purchases securities of an issuer engaged in a securities-related business. Rule 12d3–1(c) specifically addresses the conflicts that arise when the issuer is an investment adviser, promoter or principal underwriter (or affiliated person thereof) of the registered investment company. Applicants submit that the primary purpose of section 17(a) is to prevent persons with the power to control an investment company from using that power to such persons' own pecuniary advantage (*i.e.,* to prevent self-dealing). Similarly, applicants submit that section 17(d) was designed to protect investment companies from self-dealing and overreaching by insiders by permitting the Commission to set standards for all transactions in which an investment company and an affiliate are involved that are susceptible to self-dealing by the affiliate to the detriment of the investment company.

10. Applicants submit that the policies which sections 10(f), 17(a) and 17(d), and rule 12d3–1(c) of the Act were meant to further are not implicated in the requested relief because JPM is not in a position to cause the Fund to enter into a Securities Transaction. As a result, applicants submit that JPM is not in a position to dump unmarketable securities, engage in self-dealing or otherwise cause the Funds to enter into transactions that are not in the best interests of their shareholders. Applicants submit that the Adviser would not share any benefit that might inure to JPM from the Securities Transactions and the compensation of the Adviser's personnel will not be affected in any way by the profitability of JPM. Applicants also submit that they will comply with all the conditions of rule 12d3–1, except for rule 12d3–1(c), which bars a registered investment company from purchasing securities of an affiliated person of its investment adviser.[4]

11. Applicants state that, as a condition to the requested relief, JPM will not control (within the meaning of section 2(a)(9) of the Act), directly or indirectly, ACC or the Adviser and the requested order will remain in effect only so long as the Stowers Family primarily controls ACC. Applicants maintain that a ''firewall'' has separated the broker-dealer entities within JPM from the investment management operations of ACC, facilitated by the fact that JPM and the Adviser have and will have separate officers and employees, are separately capitalized, maintain separate books and records, and have physically separate offices. Further, JPM will not directly or indirectly consult with ACC, the Adviser or any portfolio manager concerning the selection of portfolio managers or allocation of principal or brokerage transactions for any Fund, or otherwise seek to influence the choice of broker or dealer for any Fund.

12. Applicants state that, as a condition to the requested relief, the boards of directors/trustees of the Funds (''Boards''), including a majority of disinterested directors/trustees, will approve procedures governing transactions in which the Adviser knows that both the Fund and JPM have an interest. Applicants further submit that procedures will be maintained that identify transactions in which the Adviser knows that both the Fund and JPM have a Joint Interest[5] and assure that these transactions are conducted on an arms-length basis.

13. Applicants represent that before any principal transaction is entered into between a Fund and JPM, the Adviser will obtain competitive quotations for the same securities (or in the case of Eligible Debt Securities for which quotations for the same securities are not available, competitive quotations for Comparable Debt Securities)[6] from at least two other dealers that are in a position to quote favorable prices. For each such transaction, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that the price

[4] With respect to secondary market purchases, the Funds may purchase common stock and other securities issued by JPM. With respect to primary market purchases, such securities shall be limited to (i) bankers acceptances or other money market instruments that are Eligible Securities as defined in rule 2a–7 under the Act; and (ii) letters of credit or other forms of credit or liquidity support issued by JPMorgan Chase Bank with respect to municipal or other securities.

[5] For purposes of this application, JPM and a Fund will be considered to have a ''Joint Interest'' in any transaction (including, without limitation, the acquisition, disposition or restructuring of any interest) in which they both have an interest other than (i) a transaction in a security in which the interest of one is exclusively as a buyer of the security and the interest of the other is exclusively as a seller of the security; (ii) a transaction in a security in which the interest of JPM is exclusively as a member of an underwriting syndicate in respect of the security; (iii) a transaction in which the interest of JPM is exclusively as a broker; (iv) a transaction in a security in which the interest(s) of JPM is exclusively as the issuer (and seller) of the security; or (v) any other transaction involving JPM and a Fund that would not be subject to section 17(d) of the Act or rule 17d–1 thereunder.

[6] The term ''Eligible Debt Securities'' refer to (i) First Tier Securities as defined in rule 2a–7 under the Act; or (ii) long-term debt securities that are rated within the three highest rating categories by an NRSRO, as defined in rule 2a–7 under the Act. The term ''Comparable Debt Securities'' refers to Eligible Debt Securities with substantially identical maturities, credit ratings and repayment terms as the Eligible Debt Securities to be purchased or sold.

available from JPM is at least as favorable as that available from other sources.

14. Applicants further represent that with respect to Securities Transactions that would be subject to section 10(f) of the Act, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that (i) the securities were purchased at a price that is not more than the price paid by each other purchaser of securities in that offering or in any concurrent offering of the securities (except in the case of an offering conducted under the laws of a country other than the United States, for any rights to purchase that are required by law to be granted to existing securities holders of the issuer) and (ii) the commission, spread or profit received or to be received by the principal underwriters is reasonable and fair compared to the commission, spread or profit received by other such persons in connection with the underwriting of similar securities being sold during a comparable period of time.

15. Applicants submit that the procedures set forth with respect to Securities Transactions are structured in a way designed to ensure that such transactions will be, in all instances, reasonable and fair, and will not involve overreaching on the part of any person concerned, that the Securities Transactions will be consistent with the policies of the Funds as recited in their registration statements and reports filed under the Act, and that such exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

General

1. JPM will not control ACC, the Adviser or the Funds, directly or indirectly, within the meaning of section 2(a)(9) of the Act. The requested order will remain in effect only so long as the Stowers Family primarily controls ACC.

2. JPM will not directly or indirectly consult with ACC, the Adviser or any portfolio manager of the Adviser concerning the selection of portfolio managers, securities purchases or sales, the allocation of principal or brokerage transactions for any Fund, or otherwise seek to influence the choice of broker or dealer for any securities transaction by a Fund other than in the normal course of sales activities of the same nature that are being carried out during the same time period with respect to unaffiliated institutional clients of JPM.

3. The Adviser and JPM will operate as separate entities and independent profit centers, with separate capitalization, separate books and records, separate officers and employees, and physically separate offices. The broker/dealer and investment management entities within JPM and the investment management operations of ACC will operate on different sides of appropriate ''firewalls'' created pursuant to policies, procedures and controls implemented by JPM and ACC (''Firewall Procedures''). The Firewall Procedures will include such measures as may be considered reasonable and appropriate by JPM and ACC to facilitate the factual independence of the broker/dealer and investment management operations of JPM from the investment management operations of ACC.

4. Each Fund will comply with rule 12d3–1 under the Act, except paragraph (c) of that rule with respect to Securities Transactions involving securities issued by JPM.

5. The legal departments of the Adviser and JPM will prepare guidelines for personnel of the Adviser and JPM to make certain that transactions effected pursuant to the order comply with its conditions, and that the Adviser and JPM generally maintain an arms-length relationship. The legal departments of the Adviser and JPM will periodically monitor the activities of the Adviser and JPM to make certain that the conditions to the order are met.

Principal Transactions and Joint Interest Transactions

6. Prior to relying on the requested order, each Fund's Board, including a majority of its disinterested directors/trustees, shall determine that the Firewall Procedures are designed reasonably to (i) identify principal transactions or transactions in which the Adviser knows that both the Fund and JPM have a Joint Interest; and (ii) assure that these transactions are conducted on an arms-length basis. Additionally, JPM and ACC shall certify annually to the Board that the Firewall Procedures continue to be effective to assure that any principal transactions or transactions in which the Adviser knows that both the Fund and JPM have a Joint Interest are conducted on an arms-length basis, or recommend such modifications as JPM and/or ACC deem necessary.

7. Each Fund's Board, including a majority of its disinterested directors/trustees, shall approve procedures governing transactions in which the Adviser knows that both the Funds and JPM have an interest and shall no less frequently than quarterly review all such transactions. With respect to principal transactions with JPM and Securities Transactions that would be subject to Section 10(f) of the Act, this review shall include, among other things, the terms of each transaction, and a comparison of the volume of transactions effected with JPM with the volume of similar transactions effected with JPM prior to the Purchase (or with respect to Chase Entities, prior to the Merger).

8. For each transaction by a Fund in which the Adviser knows that JPM has a direct or indirect interest, the Adviser will consider only the interests of the Fund and will not take into account the impact of the Fund's investment decision on JPM. Before entering into any such transaction, the Adviser will make a determination that the transaction is consistent with the investment objectives and policies of the Fund and is in the best interests of the Fund and its shareholders. This determination and the basis for the determination will be documented in written reports as soon as practicable and furnished to the Fund's Board in connection with the quarterly reviews required by condition 7 above.

9. The Funds will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and any modifications thereto) that are described herein, and (ii) shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction in which the Adviser knows that both JPM and a Fund directly or indirectly have an interest occurs, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security or other property purchased or sold, a description of JPM's interest in the transaction, the terms of the transaction, and the information or materials upon which the determination was made that each such transaction was made in accordance with the procedures set forth above and conditions in this application.

Principal Transactions

10. Before any principal transaction is entered into between a Fund and JPM (other than Securities Transactions that would be subject to section 10(f)), the Adviser must obtain competitive

quotations for the same securities (or in the case of Eligible Debt Securities for which quotations for the same securities are not available, competitive quotations for Comparable Debt Securities) from at least two other dealers that are in a position to quote favorable prices. For each such transaction, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that the price available from JPM is at least as favorable as that available from other sources. With respect to Securities Transactions that would be subject to section 10(f) of the Act, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that (i) the securities were purchased at a price that is no more than the price paid by each other purchaser of securities in that offering or in any concurrent offering of the securities (except in the case of an offering conducted under the laws of a country other than the United States, for any rights to purchase that are required by law to be granted to existing securities holders of the issuer) and (ii) the commission, spread or profit received or to be received by the principal underwriters is reasonable and fair compared to the commission, spread or profit received by other such persons in connection with the underwriting of similar securities being sold during a comparable period of time.

Joint Interest Transactions

11. Before entering into any transaction in which the Adviser knows that both JPM and a Fund have a Joint Interest and that requires, or that, in the judgment of the Adviser, can reasonably be expected to require, material negotiations or other discussions involving both JPM and the Adviser, a majority of the Fund's disinterested directors/trustees who have no direct or indirect financial interest in the transaction (''Required Majority'') will determine that it is in the Fund's best interests to participate and the extent of the Fund's participation in such transaction. Before making this decision, the Required Majority will review the documentation required by condition 8 above and such additional information from the Adviser or advice from experts as they deem necessary.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5388 Filed 3–6–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25450; File No. 812–12785]

Franklin Strategic Series, et al.; Notice of Application

March 1, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of registered open-end management investment companies to acquire all of the assets, net of liabilities, of certain corresponding series of another registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 of the Act.

APPLICANTS: Franklin Strategic Series, Franklin Federal Tax-Free Income Fund (''Franklin Federal Tax-Free Fund''), Franklin Investors Securities Trust, Franklin Advisers, Inc. (''FAI''), Templeton Funds, Inc. (''Templeton Funds''), Templeton Global Advisers Limited (''TGAL'', together with FAI, the ''Franklin Advisers''), FTI Funds, and Fiduciary International, Inc (''FII'').

FILING DATE: The application was filed on February 28, 2002.

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 March 25, 2002 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 may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549–0609. Applicants, c/o David P. Goss, Esq., Franklin Templeton Investments, One Franklin Parkway, San Mateo, California 94403–1906.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Mary Kay Frech, 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 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. FTI Funds, a Massachusetts business trust, is an open-end management investment company registered under the Act. FTI Funds consists of seven series, four of which are the ''Acquired Funds''. Franklin Strategic Series, a Delaware business trust, is an open-end management investment company registered under the Act, and currently offers 13 series, one of which is the Franklin Strategic Series: Large Cap Growth Fund (''Franklin Large Cap Growth Fund''). Franklin Federal Tax-Free Fund, a California corporation, is an open-end management investment company registered under the Act. Franklin Investors Securities Trust, a Massachusetts business trust, is an open-end management investment company registered under the Act, and currently offers six series, one of which is the Franklin Investors Securities Trust: Total Return Fund (''Franklin Total Return Fund''). Templeton Funds, a Maryland corporation, is an open-end management investment company registered under the Act, and currently offers two series, one of which is Templeton Funds: Foreign Fund (''Templeton Foreign Fund''). The Franklin Large Cap Growth Fund, Franklin Federal Tax-Free Fund, Franklin Total Return Fund, and Templeton Foreign Fund are the ''Acquiring Funds''.[1]

2. The Franklin Advisers are each registered under the Investment Advisers Act of 1940 (''Advisers Act'') and serve as investment advisers to the Acquiring Funds.[2] Each Franklin Adviser is a wholly owned subsidiary of Franklin Resources, Inc. (''Resources''). FII is registered under the Advisers Act and serves as investment adviser to each

[1] The Acquired Funds and the corresponding Acquiring Funds are: (a) FTI Funds: Large Cap Growth Fund and Franklin Large Cap Growth Fund; (b) FTI Funds: Municipal Bond Fund and Franklin Federal Tax-Free Fund; (c) FTI Funds: Bond Fund and Franklin Total Return Fund; and (d) FTI Funds: International Equity Fund (''FTI International Equity Fund'') and Templeton Foreign Fund (each, a ''Fund'' and together, the ''Funds'').

[2] FAI serves as investment adviser to Franklin Large Cap Growth Fund, Franklin Federal Tax-Free Fund, and Franklin Total Return Fund. TGAL serves as investment adviser to Templeton Foreign Fund.

of the Acquired Funds. FII is an indirect, wholly owned subsidiary of Fiduciary Trust Company International (''FTCI''), which, on behalf of certain fiduciary accounts, owns of record, beneficially, or both, 5% or more of the outstanding shares of each Acquired Fund. FTCI is also an indirect wholly owned subsidiary of Resources.

3. On January 16, 2002, the board of trustees of FTI Funds (''FTI Board''), including all the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Disinterested Trustees''), unanimously approved the respective Agreements and Plans of Reorganization entered into between the Acquired Funds and the Acquiring Funds (each a ''Plan'' and together, the ''Plans''). On November 20, 2001 (and on December 4, 2001, in the case of Templeton Funds), the respective boards of trustees of the Acquiring Funds each a ''Franklin Board'' and collectively, the ''Franklin Boards''), including the Disinterested Trustees, unanimously approved each Plan. Under each Plan, an Acquiring Fund will acquire substantially all of the assets of the corresponding Acquired Fund in exchange for Advisor Class shares of the Acquiring Fund, which will be distributed pro rata by the Acquired Fund to its shareholders as soon as reasonably practicable after the close of the applicable reorganization (each, a ''Reorganization''). The shares of each Acquiring Fund exchanged will have a total net asset value equal to the total net asset value of the corresponding Acquired Fund's shares determined as of 4:00 p.m. Eastern time on the closing date of each Reorganization (each, a ''Closing Date''). The net asset value of the Acquiring Fund shares and the value of the corresponding Acquired Fund's net assets will be determined according to each Fund's then-current prospectus and statement of additional information. On the Closing Date, which is currently anticipated to occur on or about March 27, 2002, the Advisor Class shares of each Acquiring Fund will be distributed to the corresponding Acquired Fund's shareholders, and each Acquired Fund will satisfy its liabilities, liquidate and be dissolved as a separate series of FTI Funds.

4. Applicants state that the investment objectives and strategies of each Acquired Fund are similar to those of each respective Acquiring Fund. Shares of the Acquired Funds and the Advisor Class shares of the Acquiring Funds are not subject to a front-end sales load, contingent deferred sales charge or exchange fee. The Acquiring Funds do not have a rule 12b–1 distribution fee for their Advisor Class shares. No sales charges or other fees will be imposed in connection with the Reorganizations. The expenses of each Reorganization will be paid one-quarter by the applicable Acquiring Fund, the corresponding Acquired Fund, the applicable Franklin Adviser, and FII.

5. Each Franklin Board and the FTI Board (together, the ''Boards''), including all of the Disinterested Trustees, determined that each Reorganization was in the best interest of each of their respective Funds and their shareholders, and that the interests of each Fund's existing shareholders will not be diluted as a result of its Reorganization. In approving the Reorganizations, the Boards considered various factors, including, among other things: (a) The investment objectives, management policies and investment restrictions of the Funds; (b) the terms and conditions of the Reorganizations including any changes in services to be provided to shareholders of each Fund; (c) the respective expense ratios of the Funds; (d) the tax-free nature of the Reorganizations; and (e) the potential economies of scale that are likely to result from the larger asset base of the combined Funds.

6. The Reorganizations are subject to a number of conditions, including: (a) Each Acquired Fund's shareholders will have approved the Plan; (b) an N–14 registration statement relating to each Reorganization will have become effective with the Commission; (c) each Fund will have received an opinion of counsel concerning the tax-free nature of its respective Reorganization; (d) each Acquired Fund will have declared and paid dividends and other distributions on or before the Closing Date; and (e) applicants will have received from the Commission the exemptive relief requested by the application. A Plan may be terminated and the Reorganization abandoned at any time prior to the Closing Date by mutual written consent of the parties or by either Fund in the case of a breach of the Plan. Applicants agree not to make any material changes to any Plan without prior approval of the Commission staff.

7. A registration statement on Form N–14 with respect to the Reorganization of each Acquired Fund, containing a proxy statement/prospectus, was filed with the Commission on January 22, 2002 (January 18, 2002 for FTI International Equity Fund). A combined prospectus/proxy statement will be mailed to each Acquired Fund's shareholders at least 20 business days before the date of the meeting of shareholders of each Acquired Fund (scheduled for March 22, 2002).

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganizations because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that FTCI, on behalf of certain fiduciary accounts, owns of record, beneficially, or both, 5% or more of the total outstanding voting securities of each Acquired Fund. FTCI is also an affiliated person of each Franklin Adviser because each such company is under the common control of Resources, which directly or indirectly owns 100% of each company's outstanding voting securities. Consequently, each Acquired Fund may be deemed to be an affiliated person of an affiliated person of the corresponding Acquiring Fund for reasons other than those set forth in rule 17a–8.

4. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person

concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganizations. Applicants submit that each Reorganization satisfies the standards of section 17(b) of the Act. Applicants state that the terms of the Reorganizations are reasonable and fair and do not involve overreaching. Applicants state that the investment objectives, policies and restrictions of the Acquired Funds are similar to those of the corresponding Acquiring Funds. Applicants also state that each Franklin Board and the FTI Board, including all of the Disinterested Trustees, found that the participation of the Acquired and the Acquiring Funds in the Reorganizations is in the best interests of each Fund and its shareholders and that such participation will not dilute the interests 4 of the existing shareholders of each Fund. In addition, applicants state that the Reorganizations will be on the basis of the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5432 Filed 3–6–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45488; File No. SR–AMEX–2001–107]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating the Allocation to Specialists of Securities Admitted to Dealings on an Unlisted Trading Privileges Basis

February 28, 2002.

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 December 17, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to its proposal on February 1, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. *Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change*

The Amex proposes to adopt Amex Rule 28 to establish allocation procedures for securities admitted to dealings on a UTP basis. The text of the proposed rule change is below. Proposed new language is in *italics.*

* * * * *

Allocation of Securities Admitted to Dealings on an Unlisted Trading Privileges (''UTP'') Basis Rule 28. (a) The UTP Allocations Committee shall allocate securities admitted to dealings on an unlisted basis. The UTP Allocations Committee shall consist of the Chief Executive Officer of the Exchange who shall serve as the Chairman of the Committee, three members (selected from among Exchange Officials, Senior Floor Officials and Floor Governors), and three members of the Exchange's senior management as designated by the Chief Executive Officer of the Exchange. The Committee shall make its decisions by majority vote. The Chairman of the Committee may only vote to create or break a tie.

(b) The UTP Allocations Committee shall select the specialist that appears best able in the professional judgment of the members of the Committee to perform the functions of a specialist in the security to be allocated. Factors to be considered in the allocation may include, but are not limited to: (1) quality of markets made by the specialist, (2) experience with trading the security or similar securities, (3) willingness to promote the Exchange as a marketplace, (4) operational capacity including number and quality of professional staff, (5) number and quality of support personnel, (6) record of disciplinary, Committee on Floor Member Performance (''Performance Committee'') and cautionary actions including significant pending enforcement matters, (7) Performance Committee evaluations, (8) Specialist Floor Broker Questionnaire ratings and data, (9) the degree of interest expressed by a specialist in receiving the allocation in question, (10) undertakings by specialist applicants with respect to market quality, (11) order flow statistics, (12) the existence of a common ownership or similar economic interest among one or more specialists and market makers, (13) trading expertise in the primary market for the securities to be traded on an unlisted basis, and (14) ability and willingness to trade with other markets where the securities to be allocated trade.

(c) The UTP Allocations Committee may meet with potential specialists to obtain information regarding their qualifications. The Committee also may require specialists to submit information regarding their qualifications in writing.

(d) Willingness to promote the Exchange as a market place includes providing financial and other support for the Exchange's program to trade securities on an unlisted basis, contributing to the Exchange's marketing effort, consistently applying for allocations, assisting in meeting and educating market participants (and taking time for travel related thereto), maintaining communications with member firms in order to be responsive to suggestions and complaints, responding to competition by offering competitive markets and competitively priced services, and other like activities.

(e) The Exchange may allocate Nasdaq securities eligible for inclusion in the Exchange's Integrated Market Making Pilot Program (''Pilot Program'') prior to the commencement of the Pilot Program. If such securities are so allocated, upon the commencement of the Pilot Program, the UTP Allocations Committee shall conduct a reallocation proceeding in order to implement the Pilot Program at which proceeding the Committee may reallocate such Nasdaq securities. The UTP Allocations Committee shall follow the procedures described in this Rule 28 when it reallocates Nasdaq securities pursuant to this paragraph (e).

* * * * *

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated January 30, 2002 (''Amendment No. 1''). In Amendment No. 1, the Exchange clarified its proposal to consider potential integrated market making arrangements as a factor in determining the specialist allocation of equity securities traded on the Exchange pursuant to unlisted trading privileges (''UTP''), if the Amex's integrated market making proposal (SR–Amex-2001–75) is approved by the Commission.

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

Presently, the Exchange allocates securities to specialists that are able to fulfill the responsibilities of a specialist with respect to the securities. Recently, the Exchange determined to admit equity securities to dealings on a UTP basis. Since the Exchange would not be the primary listing market for these securities, the Exchange's ''issuer choice'' program (which gives issuers a role in the selection of their specialist) would be inapplicable to UTP securities. In addition, a specialist competing for order flow in securities admitted to dealings on a UTP basis against an established primary market would require a different set of qualifications than a specialist in securities that are listed on the Exchange. The Exchange, accordingly, believes that it is desirable to adopt new equity allocation procedures for UTP securities.

The proposal would establish a UTP Allocations Committee and procedures by which it would allocate securities admitted to dealings on a UTP basis. Three members selected from among Exchange Officials, Senior Floor Officials and Floor Governors would serve on the UTP Allocations Committee. The Chief Executive Officer of the Exchange and three other senior members of the Amex staff also would serve on the Committee.[4]

The Exchange's UTP Allocations Committee would receive the same information that customarily is provided to the Exchange's Allocations Committee and would generally consider factors that are the same as the Allocations Committee. In addition to the criteria that is generally considered by the Allocations Committee, the UTP Allocations Committee would also consider the following special criteria in making allocation determinations: (a) trading expertise in the primary market for the securities to be traded on an unlisted basis; (b) ability and willingness to trade with other markets where the securities to be allocated trade; and (c) financial support of the Exchange's UTP technology and marketing initiatives. The UTP Allocations Committee also could solicit information from potential specialists. As previously noted, issuer choice would not be a factor in allocating securities admitted to dealings on a UTP basis.

The Exchange recently filed a proposal with the Commission to institute a six-month pilot program to permit integrated market making and side-by-side trading[5] with respect to Nasdaq stocks that meet specified characteristics.[6] The Exchange wants to implement the Nasdaq UTP program as soon as possible, and believes that integrated market making would add substantial value to the Nasdaq UTP program. The Exchange notes, however, that Commission action on the Integrated Market Making Pilot Proposal may not occur until after Commission action on the Exchange's proposal to adopt general rules relating to trading Nasdaq stocks on a UTP basis.[7] Thus, the Exchange proposes to allocate the securities that may be eligible for the Integrated Market Making Pilot Proposal on a temporary basis, and that these securities would then be subject to reallocation if the Commission approves the Integrated Market Making Pilot Proposal.[8] In particular, the UTP Allocations Committee would reallocate such securities considering the availability of an integrated market making arrangement for Nasdaq securities admitted to dealing on a UTP basis.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. More specifically, the Exchange believes that trading securities on a UTP basis will provide investors with increased flexibility in satisfying their investment needs by providing additional choice and increased competition in markets to effect transactions in the securities subject to UTP.

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 filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All

[4] This Committee structure is similar to the NYSE's UTP Allocations Committee. *See* Exchange Act Release Nos. 44272 (May 7, 2001), 66 FR 26898 (May 15, 2001), and 44306 (May 15, 2001), 66 FR 28008 (May 21, 2001).

[5] According to the Exchange, ''integrated market making'' refers to the trading of options and their underlying stocks by the same specialist and/or specialist firm, while ''side-by-side trading'' refers to the trading of options and the underlying stocks in the same vicinity, though not necessarily by the same specialist or firm.

[6] *See* SR-Amex-2001–75 (''Integrated Market Making Pilot Proposal'').

[7] *See* Exchange Act Release No. 45365 (January 30, 2002), 67 FR 5626 (February 6, 2002).

[8] *See* Amendment No. 1, note 3, *supra*.

[9] *Id.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

submissions should refer to File No. SR-AMEX–2001–107 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–5430 Filed 3–6–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45492; File No. SR–NASD–2002–20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Use of Share Caps To Comply With the Shareholder Approval Rules of The Nasdaq Stock Market

March 1, 2002.

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 February 6, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') 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 Nasdaq. On February 27, 2002, the NASD—through Nasdaq—submitted Amendment No. 1 to the proposal.[3] Nasdaq has asserted that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule and, therefore, is immediately effective pursuant to Rule 19b–4(f)(1) under the Act.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Sara Nelson Bloom, Associate General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated February 26, 2002 (''Amendment No. 1''). In Amendment No. 1, Nasdaq clarified the consequences for Nasdaq issuers of engaging in transactions that employ defective share caps.

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is adopting interpretive material on the use of share caps to comply with the 20% limitations under NASD Rule 4350(i) and to make conforming changes to NASD IM–4300, NASD IM–4310–2, and NASD Rule 4350(i). Text of the proposed rule change, as amended, appears below. New language is italicized; deletions are bracketed.

* * * * *

IM–4300, Interpretive Material Regarding Future Priced Securities, is renumbered as IM–4350–1 and footnote 2 is amended as follows:

2. [In order to obviate the need for shareholder approval through such an arrangement, those shares already issued in connection with the Future Priced Security must not be entitled to vote on the proposal to approve the issuance of additional shares upon conversion of the Future Priced Security.] *See IM–4350–2, Interpretative Material Regarding the Use of Share Caps to Comply with Rule 4350(i).*

New Rule, IM–4350–2, Interpretative Material Regarding the Use of Share Caps to Comply with Rule 4350(i), is added as follows:

IM–4350–2—Interpretative Material Regarding the Use of Share Caps to Comply with Rule 4350(i)

Rule 4350(i) limits the number of shares or voting power that can be issued or granted without shareholder approval prior to the issuance of certain securities.[1] Generally, this limitation applies to issuances of 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance.[2]

Issuers sometimes comply with the 20% limitation in this rule by placing a ''cap'' on the number of shares that can be issued in the transaction, such that there cannot, under any circumstances, be an issuance of 20% or more of the common stock or voting power previously outstanding without prior shareholder approval. If an issuer determines to defer a shareholder vote in this manner, shares that are issuable under the cap (in the first part of the transaction) must not be entitled to vote to approve the remainder of the transaction. In addition, a cap must apply for the life of the transaction, unless shareholder approval is obtained. For example, caps that no longer apply if a company is not listed on Nasdaq are not permissible under the Rule. Of course, if shareholder approval is not obtained, then the investor will not be able to acquire 20% or more of the common stock or voting power outstanding before the transaction and would continue to hold the balance of the original security in its unconverted form.

Nasdaq has observed situations where issuers have attempted to cap the issuance of shares at below 20% but have also provided an alternative outcome based upon whether shareholder approval is obtained, such as a ''penalty'' or a ''sweetener.'' For example, a company issues a convertible preferred stock or debt instrument that provides for conversions of up to 20% of the total shares outstanding with any further conversions subject to shareholder approval. However, the terms of the instrument provide that if shareholders reject the transaction, the coupon or conversion ratio will increase or the issuer will be penalized by a specified monetary payment. Likewise, a transaction may provide for improved terms if shareholder approval is obtained. Nasdaq believes that in such situations the cap is defective because the related penalty or sweetener has a coercive effect on the shareholder vote, and thus may deprive shareholders of their ability to freely exercise their vote. Accordingly, Nasdaq will not accept a cap that defers the need for shareholder approval in such situations. Instead, if the terms of a transaction can change based upon the outcome of the shareholder vote, no shares may be issued prior to the approval of the shareholders. Issuers that engage in transactions with defective caps will be in violation of Nasdaq rules and will be subject to delisting.

Issuers having questions regarding this policy are encouraged to contact The Nasdaq Stock Market, Listing Qualifications Department at (877) 536–2737, which will provide a written interpretation of the application of Nasdaq Rules to a specific transaction, upon prior written request of the issuer.

IM–4310–2, Definition of a Public Offering, is renumbered as IM–4350–3 and the first paragraph is amended as follows:

[1] *An exception to this rule is available to issuers when the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise. Rule 4350(i)(2). However, a share cap is not permissible in conjunction with the financial viability exception provided in Rule 4350(i)(2), because the application to Nasdaq and the notice to shareholders required in the rule must occur prior to the issuance of any common stock or securities convertible into or exercisable for common stock.*

[2] *While Nasdaq's experience is that this issue is generally implicated with respect to these situations, it may also arise with respect to the 5% threshold set forth in Rule 4350(i)(1)(C)(i).*

[Marketplace] Rule[s 4310(c)(25)(G)(i)(d), 4320(e)(21)(G)(i)(d), and 4460(i)(1)(D) provide] *4350(i)(1)(D) provides* that shareholder approval is required for the issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20 percent or more of the common stock or 20 percent or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock. Under [these] *this* rule[s], however, shareholder approval is not required for a ''public offering.''

The existing cross-reference section following Rule 4350(i), Shareholder Approval, is amended to reflect the renumbering of existing IM–4300 and additional cross-references are added as follows:

IM–[4300]*4350–1,* Future Priced Securities

IM–4350–2, Interpretative Material Regarding the use of Share Caps to Comply with Rule 4350(i)

IM–4350–3, Definition of Public Offering

* * * * *

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 NASD 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 NASD 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

NASD Rule 4350(i) limits the number of shares or voting power that can be issued or granted without shareholder approval prior to the issuance of certain securities. Generally, this limitation applies to issuances of 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance. Nasdaq has observed situations where issuers have attempted to cap the issuance of shares at below 20% but have also provided an alternative outcome based upon whether shareholder approval is obtained, such as a ''penalty'' or a ''sweetener.'' Nasdaq believes that in such situations the cap is defective because it has a coercive effect on the shareholder vote and, thus, may deprive shareholders of their ability to freely exercise their vote. Accordingly, Nasdaq will not accept a cap that defers the need for shareholder approval in such situations. Instead, if the terms of a transaction can change based upon the outcome of the shareholder vote, no shares may be issued prior to the approval of the shareholders. Issuers that engage in transactions with defective caps will be in violation of Nasdaq rules and will be subject to delisting. Accordingly, Nasdaq is proposing the adoption of interpretive material to clarify for issuers, their counsel, and investors Nasdaq's requirements pertaining to the use of share caps to comply with its shareholder approval rules.

Nasdaq is also proposing changes to conform existing rules and correct certain cross-references.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[5] in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. As previously noted, Nasdaq is proposing to adopt this interpretative material to provide greater clarity and transparency for issuers, their counsel, and investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change would result in 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Nasdaq has asserted that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule and, therefore, is immediately effective pursuant to Rule 19b–4(f)(1) under the Act.[6] At any time within 60 days of the filing of this proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–20 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–5431 Filed 3–6–02; 8:45 am]

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[5] 15 U.S.C. 78o–3(b)(6).

[6] 17 CFR 240.19b–4(f)(1).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45487; File No. SR–NYSE–2002–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Adopt NYSE Rule 445, Anti-Money Laundering Compliance Program

February 28, 2002.

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 February 27, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new NYSE Rule 445, Anti-Money Laundering Compliance Program. The proposed Rule requires each member and member organization to develop and implement an anti-money laundering compliance program consistent with applicable provisions of the Bank Secrecy Act and the regulations thereunder. The text of the proposed rule change is below. Proposed new language is in italics.

Anti-Money Laundering Compliance Program

Rule 445. Each member organization and each member not associated with a member organization shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management.

The anti-money laundering programs required by this Rule shall, at a minimum:

(1) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(2) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(3) Provide for independent testing for compliance to be conducted by member or member organization personnel or by a qualified outside party;

(4) Designate, and identify to the Exchange (by name, title, mailing address, e-mail address, telephone number, and facsimile number) a person or persons responsible for implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification to the Exchange regarding any change in such designation(s); and

(5) Provide ongoing training for appropriate persons.

* * * * *

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

Background

On October 26, 2001, President Bush signed into law the USA PATRIOT Act (the ''PATRIOT Act''), which amends among other laws the Bank Secrecy Act as set forth in Title 31 of the United States Code (the ''Code''). The PATRIOT Act expands government powers to fight the war on terrorism and requires that financial institutions,[3] including broker-dealers, implement policies and procedures to that end.

Title III of the PATRIOT Act, separately known as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (''MLAA''), focuses on the requirement that financial institutions establish anti-money laundering monitoring and supervisory systems. Specifically, MLAA Section 352, which amends Section 5318(h) of the Code, requires each financial institution to establish Anti-Money Laundering Programs *by April 24, 2002* that include, at minimum: (1) the development of internal policies, procedures, and controls; (2) the designation of a compliance officer; (3) an ongoing employee training program; and (4) an independent audit function to test programs.

Proposed New NYSE Rule 445

Anti-Money Laundering Compliance Program: Procedural Requirements

Proposed new NYSE Rule 445, Anti-Money Laundering Compliance Program (''Program''), which was developed in collaboration with NASD Regulation, in discussion with the Department of the Treasury, and the Commission, incorporates MLAA Section 352 requirements and also requires: (1) that the Program be in writing and approved, in writing, by member organizations' senior management; (2) that a designated ''contact person'' or persons, primarily responsible for each member's or member organization's Program, be identified to the Exchange; and (3) that the Program's policies, procedures, and internal controls be reasonably designed to achieve compliance with applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder, as they become effective.

Department of the Treasury Requirements: Filing of Suspicious Activity Reports

Further, proposed NYSE Rule 445 addresses members' and member organizations' obligation to establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) (''Reporting of Suspicious Transactions'') and the implementing regulations thereunder. This reflects the MLAA Section 356 directive that the Department of the Treasury (''Treasury'') publish such implementing regulations, specifically applicable to registered broker-dealers, in the **Federal Register** by specified dates.

Accordingly, the Financial Crimes Enforcement Network (''FinCEN''), through authority granted by the Secretary of the Treasury, filed proposed amendments[4] to the Bank Secrecy Act regulations on December 28, 2001. MLAA Section 356 requires publication of these regulations in final form not later than July 2, 2002.

Generally, FinCEN's proposed regulations require the filing of Suspicious Activity Reports (''SARs'') in a central location, to be determined by FinCEN, within a specified timeframe initiated by the detection of facts constituting a basis for the filing. Proposed reporting criteria stress the development of a sound risk-based program.

Ongoing Compliance

Proposed NYSE Rule 445 also highlights members' and member organizations' existing and ongoing

[3] As defined in 31 U.S.C. 5312(a)(2).

[4] ''Financial Crimes Enforcement Network; Proposed Amendments to the Bank Secrecy Act Regulations—Requirement of Brokers or Dealers in Securities to Report Suspicious Transactions;''—66 FR 67670 (December 31, 2001).

obligation to comply with applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder, as they become effective.

Accordingly, and particularly in light of the PATRIOT Act amendments, members and member organizations should be cognizant of all existing and pending Bank Secrecy Act requirements. These include, but are not limited to:

(1) MLAA Section 313 (''Prohibition on United States Correspondent Accounts with Foreign Shell Banks'')—Effective 12/25/01, covered financial institutions operating in the United States must sever correspondent banking relationships with foreign ''shell banks'', *i.e.*, banks without a physical presence in any country, that are not affiliated with a bank that both has a physical presence in a country and is subject to supervision by a banking authority that regulates the affiliated bank.

(2) MLAA Section 312 (''Special Due Diligence for Correspondent Accounts and Private Banking Accounts'')—Effective 7/23/02, financial institutions must be prepared to apply ''* * * appropriate, specific, and, where necessary, enhanced, due diligence'' with respect to foreign private banking customers and international correspondent accounts.

(3) MLAA Section 326 (''Verification of Customer Identity'')—Effective 10/26/02, financial institutions must comply with a regulation issued by the Secretary of the Treasury requiring the implementation of ''reasonable procedures'' with respect to the verification of customer identification upon opening an account, maintaining records of information used for such verification, and the consultation of a government-provided list of known or suspected terrorists.

The Exchange will publish notifications to members and member organizations regarding the adoption and implementation of new regulations and address their responsibilities thereunder.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6(b)(5) of the Act.[5] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest.

The NYSE also believes the proposed rule change is consistent with Section 6(c)(3)(B) of the Act.[6] Under that Section, it is the Exchange's responsibility to prescribe standards for training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to the statutory obligation, the Exchange has proposed this rule change in order to establish an additional mechanism for the administration of the Regulatory Element of the Continuing Education Program, which will enable registered persons to satisfy their continuing education obligations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not impose any burden on competition 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such 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–2002–10 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5389 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(c)(3)(B).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45484; File No. SR–Phlx–2001–40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Broker-Dealer Access to AUTOM

February 27, 2002.

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 May 2, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Phlx. On July 26, 2001, the Exchange filed Amendment No. 1 [3] with the Commission; on November 28, 2001, the Exchange filed Amendment No. 2 [4] with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division of Market Regulation (''Division''), SEC, from Richard S. Rudolph, Counsel, Phlx, dated July 25, 2001 (''Amendment No. 1''). In Amendment No. 1, the Phlx deleted unapproved rule language in Rule 1080(b)(i)(A)–(B) and reserved such sections for future use.

[4] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division, SEC, from Richard S. Rudolph, Counsel, Phlx, dated November 28, 2001

Continued

Commission; on February 1, 2002, the Exchange filed Amendment No. 3 [5] with the Commission; and on February 20, 2002, the Exchange filed Amendment No. 4 with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automated Execution System (AUTO-X), to permit access to AUTOM, the Exchange's options order routing, delivery, execution and reporting system, to off-floor broker-dealers on a six-month pilot basis. The proposal would add new section (b)(i)(C) and new Commentary .05 to Phlx Rule 1080. The text of the proposed rule change, as amended, is set forth below.

New text is in *italics*; deletions are [bracketed].

Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

(a) General—AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of Exchange-listed equity options and index options orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO–X, in accordance with the provisions of this Rule. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange member organizations into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

This Rule shall govern the orders, execution reports and administrative messages (''order messages'') transmitted between the offices of member organizations and the trading floors of the Exchange through AUTOM.

(b) Eligible Orders—The following types of orders are eligible for entry into AUTOM:

(i) Generally, only agency orders may be entered. [With respect to U.S. Top 100 Index options (''TPX''), broker-dealer orders may be entered into AUTOM, and are eligible for AUTO-X up to a maximum of 50 contracts.]

(A)–(B) Reserved.

(C) Off-floor broker-dealer limit orders, up to the maximum number of contracts permitted by the Exchange, subject to the restrictions on order entry set forth in Commentary .05 of this Rule. Generally, orders up to 200 contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee may determine to increase the eligible order delivery size to an amount greater than 200 contracts, on an issue-by-issue basis. The following types of broker-dealer limit orders are eligible for AUTOM: day, GTC, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order.

(ii) *Agency o*[O]rders up to the maximum number of contracts permitted by the Exchange may be entered. *Agency o*[O]rders up to 1000 contracts, depending on the option, are eligible for AUTOM order delivery, subject to the approval of the Options Committee. The following types of *agency* orders are eligible for AUTOM: day, GTC, market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible duplicate orders.

(iii) The Exchange's Options Committee may determine to accept additional types of orders as well as to discontinue accepting certain types of orders.

(iv) Orders may not be unbundled for the purposes of eligibility for AUTOM and AUTO–X, nor may a firm solicit a customer to unbundle an order for this purpose.

(c)–(j) No change.

Commentary:

.01–.03 No change.

.04 Reserved.

.05 Off-floor broker-dealer limit orders delivered through AUTOM must be represented on the Exchange Floor by a floor member. Off-floor broker-dealer orders delivered via AUTOM shall be for a minimum size of one (1) contract. Off-floor broker-dealer limit orders are subject to the following other provisions:

(i) the restrictions and prohibitions concerning electronically generated orders and off-floor market makers set forth in Rules 1080(i) and (j).

(ii) Off-floor broker-dealer limit orders entered via AUTOM establishing a bid or offer may establish priority, and the specialist and crowd may match such a bid or offer and be at parity, subject to the yield provisions set forth in Exchange Rule 1014.

(iii) Off-floor broker-dealer limit orders that are eligible for execution via AUTO–X entered via AUTOM for the account(s) of the same beneficial owner may not be entered in options on the same underlying security more frequently than every 15 seconds.

(iv) Off-floor broker-dealer limit orders may be eligible for automatic execution via AUTO–X on an issue-by-issue basis, subject to the approval of the Options Committee. The AUTO–X guarantee for off-floor broker-dealer limit orders may be for a different number of contracts, on an issue-by-issue basis, than the AUTO–X guarantee for public customer orders, subject to the approval of the Options Committee.

(''Amendment No. 2''). In Amendment No. 2, the Exchange proposes to change its previously filed rule amendments as follows: (i) off-floor broker-dealer orders would be eligible for automatic execution via the Automatic Execution System (''AUTO–X'') on an issue-by-issue basis and the size of the AUTO–X guarantee for broker-dealer orders also would be decided on an issue-by-issue basis, and may differ from the AUTO-X guarantee for customer orders; (ii) the maximum order delivery size for off-floor broker-dealer orders would be 200 contracts, unless increased by the Options Committee. Broker-dealer orders must be for a minimum volume of 1 contract; (iii) Good Till Cancelled (''GTC'') orders for the accounts of off-floor broker-dealers would be accepted; (iv) broker-dealer orders entered for the same beneficial owner may not be entered in options on the same underlying issue more frequently than every 15 seconds; and (v) the provision that specialists may elect to discontinue accepting off-floor broker-dealer orders with proper approval and notice to AUTOM users is deleted.

[5] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division, SEC, from Richard S. Rudolph, Counsel, Phlx, dated February 1, 2002 (''Amendment No. 3''). In Amendment No. 3, the Phlx proposes to change its previously filed rule amendments as follows: (i) the Options Committee may determine to increase the eligible order delivery size to an amount greater than 200 contracts; (ii) to clarify that Phlx Rule 1080(b)(ii) applies solely to agency orders; and (iii) the restriction on broker-dealer limit orders entered for the same beneficial owner in options on the same underlying issue to no more frequently than every 15 seconds applies only to AUTO-X eligible limit orders.

[6] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division, SEC, from Richard S. Rudolph, Counsel, Phlx, dated February 19, 2002 (''Amendment No. 4''). In Amendment No. 4, the Phlx clarified that the term ''off-floor broker-dealer'' would include both broker-dealers that deliver orders from ''upstairs'' for the proprietary account of such broker-dealer and market makers located on an exchange or trading floor other than Phlx that elect to deliver orders via AUTOM for the proprietary accounts of such broker-dealer. The Exchange stated that orders of market makers from other markets could elect either to deliver orders via AUTOM or via the proposed Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage''). The Exchange also noted that off-floor broker-dealer orders would be eligible for automatic execution via the Exchange's National Best Bid or Offer (''NBBO'') step-up feature, provided that the order is for an ''NBBO Step-Up Option'' as described in Phlx Rule 1080(c)(i) and provided that the NBBO does not differ from the Exchange's best bid or offer by more than the step-up parameter.

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. Phlx 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

Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automated Execution System (AUTO–X), governs the operation of AUTOM, the Exchange's automated order routing, delivery, execution and reporting system for options. The purpose of the proposed rule change is to permit off-floor broker-dealers, on a six-month pilot basis and subject to certain restrictions designed to ensure the maintenance of a fair and orderly market, to have electronic access to the specialist's limit order book [7] through AUTOM.

Incoming broker-dealer orders delivered via AUTOM are ineligible for delivery to the specialist, such that they are rejected by the system and routed either to the appropriate Floor Broker booth or to the point of origin of the order. Such orders may be represented by the appropriate Floor Broker on the Exchange or rerouted to the originating broker or dealer.

The amended proposed rule change would allow orders for the account(s) of broker-dealers to be delivered electronically via AUTOM, and also would permit such orders to be executed automatically, on an issue-by-issue basis subject to the approval of the Exchange's Options Committee, via AUTO–X, the automatic execution feature of AUTOM.

The Exchange is proposing this rule change to remain competitive, and to improve the efficiency with which orders for the account(s) of broker-dealers are currently executed.[8] The Exchange believes that providing broker-dealers with access to the specialist's limit order book and automatic executions would promote more efficient and expeditious execution of broker-dealer orders than under the current Exchange practice of re-routing to a Floor Broker booth. Under the current Exchange practice, such orders are represented in the crowd by a Floor Broker after such Floor Broker's receipt thereof.

The Exchange also believes that the proposed rule change is consistent with the purposes underlying the Commission mandate to adopt new, or amend existing, rules that substantially enhance incentives to quote competitively and substantially reduce disincentives for market participants to act competitively.[9] The Exchange believes that providing broker-dealers with access to the specialist's limit order book should eliminate any actual or perceived technological advantage the specialist may have respecting access to the limit order book.[10]

The proposal would permit certain off-floor broker-dealer limit orders for up to 200 contracts, depending on the option, to be eligible for AUTOM order delivery subject to the approval of the Options Committee. Specifically, the proposed rule provides that the following types of broker-dealer limit orders are eligible for AUTOM order delivery: day, GTC, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, and cancel with replacement order. The purpose of this provision is to ensure that off-floor broker-dealers do not have an actual or perceived disadvantage respecting on-floor specialists and ROTs.

Proposed Commentary .05 establishes certain conditions and restrictions on the new use of AUTOM. First, the proposed rule states that orders for the account(s) of broker-dealers must be represented on the Exchange floor by a floor member. The proposed rule contemplates that such a floor member may be a floor broker or the specialist. The Exchange believes that the proposed rule change should create more orders that are handled electronically (as opposed to the current practice of causing broker-dealer orders to be handled manually), thereby enhancing the audit trail for broker-dealer orders. Second, the proposal provides that off-floor broker-dealer orders delivered via AUTOM shall be for a minimum size of one (1) contract.

Third, proposed Commentary .05 states that the restrictions and prohibitions concerning electronically generated orders and off-floor market makers set forth in Exchange Rules 1080(i) and (j) would apply to orders entered for the account(s) of off-floor broker-dealers. Exchange Rule 1080(i) prohibits members from entering, permitting, or facilitating the entry of orders into AUTOM if those orders are created and communicated electronically without manual input (*i.e.,* order entry by public customers or associated persons of members must involve manual input such as entering the terms of an order into an order-entry screen or manually selecting a displayed order against which an off-setting order should be sent).[11]

Exchange Rule 1080(j) prohibits members from entering, or facilitating the entry into AUTOM, as principal or agent, limit orders in the same options series from off the floor of the Exchange, for the account or accounts of the same or related beneficial owners, in such a manner that the off-floor member or the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis.[12]

Fourth, proposed Commentary .05 provides that off-floor broker-dealer limit orders entered via AUTOM establishing a bid or offer may establish

[7] The electronic ''limit order book'' is the Exchange's automated specialist limit order book, which automatically routes all unexecuted AUTOM orders to the book and displays orders real-time in order of price-time priority. Orders not delivered through AUTOM may also be entered onto the limit order book. *See* Exchange Rule 1080, Commentary .02.

[8] In Amendment No. 3, the Exchange clarified that the proposed rule change applies only to off-floor broker-dealer limit orders. The Exchange noted that on-floor broker-dealer limit orders (such as those entered via electronic interface with AUTOM by registered options traders (''ROTs'') and specialists) would be governed by a separate proposed rule that the Exchange has filed with the Commission. *See* File No. SR–Phlx–2002–04.

[9] The Exchange notes that on September 11, 2000, the Commission issued an order (the ''Order''), which requires the Exchange (as well as the other respondent options exchanges, American Stock Exchange LLC, Chicago Board Options Exchange, Inc., and Pacific Exchange, Inc.) to implement certain undertakings. *See* Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3–10282.

[10] When an off-floor broker-dealer limit order is delivered via AUTOM, such an order would be automatically executed via AUTO–X if the Exchange's disseminated market is the ''crowd'' quote determined by Auto-Quote or Specialized Quote Feed. When the Exchange's disseminated bid or offer is a limit order on the limit order book, contra-side inbound off-floor broker-dealer limit orders that are eligible for execution would be executed manually by the specialist. *See* Amendment No. 3.

[11] *See* Securities Exchange Act Release No. 43376 (September 28, 2000), 65 FR 59488 (October 5, 2000) (SR–Phlx–00–79).

[12] *See* Securities Exchange Act Release No. 43939 (February 7, 2001), 66 FR 10547 (February 15, 2001) (SR–Phlx–01–05).

priority, and the specialist and crowd may match such a bid or offer and be at parity. The proposed rule provides that the specialist and any other ROTs then in the trading crowd may match an off-floor broker-dealer's bid or offer. The Exchange believes that allowing the specialist and ROTs to match an off-floor broker-dealer's order, and thus be on parity, would preserve the important affirmative market-making obligations of specialists and ROTs. In Amendment No. 3, the Exchange clarifies that off-floor broker-dealer orders are subject to the priority yielding provisions set forth in Exchange Rule 1014.[13]

Fifth, the proposal provides that off-floor broker-dealer limit orders that are eligible for execution via AUTO–X entered via AUTOM for the account(s) of the same beneficial owner may not be entered in options on the same underlying security more frequently than every 15 seconds. The purpose of this amended provision is to remain consistent with recently adopted Exchange rules that include such a 15-second restriction against orders entered via AUTOM for the account(s) of the same beneficial owner in options on the same underlying security more frequently than every 15 seconds.[14]

Finally, the proposed rule requires specialists to accept off-floor broker-dealer day or GTC orders, and to allow them to be automatically executed via AUTO-X. The Exchange believes that this requirement should enable the Exchange to be competitive with other options exchanges that allow automatic executions for broker-dealer orders by assuring broker-dealers sending their proprietary orders to the Exchange that electronic delivery and execution of such orders would not be interrupted. Additionally, the proposal would allow the AUTO–X guarantee for off-floor broker-dealer limit orders to be for a different number of contracts, on an issue-by-issue basis, than the AUTO–X guarantee for public customer orders, subject to the approval of the Options Committee.[15] The Exchange believes that this provision is consistent with the recently expanded Quote Rule[16] and recently adopted Exchange Rules that allow different firm size guarantees for customers than for broker-dealers.[17]

The Exchange is requesting that the effectiveness of the rule change be contingent upon the completion of systems development and testing required for its implementation and the notification of such completion by the Exchange to its members.

2. Basis

For these reasons, the Exchange believes that proposed rule change is consistent with Section 6 of the Act[18] in general, and with Section 6(b)(5) of the Act[19] specifically, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest and promote just and equitable principles of trade by providing off-floor broker-dealers increased access to the specialist's limit order book, and automatic executions, which should provide incentives for Phlx market participants to quote competitively, and which, in turn, should result in competitive pricing and enhanced liquidity on the Exchange specifically, and in the options markets in general.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx 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.

A. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Phlx has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–40 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5390 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

[13] Specifically, the Exchange notes that Phlx Rule 1014(g)(i) provides that orders on controlled accounts must yield priority to customer orders, but are not required to yield priority to other controlled accounts. Thus, under proposed Commentary .05(ii), if an off-floor broker-dealer limit order entered via AUTOM establishes priority, and a customer order is entered into the limit order book at the same price, the off-floor broker-dealer limit order would be required to yield priority to the customer order. Phlx Rule 1014(g)(i) provides that a ''controlled account'' includes any account controlled by or under common control with a broker-dealer. *See* Securities Exchange Act Release No. 45114 (November 28, 2001) 66 FR 63277 (December 5, 2001).

[14] *See* Exchange Rule 1080(c)(ii).

[15] The Exchange believes that this amended provision should result in a larger number of AUTO–X eligible orders delivered electronically to the Exchange.

[16] 17 CFR 240.11Ac1–1.

[17] *See* Exchange Rule 1082(d); *see also,* Exchange Rule 1015(b).

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(5).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Federal Assistance To Provide Financial Counseling and Other Technical Assistance to Women in the State of Vermont

AGENCY: U.S. Small Business Administration.

ACTION: Amendment to Program Announcement No. OWBO–99–012, as amended by OWBO–2000–015.

SUMMARY: This notice amends the U. S. Small Business Administration's notice in the **Federal Register**, issued 2/25/02 (Volume 67, Number 37, page 8572), to correct the term of the project period of

the Women's Business Center (WBC) project that will replace a project in the State of Vermont. Whereas the previous notice stated that the replacement WBC is to carry out a project for the remaining 3 years of a 5-year term, the correct project term for the replacement WBC will be the remaining 2 years of a 5-year term. The applicant must submit a plan for the two-year term of 07/01/02–06/30/03 and 07/01/03–06/30/04.

FOR FURTHER INFORMATION CONTACT: Denise Edmonds at (202) 205–6673 or *denise.edmonds@sba.gov.*

Wilma Goldstein,

Assistant Administrator, SBA/Office of Women's Business Ownership.

[FR Doc. 02–5403 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IX Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Roundtable

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Roundtable on Wednesday, March 13, 2002 at 1:30 p.m. at the Los Angeles Area Chamber of Commerce, 350 South Bixel Street, Los Angeles, CA 90017, phone (213) 580–7500, fax (213) 580–7511, to provide small business owners and representatives of trade associations with an opportunity to share information concerning the federal regulatory enforcement and compliance environment.

Anyone wishing to attend or to make a presentation must contact John Tumpak in writing or by fax, in order to be put on the agenda. John Tumpak, U.S. Small Business Administration, Los Angeles District Office, 330 North Brand Boulevard, Suite 1200, Glendale, CA 91203, phone (818) 552–3203, fax (818) 552–3286, e-mail: *john.tumpak@sba.gov.*

For more information, see our Web site at *www.sba.gov/ombudsman.*

Dated: February 27, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–5404 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IX Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Hearing

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman, will hold a Public Hearing on Monday, March 11, 2002 at 8:30 a.m. at the Balboa Park Club, Santa Fe Room, 2150 Pan American Road West, San Diego, CA 92101, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning the regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Suzanne Ghorpade in writing or by fax, in order to be put on the agenda. Suzanne Ghorpade, U.S. Small Business Administration, San Diego District Office, 550 West ''C'' Street, Suite 550, San Diego, CA 92101, Phone (619) 557–7250, ext.1114, fax (619) 557–3441, e-mail: *suzanne.ghorpade@sba.gov.*

For more information, see our Web site at *www.sba.gov/ombudsman.*

Dated: February 27, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–5405 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IX Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Roundtable

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Roundtable on Friday, March 15, 2002 at 9 a.m. at the U.S. Small Business Administration, Foley Federal Building, 300 Las Vegas Boulevard South, Suite 1100, Las Vegas, NV 89101, phone (702) 388–6684, fax (702) 388–6469, to provide small business owners and representatives of trade associations with an opportunity to share information concerning the federal regulatory enforcement and compliance environment.

Anyone wishing to attend or to make a presentation must contact Donna Hopkins in writing or by fax, in order to be put on the agenda. Donna Hopkins, U.S. Small Business Administration, Nevada District Office, 300 Las Vegas Boulevard South, Suite 1100, Las Vegas, NV 89101, phone (702) 388–6684, fax (702) 388–6469, e-mail: *donna.hopkins@sba.gov.*

For more information, see our Web site at *www.sba.gov/ombudsman.*

Dated: February 27, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–5406 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary; Aviation Proceedings, Agreements Filed During the Week Ending February 15, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–11550.

Date Filed: February 12, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC12 NMS–ME 0159 dated 15 February 2002; Mail Vote 201—TC12 Mid Atlantic-Middle East; Special Passenger Amending Resoluton; *Intended effective date:* 15 March 2002.

Docket Number: OST–2002–11581.

Date Filed: February 12, 2002.

Parties: Members of the International Air Transport Association.

Subject: CBPP/9/Meet/004/2001 dated 21 January 2002; Book of Finally Adopted Recommended Practices r1–r2; Minutes—CBPP/09/Meet/003/01; dated 13 September 2001; R1–1600g R2–1600r; **Intended effective date:** 1 April 2002.

Date Filed: February 12, 2002.

Parties: Members of the International Air Transport Association.

Subject: MV/PSC/111 dated 28 November 2001; Mail Vote S076 r1–RP 1720a; *Intended effective date:* 1 February 2002.

Docket Number: OST–2002–11607.

Date Filed: February 15, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC12 NMS–ME 0163 dated 19 February 2002; Mail Vote 202—TC12 South Atlantic-Middle East; Special Passenger Amending Resolution 010e; *Intended effective date:* 15 March 2002.

Cynthia L. Hatten,

Federal Register Liaison.

[FR Doc. 02–5408 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary; Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending February 15, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number OST–1995–477.

Date Filed February 12, 2002.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope

March 5, 2002.

Description

Application of Laker Airways (Bahamas) Limited, pursuant to 49 U.S.C. Section 41302 and Subpart B, requesting an amendment and re-issuance of its foreign air carrier permit to engage in scheduled air transportation of persons, property and mail on the following Bahamas-U.S. scheduled combination routes: terminal point Nassau, Bahamas on the one hand, and the co-terminal points Tampa, FL; and, Jacksonville, FL on the other hand.

Docket Number OST–2002–11601.

Date Filed February 14, 2002.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope

March 7, 2002.

Description

Application of US Airways, Inc., pursuant to 49 U.S.C. Sections 41102, 41108 and Subpart B, requesting a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property, and mail between any point or points in the United States and any point or points in France and its territories, either directly or via intermediate points, and beyond France to any point or points in third countries to the full extent authorized by the new open skies bilateral agreement.

Cynthia L. Hatten,

Federal Register Liaison.

[FR Doc. 02–5409 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11606]

Commercial Fishing Industry Vessel Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC). CFIVAC advises and makes recommendations to the Coast Guard on the safety of the commercial fishing industry.

DATES: Application forms should reach us on or before July 5, 2002.

ADDRESSES: You may request an application form by writing to Commandant (G–MOC–3), U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593–0001; by calling 202–493–7008; or by faxing 202–267–0506; or by emailing thummer@comdt.uscg.mil. Send your application in written form to the above street address. This notice and the application form are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Captain Jon Sarubbi, Executive Director of CFIVAC, or Thomas Hummer, Assistant to the Executive Director, telephone 202–493–7008, fax 202–267–0506, email: *thummer@comdt.uscg.mil* or http://www.uscg.mil/hq/gm/cfvs/cfivac.htm

SUPPLEMENTARY INFORMATION: The Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) is a Federal advisory committee under 5 U.S.C. App. 2. As required by the Commercial Fishing Industry Vessel Safety Act of 1988, the Coast Guard established CFIVAC to provide advice to the Coast Guard on issues related to the safety of commercial fishing vessels regulated under chapter 45 of Title 46, United States Code, which includes uninspected fishing vessels, fish processing vessels, and fish tender vessels. (*See* section 4508 of title 46 of the U.S. Code, 46 U.S.C. 4508).

CFIVAC consists of 17 members as follows: Ten members from the commercial fishing industry who reflect a regional and representational balance and have experience in the operation of vessels to which chapter 45 of Title 46, United States Code applies, or as a crew member or processing line member on an uninspected fish processing vessel; one member representing naval architects or marine surveyors; one member representing manufacturers of vessel equipment to which chapter 45 applies; one member representing education or training professionals related to fishing vessel, fish processing vessels, or fish tender vessel safety, or personnel qualifications; one member representing underwriters that insure vessels to which chapter 45 applies; and three members representing the general public, including whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing the marine insurance industry.

CFIVAC meets at least once a year in different seaport cities nationwide. It may also meet for extraordinary purposes. Its subcommittees and working groups may meet to consider specific problems as required.

We will consider applications for six positions that expire or become vacant in October 2002 in the following categories: (a) Commercial Fishing Industry (four positions); (b) Equipment Manufacturer (one position); (c) General Public (one position).

Each member serves a 3-year term. A few members may serve consecutive terms. All members serve at their own expense and receive no salary from the Federal Government, although travel reimbursement and per diem are provided.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected as a member representing the general public, you are required to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in it to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: February 25, 2002.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 02–5468 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11687]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) and its subcommittees will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. All meetings will be open to the public.

DATES: CTAC will meet on Wednesday, March 27, 2002, from 9 a.m. to 3:30 p.m. The Subcommittee on Vessel Cargo Tank Overpressurization will meet on Monday, March 25, 2002, from 9 a.m. to 3:30 p.m. The Subcommittee on Hazardous Substance Response Standards will meet on Tuesday, March 26, 2002, from 9 a.m. to 3:30 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 20, 2002. Requests to have a copy of your material distributed to each member of the Subcommittee should reach the Coast Guard on or before March 20, 2002.

ADDRESSES: CTAC will meet at Houston Marriott, West Loop—by the Galleria, 1750 West Loop South, Houston, TX. The Subcommittee on Vessel Cargo Tank Overpressurization will meet at Stolt-Nielsen Transportation Group Ltd., 15635 Jacintoport Blvd., Houston, TX. The Subcommittee on Hazardous Substance Response Standards will meet at Marathon Tower, 5555 San Felipe St., Houston, TX. Send written material and requests to make oral presentations to Commander James M. Michalowski, Executive Director of CTAC, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Commander James M. Michalowski, Executive Director of CTAC, or Ms. Sara Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

Chemical Transportation Advisory Committee:

(1) Introduction of Committee members and attendees.

(2) Progress Reports from the Prevention Through People, Hazardous Substances Response Standards, and Vessel Cargo Tank Overpressurization Subcommittees.

(3) Presentations on issues related to the marine transportation of hazardous materials in bulk including a final report on the COI Pilot Program.

(4) Update of Coast Guard Regulatory Projects and IMO Activities.

Subcommittee on Vessel Cargo Tank Overpressurization:

(1) Introduction of Subcommittee members and attendees.

(2) Brief review of Subcommittee tasking and desired outcome.

(3) Continue work to complete long-term task.

Subcommittee on Hazardous Substances Response Standards:

(1) Introduction of Subcommittee members and attendees.

(2) Brief review of Subcommittee tasking and desired outcome.

(3) Continue work to develop the Response Planning Guidelines for Hazardous Substance Responder Capabilities in the Marine Environment.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the discretion of the Subcommittee Chairs, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director and submit written material on or before March 20, 2002. If you would like a copy of your material distributed to each member of the Committee or a Subcommittee in advance of a meeting, please submit 25 copies to the Executive Director (see addresses) no later than March 20, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, telephone the Executive Director at 202–267–0087 as soon as possible.

Dated: February 26, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 02–5467 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–11426]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice announces FMCSA's receipt of applications from 36 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before April 8, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments as well as see the submissions of other commenters at *http://dms.dot.gov*. Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all the comments online through the Document Management

System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Thirty-six individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemptions will achieve the required level of safety.

Qualifications of Applicants

1. Louis N. Adams

Mr. Adams, age 43, has had poor vision in his left eye since the 1980s due to corneal disease. His uncorrected visual acuity is 20/15 in the right eye and hand motion only in the left eye. An ophthalmologist who examined him in 2001 certified, ''In my professional medical opinion, I believe Mr. Louis Adams has sufficient vision to continue in his profession as a driver of commercial vehicles.'' Mr. Adams reported that he has driven straight trucks for 5 years, accumulating 120,000 miles, tractor-trailer combination vehicles for 18 years, accumulating 864,000 miles, and buses for 4 years, accumulating 48,000 miles. He holds a Class A CDL from North Carolina, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

2. Guy M. Alloway

Mr. Alloway, 53, was born without a right eye. His unaided visual acuity is 20/20 in the left eye. An optometrist who examined him in 2001 certified, ''It is my opinion that Guy Alloway has sufficient vision to perform all driving tasks needed to operate a commercial vehicle.'' Mr. Alloway submitted that he has operated straight trucks for 5 years, accumulating 125,000 miles, and tractor-trailer combinations for 25 years, accumulating 3.1 million miles. He holds a Class A CDL from Oregon, and his driving record shows he has had no accidents or convictions for traffic violations in a CMV for the last 3 years.

3. Lyle H. Banser

Mr. Banser, 44, had a corneal transplant in his left eye in 1975. His visual acuity in the right eye is 20/20 without correction and in the left, 20/400, not correctable. An ophthalmologist examined him in 2001 and stated, ''I do believe that Mr. Banser would have the visual acuity sufficient to perform his driving tasks as required to operate a commercial vehicle.'' Mr. Banser reported he has 28 years' and 560,000 miles' experience driving straight trucks, and 27 years' and 27,000 miles' experience driving tractor-trailer combinations. He holds a Class ABCDM CDL from Wisconsin, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

4. Paul R. Barron

Mr. Barron, 44, has amblyopia in his left eye. His best-corrected vision in the right eye is 20/20 and in the left, finger counting. An optometrist examined him in 2001 and certified, ''In my medical opinion, Paul Ray Barron has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Barron submitted that he has driven tractor-trailer combinations for 6 years, accumulating 270,000 miles. He holds a Class A CDL from Missouri, and has no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

5. Lloyd J. Botsford

Mr. Botsford, 48, has amblyopia in his left eye. His visual acuity in the right eye is 20/15 and in the left 20/200. An optometrist examined him in 2001 and affirmed, ''It is my opinion that Mr. Botsford should be able to adequately and safely drive a commercial vehicle. His condition is such that from early days he has learned to compensate for the reduced visual acuity in his left eye.'' In his application, Mr. Botsford stated that he has 8 years' and 740,000 miles' experience operating tractor-trailer combinations. He holds a Class A CDL from Missouri, and there are no accidents or convictions for moving violations in a CMV on his record for the last 3 years.

6. Joseph E. Buck, Sr.

Mr. Buck, 60, lost his right eye due to trauma in 1974. He has 20/20 uncorrected visual acuity in his left eye. He was examined in 2001 and his optometrist stated, ''It is my medical opinion that Joe has sufficient vision to operate a commercial vehicle.'' Mr. Buck submitted that he has driven straight trucks for 25 years, accumulating 1.5 million miles, and tractor-trailer combinations for 3 years, accumulating 300,000 miles. He holds a North Carolina Class A CDL. During the last 3 years he had one accident and one conviction for a moving violation—Speeding—in a CMV. The accident occurred when the mirror of the vehicle he was driving collided with the mirror of an oncoming vehicle. The investigating police officer was not able to determine fault. The speeding violation occurred on a separate occasion, when he exceeded the speed limit by 9 mph.

7. Ronald M. Calvin

Mr. Calvin, 49, has decreased vision in his left eye due to retinopathy of prematurity. His best-corrected vision is 20/20 in the right eye and 20/600 in the left. His optometrist examined him in 2001 and certified, ''In my opinion, Mr. Calvin has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' In his application, Mr. Calvin indicated he has driven straight trucks for 21 years, accumulating 1.0 million miles, and tractor-trailer combinations for 17 years, accumulating 1.2 million miles. He holds a Class A CDL from California, and his driving record for the past 3 years shows no accidents or convictions for traffic violations in a CMV.

8. Rusbel P. Contreras

Mr. Contreras, 33, has a small central scotoma in his left eye due to congenital toxoplasmosis. His best-corrected vision is 20/20 in the right eye and 20/400 in the left. An ophthalmologist examined him in 2001 and stated, ''My opinion is that he has sufficient vision to perform the driving tasks of a commercial vehicle.'' Mr. Contreras, who holds a Class A CDL from Colorado, reported that he has been driving tractor-trailer combinations for 6 years, accumulating 600,000 miles. His driving record shows he has had no accidents and one conviction for a traffic violation—Violation of Red Light Signal—in a CMV during the last 3 years.

9. Timothy J. Droeger

Mr. Droeger, 33, has amblyopia in his left eye. His best-corrected vision is 20/20 in the right eye and light perception in the left. An optometrist examined him in 2001 and stated, ''Mr. Tim Droeger shows sufficient visual acuity and sufficient peripheral vision to operate in his capacity as a truck driver.'' Mr. Droeger reported he has driven tractor-trailer combinations for 14 years, accumulating 1.6 million miles. He holds a Minnesota Class A CDL. He has had no accidents and one conviction for a moving violation—Speeding—in a CMV for the past 3 years, according to his driving record. He exceeded the speed limit by 13 mph.

10. Robert A. Fogg

Mr. Fogg, 50, has amblyopia of his left eye. His best-corrected vision is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his optometrist stated, ''In my professional medical opinion Mr. Robert A. Fogg can drive commercial vehicles safely.'' Mr. Fogg reported that he has 10 years' experience operating straight trucks, accumulating 650,000 miles, and 7 years' experience operating tractor-trailer combinations, accumulating 770,000 miles. He holds a Class A CDL from North Carolina, and there are no accidents or convictions for moving violations in a CMV on his record for the last 3 years.

11. Paul D. Gaither

Mr. Gaither, 50, has a congenital coloboma of the left eye. His visual acuity is 20/15 in the right eye and 20/400 in the left. An optometrist examined him in 2001 and stated, ''I have no doubt in Paul's ability to drive a commercial vehicle. His developmental visual problems should not interfere with his driving performance.'' In his application, Mr. Gaither indicated he has driven straight trucks for 33 years, accumulating 330,000 miles, and tractor-trailer combinations for 8 years, accumulating 148,000 miles. He holds a Class A CDL from Indiana, and his driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

12. David L. Grajiola

Mr. Grajiola, 53, has a congenital coloboma of the right eye. His best-corrected vision is 20/400 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist affirmed, ''In my professional opinion, David Grajiola has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Grajiola holds a Class A CDL from California and reported that he has driven straight trucks for 8 years, accumulating 480,000 miles, and tractor-trailer combinations for 25 years, accumulating 3.6 million miles. His driving record shows no accidents and two convictions for moving violations—Speeding—in a CMV for the past 3 years. He exceeded the speed limit by 15 mph and 11 mph in two separate instances.

13. David L. Gregory

Mr. Gregory, 38, has a prosthetic right eye due to an injury in 1994. His corrected visual acuity is 20/15 in the left eye. An optometrist examined him in 2001 and stated, ''In my opinion, Mr. Gregory has sufficient vision to perform the driving tasks required to operate a commercial vehicle and should be granted a waiver for outside of Georgia.'' According to Mr. Gregory's application, he has driven straight trucks for 2 years, accumulating 100,000 miles, tractor-trailer combination vehicles for 18 years, accumulating 900,000 miles, and buses for 1 year, accumulating 20,000 miles. He holds a Class A CDL from Georgia. In the last 3 years he has had no accidents and one conviction for a moving violation—Speeding—in a CMV, according to his driving record. He exceeded the speed limit by 22 mph.

14. Walter D. Hague, Jr.

Mr. Hague, 30, is blind in his left eye due to an infection when he was 9 years old. His right eye has best-corrected vision of 20/20. Following an examination in 2001, his ophthalmologist stated, ''In my medical opinion I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hague reported that he has driven straight trucks for 14 years, accumulating 700,000 miles, and tractor-trailer combinations for 9 years, accumulating 540,000 miles. He holds a Class A CDL from Virginia. His driving record shows he has had no accidents and one conviction for a moving violation—Speeding—in a CMV over the last 3 years. He exceeded the speed limit by 9 mph.

15. Sammy K. Hines

Mr. Hines, 54, has amblyopia in his right eye. His best-corrected visual acuity is 20/200 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist certified, ''Based on my examination and the results of Mr. Hines'' Humphrey 120 point screening test, Mr. Hines has sufficient vision in both eyes to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hines submitted that he has driven straight trucks and tractor-trailer combinations for 12 years each, accumulating 60,000 miles in the former and 120,000 miles in the latter. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no accidents or convictions for traffic violations in a CMV.

16. Jeffrey J. Hoffman

Mr. Hoffman, 44, has hand motion vision in his left eye due to congenital glaucoma. The visual acuity in his right eye is 20/25+, best corrected. An ophthalmologist examined him in 2001 and certified, ''I do feel that Jeff should be able to sufficiently operate a commercial vehicle at this time.'' Mr. Hoffman submitted that he has driven straight trucks for 5 years, accumulating 100,000 miles, and tractor-trailer combinations for 16 years, accumulating 1.2 million miles. He holds a Class A3 CDL from South Dakota, and his driving record for the past 3 years shows no accidents or convictions for moving violations in a CMV.

17. Marshall L. Hood

Mr. Hood, 51, has a macular scar in his right eye due to an eye infection in childhood. His uncorrected visual acuity is count fingers in the right eye and 20/20 in the left. His ophthalmologist examined him in 2001 and certified, ''In my medical opinion, Mr. Hood has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Hood reported that he has driven straight trucks for 30 years, accumulating 1.5 million miles, and tractor-trailer combinations 3 years, accumulating 75,000 miles. He holds an Alabama Class DM driver's license, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

18. Edward W. Hosier

Mr. Hosier, 51, has had decreased vision in his left eye due to histoplasmosis since 1991. His best-corrected vision is 20/20 in the right eye and 20/200− in the left. Following an examination in 2001, his optometrist certified, ''In my medical opinion Mr. Hosier has sufficient vision to perform the driving tasks associated with operating a commercial vehicle.'' Mr. Hosier reported that he has driven straight trucks and tractor-trailer combinations for 25 years, accumulating 437,000 miles and 1.0 million miles, respectively. He holds a Class A CDL from Missouri, and his driving record shows he has had no accidents or convictions for traffic violations in a CMV for the last 3 years.

19. Edmond L. Inge, Sr.

Mr. Inge, 65, lost his left eye in 1976 due to trauma. His visual acuity in the right eye is 20/20-. Following an examination in 2001, his optometrist commented, ''Mr. Inge is visually capable of operating a commercial vehicle.'' Mr. Inge indicated he has driven tractor-trailer combinations for 42 years and 3.3 million miles. He holds a Class A CDL from Virginia, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

20. James A. Johnson

Mr. Johnson, 56, has had ocular histoplasmosis with macular scarring in his left eye since 1996. His best-corrected visual acuity is 20/25 in the right eye and finger counting in the left. Following an examination in 2001, his ophthalmologist certified, ''I feel Mr. Johnson is able to safely operate a commercial motor vehicle with this vision, as he has done so for the past several years.'' Mr. Johnson reported he has operated straight trucks for 7 years, accumulating 770,000 miles. He holds a Class A CDL from Ohio, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

21. Charles F. Koble

Mr. Koble, 61, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/60 in the left. His ophthalmologist examined him in 2001 and certified, ''My clinical impression is that Mr. Koble has sufficient vision to operate a commercial vehicle.'' Mr. Koble submitted that he has driven tractor-trailer combinations for 22 years, accumulating 1.1 million miles. He holds a Class A CDL from Indiana, and there are no CMV accidents or convictions for moving violations on his record for the last 3 years.

22. Robert W. Lantis

Mr. Lantis, 30, lost his right eye due to trauma at age 5. The visual acuity of his left eye is 20/15 uncorrected. His ophthalmologist examined him in 2001 and certified, ''If Mr. Lantis has been able to operate a commercial vehicle and perform the driving tasks required for his job from the time when he was hired, there should be no reason why he cannot continue performing the same or similar tasks since his visual acuity on the left is very good and unchanged.'' Mr. Lantis reported that he has driven straight trucks for 8 years, accumulating 240,000 miles. He holds a Class B CDL from Montana, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

23. Lucio Leal

Mr. Leal, 58, has been blind in his left eye since birth due to injury. His corrected visual acuity in the right eye is 20/20-. An optometrist examined him in 2001 and affirmed, ''Again in my opinion he has sufficient vision in glasses to operate a commercial vehicle.'' Mr. Leal stated he has driven straight trucks for 37 years, accumulating 1.1 million miles, tractor-trailer combinations for 12 years, accumulating 600,000 miles, and buses for 14 years, accumulating 84,000 miles. He holds a Nebraska Class A CDL, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

24. Terry W. Lytle

Mr. Lytle, 43, has had a post-traumatic cataract in his left eye since preschool. His right eye has corrected vision of 20/20, and his left eye has light perception only. Following an examination in 2001, his optometrist certified, ''The vision remains sufficient to perform the driving tasks required to operate a commercial vehicle.'' According to his application, Mr. Lytle has operated straight trucks for 23 years and 391,000 miles. He holds a Class A CDL from Pennsylvania, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

25. Earl Ray Mark

Mr. Mark, 44, has amblyopia in his right eye. His best-corrected visual acuity is 20/70 in the right eye and 20/20 in the left. His optometrist examined him in 2001 and noted, ''Patient Earl Mark in my opinion has sufficient vision to perform driving tasks to operate a commercial vehicle.'' Mr. Mark submitted that he has driven straight trucks for 21 years, accumulating 840,000 miles, and tractor-trailer combinations for 20 years, accumulating 1.0 million miles. He holds a Class AM CDL from Illinois, and his driving record shows he has had no accidents or convictions for moving violations in a CMV in the last 3 years.

26. James J. McCabe

Mr. McCabe, 60, has amblyopia in his right eye. His best-corrected vision is 20/200 in the right eye and 20/25 in the left. An ophthalmologist examined him in 2001 and certified, ''To a degree of medical certainty Mr. McCabe has sufficient vision to meet the exemption required to operate a commercial vehicle.'' Mr. McCabe reported that he has operated straight trucks and tractor-trailer combinations for 40 years, accumulating 400,000 miles in the former and 3.6 million miles in the latter. He holds a Class A CDL from Massachusetts, and his driving record for the last 3 years shows he has had no accidents or convictions for moving violations in a CMV.

27. Richard W. Neyens

Mr. Neyens, 44, has been aphakic since 1978 due to removal of a traumatic cataract from his left eye. His uncorrected visual acuity is 20/20 in the right eye and count fingers at 3 feet in the left. His optometrist examined him in 2001 and stated, ''We have attempted several contact lens fittings with Mr. Neyens and though he has the potential to see 20/30 vision with the contact lens, he constantly reports double vision that is uncorrectable with the addition of prism. Mr. Neyens has been aphakic secondary to his trauma in the left eye since 1978 and has functioned quite well during this period of time. In light of these circumstances, it is my opinion that Mr. Neyens is and has been a safer driver without a contact lens or aphakic correction in his left eye than he would have been with an aphakic correction. I would recommend that he maintain his current monocular status with his uncorrected vision of 20/20 in the right eye and be granted a waiver from the Federal Vision Standard.'' Mr. Neyens stated he has driven straight trucks for 3 years, accumulating 150,000 miles, and tractor-trailer combination vehicles for 19 years, accumulating 1.9 million miles. He holds a Washington State Class A CDL. He has no accidents and one conviction for a moving violation—Speeding—on his driving record for the last 3 years. He exceeded the speed limit by 10 mph.

28. Anthony G. Parrish

Mr. Parrish, 50, has a congenital optic nerve defect in his left eye. His best-corrected visual acuities are 20/20 in the right eye and 20/200 in the left. An ophthalmologist examined him in 2001 and certified, ''Under binocular conditions, the patient has essentially normal visual function, since the field defect on the left is able to be 'filled in' by the good eye. Therefore, it is my opinion that this patient is able to safely operate a commercial vehicle.'' Mr. Parrish submitted that he has driven straight trucks 7 years, accumulating 450,000 miles, and tractor-trailer combinations 17 years, accumulating 1.1 million miles. He holds a Class AM CDL from Alabama, and his driving record for the last 3 years shows he has had one accident and no convictions for moving violations in a CMV. According to the police report, Mr. Parrish had pulled his mechanically disabled vehicle into the emergency lane, when another vehicle drifted off the roadway behind him, striking the guardrail, then the vehicle Mr. Parrish was operating. Mr. Parrish was not charged in the accident.

29. Bill L. Pearcy

Mr. Pearcy, 48, has amblyopia of his left eye. His best-corrected visual acuities are 20/20 in the right eye and 20/200 in the left. As the result of an

examination in 2001 his optometrist concluded, ''He has no apparent eye pathology and has no visual field restriction in either eye. His amblyopia should not affect his ability to drive a commercial vehicle.'' Mr. Pearcy reported that he has 8 years and 576,000 miles of experience operating straight trucks, and 3 years and 273,000 miles of experience operating tractor-trailer combinations. He holds a Class A CDL from Oregon, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

30. Robert H. Rogers

Mr. Rogers, 45, has been blind in his left eye since the age of 3 due to trauma. The unaided visual acuity in his right eye is 20/20. Following an examination in 2001, his ophthalmologist stated, ''Mr. Rogers'' vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Rogers reported that he has driven straight trucks for 2 years, accumulating 30,000 miles, and tractor-trailer combinations for 8 years, accumulating 1.0 million miles. He holds a Class A CDL from Mississippi, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

31. Bobby C. Spencer

Mr. Spencer, 60, has had a macular scar in his right eye since 1960. His best-corrected vision is 20/200 in the right eye and 20/20 in the left. His optometrist examined him in 2001 and certified, ''Mr. Spencer has sufficient vision for driving a commercial vehicle.'' Mr. Spencer reported that he has driven tractor-trailer combinations for 15 years, accumulating 342,000 miles. He holds a Tennessee Class A CDL, and in the last 3 years he has had no accidents or convictions for moving violations in a CMV.

32. Mark J. Stevwing

Mr. Stevwing, 38, has amblyopia of the left eye. His uncorrected visual acuity is 20/20 in the right eye and 20/70 in the left. An optometrist examined him in 2001 and stated, ''It is my opinion that Mark has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Stevwing reported that he has 14 years of experience driving straight trucks, totaling 364,000 miles. He holds a Pennsylvania Class B CDL and has had no accidents or moving violations in a CMV for the past 3 years.

33. Clarence C. Trump, Jr.

Mr. Trump, 74, has amblyopia in his left eye. His best-corrected visual acuity is 20/40+3 in his right eye and 20/200–1 in his left. His ophthalmologist examined him in 2001 and stated, ''As the patient has been driving without significant incident over the past 50 years, in my opinion he has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Trump submitted that he has driven straight trucks and tractor-trailer combinations for 56 years, accumulating 448,000 miles in the former and 112,000 miles in the latter. He holds a Class AM CDL from Pennsylvania. His driving record shows no accidents or convictions for moving violations in a CMV for the last 3 years.

34. Dennis R. Ward

Mr. Ward, 54, has amblyopia in his right eye. He has visual acuity of 20/300 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist stated, ''In my professional opinion, Mr. Ward has more than sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to Mr. Ward's application, he has driven straight trucks for 35 years, accumulating 248,000 miles. He holds a Class C driver's license from Nebraska, and his driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

35. Frankie A. Wilborn

Mr. Wilborn, 45, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. His optometrist examined him in 2001 and stated, ''Considering the 120 Point Humphrey Visual Field testing shows good peripheral vision, I believe and certify in my medical opinion that Mr. Wilborn with current 20/20 vision with both eyes is quite capable of continuing his current profession as a commercial truck driver.'' Mr. Wilborn reported that he has driven tractor-trailer combinations for 6 years, accumulating 562,000 miles. He holds a Class AM CDL from Georgia. He has had no accidents and one conviction for a moving violation—Improper Turning—in a CMV during the past 3 years.

36. Jeffrey L. Wuollett

Mr. Wuollett, 51, has amblyopia in his left eye. His best-corrected vision in the right eye is 20/20 and in the left eye 20/200. Following a 2001 examination, his optometrist stated, ''Mr. Wuollett is more than capable of driving and operating a commercial vehicle with his current visual status.'' In his application, Mr. Wuollett reported that he has driven straight trucks for 18 years, accumulating 774,000 miles. He holds a Minnesota Class D driver's license, and has had no accidents or convictions for moving violations in a CMV for the past 3 years.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address.

Issued on: March 1, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–5361 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5578, FMCSA–99–5748 and FMCSA–99–6156 (FHWA–99–5578, OMCS–99–5748 and OMCS–99–6156)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 19 individuals.

DATES: This decision is effective March 7, 2002. Comments from interested persons should be submitted by April 8, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments as well as see the submissions of other commenters at *http://dms.dot.gov*. Please include the docket numbers that appear in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through

Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Nineteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR 391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Herman L. Bailey, Jr., Mark A. Baisden, William A. Bixler, Brad T. Braegger, Richard J. Cummings, Clifford H. Dovel, Donald D. Dunphy, Daniel R. Franks, Victor B. Hawks, Jack L. Henson, Myles E. Lane, Sr., Dennis J. Lessard, Harry R. Littlejohn, Frances C. Ruble, George L. Silvia, James D. Simon, Wayland O. Timberlake, Robert J. Townsley, and Jeffrey G. Wuensch. Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, FMCSA has evaluated the 19 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On January 3, 2000, the agency published a notice of final disposition announcing its decision to exempt 40 individuals, including 13 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (65 FR 159). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 54948 (October 8, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (65 FR 159). On November 30, 1999, the agency published a notice of final disposition announcing its decision to exempt 33 individuals, including 5 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 66962). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 40404 (July 26, 1999). Three comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 66962). On September 23, 1999, the agency published a notice of final disposition announcing its decision to exempt 32 individuals, including 1 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 51568). The qualifications, experience, and medical condition of the applicant were stated and discussed in detail at 64 FR 27027 (May 18, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petition (64 FR 51568). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 19 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 159; 64 FR 54948; 64 FR 66962; 64 FR 40404; 64 FR 51568; 64 FR 27027), and each has requested timely renewal of the exemption. These 19 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Herman L. Bailey, Jr., Mark A. Baisden, William A. Bixler, Brad T. Braegger, Richard J. Cummings, Clifford H. Dovel, Donald D. Dunphy, Daniel R. Franks, Victor B. Hawks, Jack L. Henson, Myles E. Lane, Sr., Dennis J. Lessard, Harry R. Littlejohn, Frances C. Ruble, George L.

Silvia, James D. Simon, Wayland O. Timberlake, Robert J. Townsley, and Jeffrey G. Wuensch, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

FMCSA has evaluated the qualifications and driving performance of the 19 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by April 8, 2002. All comments will be considered and will be available for examination in the docket room at the above address. FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Issued on: March 1, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–5362 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Guidance to Federal Financial Assistance Recipients on the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

AGENCY: Department of the Treasury.

ACTION: Policy guidance document.

SUMMARY: The United States Department of the Treasury is republishing for additional public comment policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons.

DATES: This guidance was effective March 7, 2001. Comments must be submitted on or before April 8, 2002. Treasury will review all comments and will determine what modifications to the policy guidance, if any, are necessary.

ADDRESSES: Interested persons should submit written comments to Ms. Marcia H. Coates, Director, Office of Equal Opportunity Program, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 6071 Metropolitan Square, Washington, DC 20220; Comments may also be submitted by e-mail to: *OEOPWEB@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: John Hanberry at the Office of Equal Opportunity Program, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 6071 Metropolitan Square, Washington, DC 20220; (202) 622–1170 voice, (202) 622–0367 fax. Arrangements to receive the policy in an alternative format may be made by contacting Mr. Hanberry.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

The purpose of this policy guidance is to clarify the responsibilities of recipients of Federal financial assistance from the U.S. Department of Treasury (''recipients''), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. The policy guidance reiterates the Federal government's longstanding position that in order to avoid discrimination against LEP persons on the grounds of national origin, recipients must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide, free of charge.

This document was originally published on March 7, 2001. See 66 FR 13829. The document was based on the policy guidance issued by the Department of Justice entitled ''Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency.'' 65 FR 50123 (August 16, 2000).

On October 26, 2001 and January 11, 2002, the Assistant Attorney General for Civil Rights issued to Federal departments and agencies guidance memoranda, which reaffirmed the Department of Justice's commitment to ensuring that Federally assisted programs and activities fulfill their LEP responsibilities and which clarified and answered certain questions raised regarding the August 16th publication. The Department of Treasury is presently reviewing its original March 7, 2001, publication in light of these clarifications, to determine whether there is a need to clarify or modify the March 7th guidance. In furtherance of those memoranda, the Department of Treasury is republishing its guidance for the purpose of obtaining additional public comment.

The text of the complete guidance document appears below.

Dated: February 28, 2002.

Edward R. Kingman, Jr.,

Assistant Secretary for Management and Chief Financial Officer, United States Department of the Treasury.

Policy Guidance

A. Background

On August 11, 2000, President Clinton signed Executive Order 13166, ''Improving Access to Services for Persons with Limited English Proficiency.'' The purpose of this Executive Order is to eliminate to the maximum extent possible limited English proficiency (LEP) as an artificial barrier to full and meaningful participation in all Federally assisted programs and activities.

The EO requires that Federal agencies draft Title VI guidance specifically tailored to their recipients of Federal financial assistance, taking into account the types of services provided, the individuals served, and the programs and activities assisted to ensure that recipients provide meaningful access to their LEP applicants and beneficiaries. To assist Federal agencies in carrying out these responsibilities, the Department of Justice (DOJ) issued a Policy Guidance Document,

''Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency (LEP Guidance)''. DOJ's LEP Guidance sets forth the compliance standards that recipients of Federal financial assistance must follow to ensure that programs and activities normally provided in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI.

This document contains guidance to recipients of financial assistance from the Department and its constituent bureaus. It is consistent with DOJ's policy guidance and provides recipients of Treasury assistance the necessary tools to assure language assistance to LEP persons. It is also consistent with the government-wide Title VI regulation issued by DOJ in 1976, ''Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs,'' 28 CFR part 42, subpart F, that addresses the circumstances in which recipients must provide written language assistance to LEP persons.[1] This guidance will be provided to all recipients of Treasury assistance to ensure compliance with the nondiscrimination provisions of Title VI as it applies to language proficiency.

B. Introduction

English is the predominant language of the United States. According to the 1990 Census, English is spoken by 95% of its residents. Of those U.S. residents who speak languages other than English at home, the 1990 Census reports that 57% above the age of four speak English ''well to very well.''

The United States is also, however, home to millions of national origin minority individuals who are ''limited English proficient'' (LEP). That is, their primary language is not English, and they cannot speak, read, write or understand the English language at a level that permits them to interact effectively. Because of these language differences and their inability to speak or understand English, LEP persons may be excluded from participation, experience delays or denials of services, or receive services based on inaccurate or incomplete information in Treasury assisted programs.

Some recipients have sought to bridge the language gap by encouraging language minority clients to provide their own interpreters as an alternative to the agency's use of qualified bilingual employees or interpreters. Persons of limited English proficiency must sometimes rely on their minor children to interpret for them during visits to a service facility. Alternatively, these clients may be required to call upon neighbors or even strangers they encounter at the provider's office to act as interpreters or translators. These practices have severe drawbacks and may violate Title VI of the Civil Rights Act of 1964. (*See* Section D.6(a) of this notice.)

In each case, the impediments to effective communication and adequate service are formidable. The client's untrained ''interpreter'' is often unable to understand the concepts or official terminology he or she is being asked to interpret or translate. Even if the interpreter possesses the necessary language and comprehension skills, his or her mere presence may obstruct the flow of confidential information to the provider. For example, clients of an IRS Taxpayer Clinic would naturally be reluctant to disclose or discuss personal details concerning their taxes, through relatives, minor children, or friends, in this IRS assisted program.

When these types of circumstances are encountered, the level and quality of services available to persons of limited English proficiency stand in stark contrast to Title VI's promise of equal access to Federally assisted programs and activities. Services denied, delayed or provided under adverse circumstances for an LEP person may constitute discrimination on the basis of national origin, in violation of Title VI. Numerous Federal laws require the provision of language assistance to LEP individuals seeking to access critical services and activities. For instance, the Voting Rights Act bans English-only elections in certain circumstances and outlines specific measures that must be taken to ensure that language minorities can participate in elections. *See* 42 U.S.C. 1973 b(f)(1). Similarly, the Food Stamp Act of 1977 requires states to provide written and oral language assistance to LEP persons under certain circumstances. 42 U.S.C. 2020(e)(1) and (2). These and other provisions reflect the judgment that providers of critical services and benefits bear the responsibility for ensuring that LEP individuals can meaningfully access their programs and services.

C. Legal Authority

1. Introduction

Over the last 30 years, Federal agencies have conducted thousands of investigations and reviews involving language differences that impede the access of LEP persons to services. Where the failure to accommodate language differences discriminates on the basis of national origin, Federal law has required recipients to provide appropriate language assistance to LEP persons. For example, one of the largest providers of Federal financial assistance, the Department of Health and Human Services (HHS) has entered into voluntary compliance agreements and consent decrees that require recipients who operate health and social service programs to ensure that there are bilingual employees or language interpreters to meet the needs of LEP persons seeking HHS services. HHS has also required these recipients to provide written materials and post notices in languages other than English. *See Mendoza* v. *Lavine,* 412 F.Supp. 1105 (S.D.N.Y. 1976); and *Asociacion Mixta Progresista* v. *H.E.W.,* Civil Number C72–882 (N.D. Cal. 1976). The legal authority for Treasury's enforcement actions is Title VI of the Civil Rights Act of 1964, DOJ's government-wide implementing regulation for Executive Order 12250, the August 11, 2000 DOJ LEP Guidance, and a consistent body of case law, which are described below.

2. Statute and Regulation

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d *et seq.* states: ''No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.'' Treasury is in the process of drafting its own Title VI regulations consistent with the model regulations provided by DOJ, which require that: (a) A recipient under any program to which these regulations apply, may not, directly or through contractual or other arrangements, on grounds of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(b) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be

[1] The DOJ coordination regulations at 28 CFR. 42.405(d)(1) provide that ''[w]here a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted programs (*e.g.,* affected by relocation) needs service or information in a language other than English in order effectively to be informed of or to participate in the program, the recipient shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide information to appropriate languages to such persons. This requirement applies with regard to written material of the type which is ordinarily distributed to the public.''

provided under any such program or the class of individuals to whom, or the situations in which such services, financial aid or other benefits, or facilities will be provided ''* * * *may not directly, or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination, because of their race, color or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color or national origin.*'' (Emphasis added.)

3. Case Law

Extensive case law affirms the obligation of recipients of Federal financial assistance to ensure that LEP persons can meaningfully access Federally assisted programs. The U.S. Supreme Court, in *Lau* v. *Nichols,* 414 U.S. 563 (1974), recognized that recipients of Federal financial assistance have an affirmative responsibility, pursuant to Title VI, to provide LEP persons with a meaningful opportunity to participate in public programs. In *Lau,* the Supreme Court ruled that a public school system's failure to provide English language instruction to students of Chinese ancestry who do not speak English denied the students a meaningful opportunity to participate in a public educational program in violation of Title VI of the Civil Rights Act of 1964.

As early as 1926, the Supreme Court recognized that language rules were often discriminatory. In *Yu Cong Eng et al.* v. *Trinidad, Collector of Internal Revenue,* 271 U.S. 500 (1926), the Supreme Court found that a Philippine Bookkeeping Act that prohibited the keeping of accounts in languages other than English, Spanish and Philippine dialects violated the Philippine Bill of Rights that Congress had patterned after the U.S. Constitution. The Court found that the Act deprived Chinese merchants, who were unable to read, write or understand the required languages, of liberty and property without due process. In *Gutierrez* v. *Municipal Court of S.E. Judicial District,* 838 F.2d 1031,1039 (9th Cir. 1988), *vacated as moot,* 490 U.S. 1016 (1989), the court recognized that requiring the use of English only is often used to mask national origin discrimination. Citing McArthur, *Worried About Something Else,* 60 Int'l J. Soc. Language, 87, 90–91 (1986), the court stated that because language and accents are identifying characteristics, rules that have a negative effect on bilingual persons, individuals with accents, or non-English speakers may be mere pretexts for intentional national origin discrimination.

Another case that noted the link between language and national origin discrimination is *Garcia* v. *Gloor,* 618 F.2d 264 (5th Cir. 1980) *cert. denied,* 449 U.S. 1113 (1981). The court found that on the facts before it a workplace English-only rule did not discriminate on the basis of national origin since the complaining employees were bilingual. However, the court stated that ''to a person who speaks only one tongue or to a person who has difficulty using another language other than the one spoken in his home, language might well be an immutable characteristic like skin color, sex or place of birth.'' *Id.* at 269.

The Fifth Circuit addressed language as an impermissible barrier to participation in society in *U.S.* v. *Uvalde Consolidated Independent School District,* 625 F.2d 547 (5th Cir. 1980). The court upheld an amendment to the Voting Rights Act which addressed concerns about language minorities, the protections they were to receive, and eliminated discrimination against them by prohibiting English-only elections. Most recently, in *Sandoval* v. *Hagan,* 7 F. Supp. 2d 1234 (M.D. Ala. 1998), *affirmed,* 197 F.3d 484, (11th Cir. 1999), *petition for certiorari granted, Alexander* v. *Sandoval* 121 S. Ct. 28 (Sept. 26, 2000) (No. 99–1908), the Eleventh Circuit held that the State of Alabama's policy of administering a driver's license examination in English only was a facially neutral practice that had an adverse effect on the basis of national origin, in violation of Title VI. The court specifically noted the nexus between language policies and potential discrimination based on national origin. That is, in *Sandoval,* the vast majority of individuals who were adversely affected by Alabama's English-only driver's license examination policy were national origin minorities.

4. Department of Justice August 11, 2000 LEP Guidance

This Guidance is issued in compliance with EO 13166 and its requirement that agencies providing Federal financial assistance provide guidance to recipients that is consistent with DOJ's August 11, 2000 LEP Guidance. That Guidance sets forth the compliance standards that recipients of Federal financial assistance must follow to ensure that programs and activities are meaningfully accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI. A recipient's policies or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have an adverse effect on the ability of national origin minorities to meaningfully access programs and services. Accordingly, it is important for recipients to examine their policies and practices to determine whether they adversely affect LEP persons. This policy guidance provides a legal framework to assist recipients in conducting such assessments.

D. Policy Guidance

1. Coverage

All entities that receive Federal financial assistance from Treasury either directly or indirectly, through a grant, contract or subcontract, are covered by this policy guidance. The term ''Federal financial assistance'' to which Title VI applies includes but is not limited to grants and loans of Federal funds, grants or donations of Federal property, details of Federal personnel, or any agreement, arrangement or other contract which has as one of its purposes the provision of assistance.

Title VI prohibits discrimination in any program or activity that receives Federal financial assistance. What constitutes a program or activity covered by Title VI was clarified by Congress in 1988, when the Civil Rights Restoration Act of 1987 (CRRA) was enacted. The CRRA provides that, in most cases, when a recipient receives Federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the Federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the Federal assistance is used only by one part.

2. Basic Requirements Under Title VI

A recipient whose policies, practices, or procedures exclude, limit, or have the effect of excluding or limiting, the participation of any LEP person in a Federally assisted program on the basis of national origin may be engaged in discrimination in violation of Title VI. In order to ensure compliance with Title VI, recipients must take steps to ensure that LEP persons who are eligible for their programs or services have meaningful access to the services, information, and benefits that they provide. The most important step in meeting this obligation is for recipients of Treasury financial assistance to provide the language assistance

necessary to ensure such access, at no cost to the LEP person.

The type of language assistance a recipient/covered entity provides to ensure meaningful access will depend on a variety of factors, including the total resources and size of the recipient/covered entity, the number or proportion of the eligible LEP population it serves, the nature and importance of the program or service, including the objectives of the program, the frequency with which particular languages are encountered, and the frequency with which LEP persons come into contact with the program. These factors are consistent with and incorporate the standards set forth in the Department of Justice ''Policy Guidance Document: on Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency (LEP Guidance),'' reprinted at 65 FR 50123 (August 16, 2000). There is no ''one size fits all'' solution for Title VI compliance with respect to LEP persons. Treasury will make its assessment of the language assistance needed to ensure meaningful access on a case by case basis, and a recipient will have considerable flexibility in determining precisely how to fulfill this obligation. Treasury will focus on the end result—whether the recipient has taken the necessary steps to ensure that LEP persons have meaningful access to its programs and services.

The key to providing meaningful access for LEP persons is to ensure that the recipient and LEP person can communicate effectively. The steps taken by a covered entity must ensure that the LEP person is given adequate information, is able to understand the services and benefits available, and is able to receive those for which he or she is eligible. The covered entity must also ensure that the LEP person can effectively communicate the relevant circumstances of his or her situation to the service provider.

Experience has shown that effective language assistance programs usually contain the four measures described in Section 4 below. In reviewing complaints and conducting compliance reviews, Treasury will consider a program to be in compliance when the recipient effectively incorporates and implements these four elements. The failure to incorporate or implement one or more of these elements does not necessarily mean noncompliance with Title VI, and Treasury will review the totality of the circumstances to determine whether LEP persons can meaningfully access the services and benefits of the recipient.

3. State or Local ''English-Only'' Laws

State or local ''English-only'' laws do not change the fact that recipients cannot discriminate in violation of Title VI. Entities in states and localities with ''English-only'' laws do not have to accept Federal funding. However, if they do, they have to comply with Title VI, including its prohibition against national origin discrimination by recipients.

4. Ensuring Meaningful Access to LEP Persons

(a) The Four Keys to Title VI Compliance in the LEP Context.

The key to providing meaningful access to benefits and services for LEP persons is to ensure that the language assistance provided results in accurate and effective communication between the provider and LEP applicant/client about the types of services and/or benefits available and about the applicant's or client's circumstances. Although Treasury recipients have considerable flexibility in fulfilling this obligation, effective programs usually have the following four elements:

- Assessment—The recipient conducts a thorough assessment of the language needs of the population to be served;
- Development of Comprehensive Written Policy on Language Access—The recipient develops and implements a comprehensive written policy that will ensure meaningful communication;
- Training of Staff—The recipient takes steps to ensure that staff understand the policy and are capable of carrying it out; and
- Vigilant Monitoring—The recipient conducts regular oversight of the language assistance program to ensure that LEP persons meaningfully access the program.

If implementation of one or more of these measures would be so financially burdensome as to defeat the legitimate objectives of a recipient's program, or if the recipient utilizes an equally effective alternative for ensuring that LEP persons have meaningful access to programs and services, Treasury will not find the recipient in noncompliance. However, recipients should gather and maintain documentation to substantiate any assertion of financial burden.

(b) Assessment.

The first key to ensuring meaningful access is for the recipient to assess the language needs of the eligible population. A recipient assesses language needs by identifying:

- the number and proportion of LEP persons eligible to be served or encountered by the recipient, the frequency of contact with LEP language groups, the nature or importance of the activity, benefit, or service, and the resources of the recipient.
- the points of contact in the program or activity where language assistance is likely to be needed.
- the resources that will be needed to provide effective language assistance.
- the location and availability of these resources.
- the arrangements that must be made to access these resources in a timely fashion.

(c) Development of Comprehensive Written Policy on Language Access.

A recipient can ensure effective communication by developing and implementing a comprehensive written language assistance program. This program should include: policies and procedures for identifying and assessing the language needs of its LEP applicants/clients; a range of oral language assistance options; notice to LEP persons in a language they can understand of the right to free language assistance; periodic training of staff; monitoring of the program; and translation of written materials in certain circumstances.[2]

(1) Oral Language Interpretation—In designing an effective language assistance program, a recipient should develop procedures for obtaining and providing trained and competent interpreters and other oral language assistance services, in a timely manner, by taking some or all of the following steps:

- Hiring bilingual staff who are trained and competent in the skill of interpreting;
- Hiring staff interpreters who are trained and competent in the skill of interpreting;
- Contracting with an outside interpreter service for trained and competent interpreters;
- Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting;
- Arranging/contracting for the use of a telephone language interpreter service.

See Section D.6. (b)of this notice for a discussion on ''Competence of Interpreters.''

[2] The Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 both provide similar prohibitions against discrimination on the basis of disability and require entities to provide language assistance such as sign language interpreters for hearing impaired individuals or alternative formats such as Braille, large print or tape for vision impaired individuals. In developing a comprehensive language assistance program, recipients should be mindful of their responsibilities under the ADA and Section 504 to ensure access to programs for individuals with disabilities.

The following provides guidance to recipients in determining which language assistance options will be of sufficient quantity and quality to meet the needs of their LEP beneficiaries:

• *Bilingual Staff*—Hiring bilingual staff for client contact positions facilitates participation by LEP persons. However, where there are a variety of LEP language groups in a recipient's service area, this option may be insufficient to meet the needs of all LEP applicants and clients. Where this option is insufficient to meet the needs, the recipient must provide additional and timely language assistance. Bilingual staff must be trained and must demonstrate competence as interpreters.

• *Staff Interpreters*—Paid staff interpreters are especially appropriate where there is a frequent and/or regular need for interpreting services. These persons must be competent and readily available.

• *Contract Interpreters*—The use of contract interpreters may be an option for recipients that have an infrequent need for interpreting services, have less common LEP language groups in their service areas, or need to supplement their in-house capabilities on an as-needed basis. Such contract interpreters must be readily available and competent.

• *Community Volunteers*—Use of community volunteers may provide recipients with a cost-effective method for providing interpreter services. However, experience has shown that to use community volunteers effectively, recipients must ensure that formal arrangements for interpreting services are made with community organizations so that these organizations are not subjected to *ad hoc* requests for assistance. In addition, recipients must ensure that these volunteers are competent as interpreters and understand their obligation to maintain client confidentiality. Additional language assistance must be provided where competent volunteers are not readily available during all hours of service.

• *Telephone Interpreter Lines*—A telephone interpreter service line may be a useful option as a supplemental system, or may be useful when a recipient encounters a language that it cannot otherwise accommodate. Such a service often offers interpreting assistance in many different languages and usually can provide the service in quick response to a request. However, recipients should be aware that such services may not always have readily available interpreters who are familiar with the terminology peculiar to the particular program or service. It is important that a recipient not offer this as the only language assistance option except where other language assistance options are unavailable.

(2) *Translation of Written Materials*—An effective language assistance program ensures that written materials that are routinely provided in English to applicants, clients and the public are available in regularly encountered languages other than English. It is particularly important to ensure that vital documents are translated. A document will be considered vital if it contains information that is critical for accessing the services, rights, and/or benefits, or is required by law. Thus, vital documents include, for example, applications; consent forms; letters and notices pertaining to the reduction, denial or termination of services or benefits; and letters or notices that require a response from the beneficiary or client. For instance, if a complaint form is necessary in order to file a claim with an agency, that complaint form would be vital information. Non-vital information includes documents that are not critical to access such benefits and services.

As part of its overall language assistance program, a recipient must develop and implement a plan to provide written materials in languages other than English where a significant number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively. (*See* 28 CFR 42.405(d)(1)). Treasury will determine the extent of the recipient's obligation to provide written translation of documents on a case by case basis, taking into account all relevant circumstances, including: (1) The nature, importance, and objective of the particular activity, program, or service; (2) the number or proportion of LEP persons eligible to be served or encountered by the recipient; (3) the frequency with which translated documents are needed; and (4) the total resources available to the recipient as compared to the length of the document and cost of translation.

One way for a recipient to know with greater certainty that it will be found in compliance with its obligation to provide written translations in languages other than English is for the recipient to meet the guidelines outlined in paragraphs (A) and (B) below, which outline the circumstances that provide a ''safe harbor'' for recipients. A recipient that provides written translations under these circumstances can be confident that it will be found in compliance with its obligation under Title VI regarding written translations.[3] However, the failure to provide written translations under these circumstances outlined in paragraphs (A) and (B) will not necessarily mean noncompliance with Title VI.

In such situations, Treasury will review the totality of the circumstances to determine the precise nature of a recipient's obligation to provide written materials in languages other than English as indicated earlier.

Treasury will consider a recipient to be in compliance with its Title VI obligation to provide written materials in non-English languages if:

(A) The recipient provides translated written materials, including vital documents, for each eligible LEP language group that constitutes ten percent or 3,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected by the recipient's program[4];

(B) Regarding LEP language groups that do not fall within paragraph (A) above, but constitute five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected, the recipient ensures that, at a minimum, vital documents are translated into the appropriate non-English languages of such LEP persons. Translation of other documents, if needed, can be provided orally; and

(C) Notwithstanding paragraphs (A) and (B) above, a recipient with fewer than 100 persons in a language group eligible to be served or likely to be directly affected by the recipient's program, does not translate written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral translation of written materials.

The term ''persons eligible to be served or likely to be directly affected'' relates to the issue of what is the recipient's service area for purposes of meeting its Title VI obligation. There is no ''one size fits all'' definition of what constitutes ''persons eligible to be

[3] The ''safe harbor'' provisions are not intended to establish numerical thresholds for when a recipient must translate documents. The numbers and percentages included in these provisions are based on the balancing of a number of factors, including experience in enforcing Title VI in the context of Treasury programs, and Treasury's discussions with other agecies about experiences of their grant recipients with language across issues.

[4] See section D.4.(c)(2) above for a description of vital documents. Large documents, such as enrollment handbooks, may not need to be translated in their entirety. However, vital information contained in large documents must be translated.

served or likely to be directly affected'' and Treasury will address this issue on a case by case basis. Ordinarily, these persons are those who are in the geographic area that has been approved by a Federal grant agency as the recipient's service area. Thus, for language groups that do not fall within paragraphs (A) and (B), above, a recipient can ensure access by providing written notice in the LEP person's primary language of the right to receive free language assistance.

Recent technological advances have made it easier for recipients to store translated documents readily. At the same time, Treasury recognizes that recipients in a number of areas, such as many large cities, regularly serve LEP persons from many different areas of the world who speak dozens of different languages. It would be unduly burdensome to demand that recipients in these circumstances translate all written materials into these languages. As a result, Treasury will determine the extent of the recipient's obligation to provide written translations of documents on a case by case basis, looking at the totality of the circumstances.

It is also important to ensure that the person translating the materials is well qualified. In addition, in some circumstances verbatim translation of materials may not accurately or appropriately convey the substance of what is contained in the written materials. An effective way to address this potential problem is to reach out to community-based organizations to review translated materials to ensure that they are accurate and easily understood by LEP persons.

(3) *Methods for Providing Notice to LEP Persons*—A vital part of a well-functioning compliance program includes having effective methods for notifying LEP persons of their right to language assistance and the availability of such assistance free of charge. These methods include but are not limited to:

- Use of language identification cards that allow LEP persons to identify their language needs to staff. To be effective, the cards (*e.g.,* ''I speak'' cards) must invite the LEP person to identify the language he/she speaks.
- Posting and maintaining signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of entry. To be effective, these signs must inform LEP persons of their right to free language assistance services and invite them to identify themselves as persons needing such services.
- Translation of application forms and instructional, informational and other written materials into appropriate non-English languages by competent translators. For LEP persons whose language does not exist in written form, assistance from an interpreter to explain the contents of the document.
- Uniform procedures for timely and effective telephone communication between staff and LEP persons. This must include instructions for English-speaking employees to obtain assistance from interpreters or bilingual staff when receiving calls from or initiating calls to LEP persons.
- Inclusion of statements about the services available and the right to free language assistance services, in appropriate non-English languages, in brochures, booklets, outreach and recruitment information, and other materials that are routinely disseminated to the public.

(d) Training of Staff.

Another vital element in ensuring that its policies are followed is a recipient's dissemination of its policy to all employees likely to have contact with LEP persons, and periodic training of these employees. Effective training ensures that employees are knowledgeable and aware of LEP policies and procedures, are trained to work effectively with in-person and telephone interpreters, and understand the dynamics of interpretation between clients, providers and interpreters. It is important that this training be part of the orientation for new employees and that all employees in client contact positions be properly trained. Recipients may find it useful to maintain a training registry that records the names and dates of employees' training. Effective training is one means of ensuring that there is not a gap between a recipient's written policies and procedures, and the actual practices of employees who are in the front lines interacting with LEP persons.

(e) Monitoring and Updating the LEP policy.

Recipients should always consider whether new documents, programs, services, and activities need to be made accessible for LEP individuals. They should then provide needed language services and notice of those services to the LEP public and to employees. In addition, Treasury recipients should evaluate their entire language policy at least every three years. One way to evaluate the LEP policy is to seek feedback from the community. Recipients should assess:

- Current LEP populations in service area.
- Current communication needs of LEP individuals encountered by the program.
- Whether existing assistance is meeting the needs of such persons.
- Whether staff knows and understands the LEP policy and how to implement it.
- Whether identified sources for assistance are still available and viable.

5. Treasury's Assessment of Meaningful Access

The failure to take all of the steps outlined in Section D(4), above, will not necessarily mean that a recipient has failed to provide meaningful access to LEP clients. The following are examples of how meaningful access will be assessed by Treasury:

- A small recipient has about 50 LEP Hispanic clients and a small number of employees, and asserts that he cannot afford to hire bilingual staff, contract with a professional interpreter service, or translate written documents. To accommodate the language needs of LEP clients, the recipient has made arrangements with a Hispanic community organization for trained and competent volunteer interpreters, and with a telephone interpreter language line, to interpret during consultations and to orally translate written documents. There have been no client complaints of inordinate delays or other service related problems with respect to LEP clients. Given the resources, the size of the staff, and the size of the LEP population, Treasury would find this recipient in compliance with Title VI.
- A recipient with a large budget serves 500,000 beneficiaries. Of the beneficiaries eligible for services, 3,500 are LEP Chinese persons, 4,000 are LEP Hispanic persons, 2,000 are LEP Vietnamese persons and about 400 are LEP Laotian persons. The recipient has no policy regarding language assistance to LEP persons, and LEP clients are told to bring their own interpreters, are provided with application and consent forms in English and if unaccompanied by their own interpreters, must solicit the help of other clients or must return at a later date with an interpreter. Given the size of this program, its resources, the size of the eligible LEP population, and the nature of the program, Treasury would likely find this recipient in violation of Title VI and would likely require it to develop a comprehensive language assistance program that includes all of the options discussed in Section D.4, above.

6. Interpreters

Two recurring issues in the area of interpreter services involve (a) the use of friends, family, or minor children as interpreters, and (b) the need to ensure that interpreters are competent.

(a) *Use of Friends, Family and Minor Children as Interpreters*—A recipient may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends, minor children, or family members as interpreters, as this could compromise the effectiveness of the service. Use of such persons could result in a breach of confidentiality or reluctance on the part of individuals to reveal personal information critical to their situations. In addition, family and friends usually are not competent to act as interpreters, since they are often insufficiently proficient in both languages, unskilled in interpretation, and unfamiliar with specialized terminology.

If after a recipient informs an LEP person of the right to free interpreter services, the person declines such services and requests the use of a family member or friend, the recipient may use the family member or friend, if the use of such a person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The recipient should document the offer and decline in the LEP person's file. Even if an LEP person elects to use a family member or friend, the recipient should suggest that a trained interpreter sit in on the encounter to ensure accurate interpretation.

(b) *Competence of Interpreters*—In order to provide effective services to LEP persons, a recipient must ensure that it uses persons who are competent to provide interpreter services. Competency does not necessarily mean formal certification as an interpreter, though certification is helpful. On the other hand, competency requires more than self-identification as bilingual. The competency requirement contemplates demonstrated proficiency in both English and the other language, orientation and training that includes the skills and ethics of interpreting (*e.g.*, issues of confidentiality), fundamental knowledge in both languages of any specialized terms, or concepts peculiar to the recipient's program or activity, sensitivity to the LEP person's culture and a demonstrated ability to convey information in both languages, accurately. A recipient must ensure that those persons it provides as interpreters are trained and demonstrate competency as interpreters.

7. Examples of Prohibited Practices

Listed below are examples of practices which may violate Title VI:

- Providing services to LEP persons that are more limited in scope or are lower in quality than those provided to other persons, or placing greater burdens on LEP than on non-LEP persons;
- Subjecting LEP persons to unreasonable delays in the delivery of services, or the provision of information on rights;
- Limiting participation in a program or activity on the basis of English proficiency;
- Failing to inform LEP persons of the right to receive free interpreter services and/or requiring LEP persons to provide their own interpreter.

E. Promising Practices

In meeting the needs of their LEP clients, some recipients have found unique ways of providing interpreter services and reaching out to the LEP community. Examples of promising practices include the following:

Language Banks—In several parts of the country, both urban and rural, community organizations and providers have created community language banks that train, hire and dispatch competent interpreters to participating organizations, reducing the need to have on-staff interpreters for low demand languages. These language banks are frequently nonprofit and charge reasonable rates.

Pamphlets—A recipient has created pamphlets in several languages, entitled ''While Awaiting the Arrival of an Interpreter.'' The pamphlets are intended to facilitate basic communication between clients and staff. They are not intended to replace interpreters but may aid in increasing the comfort level of LEP persons as they wait for services.

Use of Technology—Some recipients use their internet and/or intranet capabilities to store translated documents online. These documents can be retrieved as needed.

Telephone Information Lines—Recipients have established telephone information lines in languages spoken by frequently encountered language groups to instruct callers, in the non-English languages, on how to leave a recorded message that will be answered by someone who speaks the caller's language.

Signage and Other Outreach—Other recipients have provided information about services, benefits, eligibility requirements, and the availability of free language assistance, in appropriate languages by (a) posting signs and placards with this information in public places such as grocery stores, bus shelters and subway stations; (b) putting notices in newspapers, and on radio and television stations that serve LEP groups; (c) placing flyers and signs in the offices of community-based organizations that serve large populations of LEP persons; and (d) establishing information lines in appropriate languages.

F. Model Plan

The following example of a model language assistance program may be useful for recipients in developing their plans. The plan incorporates a variety of options and methods for providing meaningful access to LEP individuals:

- A formal written language assistance program.
- Identification and assessment of the languages that are likely to be encountered and estimating the number of LEP persons that are eligible for services and that are likely to be affected by its program through a review of census and client utilization data and data from school systems and community agencies and organizations.
- Posting of signs in lobbies and in other waiting areas, in several languages, informing applicants and clients of their right to free interpreter services and inviting them to identify themselves as persons needing language assistance.
- Use of ''I speak'' cards by intake workers and other contact personnel so that they can identify their primary languages.
- Keeping the language of the LEP person in his/her record if such a record would normally be kept for non-LEP persons so that all staff can identify the language assistance needs of the client.
- Employment of a sufficient number of staff, bilingual in appropriate languages, in client contact positions. These persons must be trained and competent as interpreters.
- Contracts with interpreting services that can provide competent interpreters in a wide variety of languages, in a timely manner.
- Formal arrangements with community groups for competent and timely interpreter services by community volunteers.
- An arrangement with a telephone language interpreter line.
- Translation of application forms, instructional, informational and other key documents into appropriate non-English languages. Provision of oral interpreter assistance with documents, for those persons whose language does not exist in written form.
- Procedures for effective telephone communication between staff and LEP persons, including instructions for English-speaking employees to obtain assistance from bilingual staff or interpreters when initiating or receiving calls from LEP persons.

• Notice to and training of all staff, particularly client contact staff, with respect to the recipient's Title VI obligation to provide language assistance to LEP persons, and on the language assistance policies and the procedures to be followed in securing such assistance in a timely manner.

• Insertion of notices, in appropriate languages, about the right of LEP applicants and clients to free interpreters and other language assistance, in brochures, pamphlets, manuals, and other materials disseminated to the public and to staff.

• Notice to the public regarding the language assistance policies and procedures, and notice to and consultation with community organizations that represent LEP language groups, regarding problems and solutions, including standards and procedures for using their members as interpreters.

• Adoption of a procedure for the resolution of complaints regarding the provision of language assistance; and for notifying clients of their right to and how to file a complaint under Title VI with Treasury.

• Appointment of a senior level employee to coordinate the language assistance program, and assurance that there is regular monitoring of the program.

G. Compliance and Enforcement

Treasury will enforce recipients' responsibilities to LEP beneficiaries through procedures provided for in Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance. Treasury will always provide recipients with the opportunity to come into voluntary compliance prior to initiating formal enforcement proceedings.

In determining compliance with Title VI, Treasury's concern will be whether the recipient's policies and procedures allow LEP persons to overcome language barriers and participate meaningfully in programs, services and benefits. A recipient's appropriate use of the methods and options discussed in this guidance will be viewed by Treasury as evidence of a recipient's intent to comply with Title VI.

H. Complaint Process

Anyone who believes that he/she has been discriminated against because of race, color or national origin in violation of Title VI may file a complaint with Treasury within 180 days of the date on which the discrimination took place.

The following information should be included:

• Your name and address (a telephone number where you may be reached during business hours is helpful, but not required);

• A general description of the person(s) or class of persons injured by the alleged discriminatory act(s);

• The name and location of the organization or institution that committed the alleged discriminatory act(s);

• A description of the alleged discriminatory act(s) in sufficient detail to enable the Office of Equal Opportunity Program (OEOP) to understand what occurred, when it occurred, and the basis for the alleged discrimination.

• The letter or form must be signed and dated by the complainant or by someone authorized to do so on his or her behalf.

A recipient may not retaliate against any person who has made a complaint, testified, assisted or participated in any manner in an investigation or proceeding under the statutes governing federal financial assistance programs.

Civil rights complaints should be filed with: Department of the Treasury, Office of Equal Opportunity Program, 1500 Pennsylvania Avenue, NW, Room 6071 Metropolitan Square, Washington, DC 20220.

I. Technical Assistance

Treasury and its bureaus will provide technical assistance to recipients, and will continue to be available to provide such assistance to any recipient seeking to ensure that it operates an effective language assistance program. In addition, during its investigative process, Treasury is available to provide technical assistance to enable recipients to come into voluntary compliance.

[FR Doc. 02–5421 Filed 3–6–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–34–95]

Agency Information Collection Activities: Proposed Collection; Comment Request; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice and request for comments.

SUMMARY: This document contains a correction to a notice and request for comments relating to inviting the general public and other agencies to comment on proposed and/or continuing information collections. This document was published in the **Federal Register** on February 13, 2002 (67 FR 6788).

FOR FURTHER INFORMATION CONTACT: Allan Hopkins (202) 622–6665 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice and request for comments that is the subject of this correction is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)).

Need for Correction

As published, the notice and request for comments contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice and request for comments, which is the subject of FR. Doc 02–3528, is corrected as follows:

On page 6788, column 2, in the preamble, paragraph 7, line 2, the language ''Hours: 1,500'' is corrected to read ''Hours: 15,000''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, Income Tax and Accounting.

[FR Doc. 02–5481 Filed 3–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8717

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning Form 8717, User Fee for Employee Plan Determination Letter Request.

DATES: Written comments should be received on or before May 6, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet, *CAROL.A.SAVAGE@irs.gov*, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: User Fee for Employee Plan Determination Letter Request.

OMB Number: 1545–1772.

Form Number: 8717.

Abstract: The Omnibus Reconciliation Act of 1990 requires payment of a ''user fee'' with each application for a determination letter. Because of this requirement, the Form 8717 was created to provide filers the means to make payment and indicate the type of request.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization, and not-for-profit institutions.

Estimated Number of Responses: 100,000.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: February 28, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–5482 Filed 3–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–62–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning an existing final and temporary regulations, IA–62–91 (TD 8482), Capitalization and Inclusion in Inventory of Certain Costs, (§§ 1.263A–2 and 1.263A–3).

DATES: Written comments should be received on or before May 6, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulation should be directed to Carol Savage, (202) 622–3945, or through the Internet, *CAROL.A.SAVAGE@irs.gov*, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Capitalization and Inclusion in Inventory of Certain Costs.

OMB Number: 1545–0987.

Regulation Project Numbers: IA–62–91.

Abstract: The requirements are necessary to determine whether taxpayers comply with the cost allocation rules of Internal Revenue Code section 263A and with the requirements for changing their methods of accounting. The information will be used to verify taxpayers' changes in method of accounting.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: The estimated annual reporting and recordkeeping burden per respondent varies from 1 hour to 9 hours.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: February 28, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–5483 Filed 3–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before April 8, 2002.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, fax to (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Loans in Areas Having Special Flood Hazards.

OMB Number: 1550–0088.

Form Number: N/A.

Regulation requirement: 12 CFR 572.

Description: Savings associations are required by statute and 12 CFR 572 to file certain reports, make certain disclosures, and keep certain records. Borrowers use the information to make valid decisions regarding the purchase of flood insurance. OTS uses the records to verify compliance.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 1,013.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: .25 hours.

Estimated Total Burden: 51,663.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 28, 2002.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. 02–5367 Filed 3–6–02; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0501]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to properly maintain Veterans Mortgage Life Insurance accounts.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 6, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0501'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.

OMB Control Number: 2900–0501.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–0543 is used to report any recent changes in the status of a veteran's mortgage insured under the Veterans Mortgage Life Insurance (VMLI). VMLI is automatically terminated when the mortgage is paid in full or when the title to the property secured by the mortgage is no longer in the veteran's name. The information collected is used to maintain Veterans Mortgage Life Insurance accounts.

Affected Public: Individuals or households.

Estimated Annual Burden: 45 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 540.

Dated: February 22, 2002.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 02–5377 Filed 3–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Office; Government Owned Invention for Licensing

AGENCY: Research and Development Office, VA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: Mindy Aisen, MD, Department of Veterans Affairs, Director, Technology Transfer Program, Research and Development Office, 810 Vermont Avenue, NW., Washington, DC 20420; Fax: (202) 275–7228; e-mail at *mindy.aisen@mail.va.gov.* Any request for information should include the number and title for the relevant invention as indicated below. Issued patent may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20031.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: 09/931, 009 ''Proinflammatory Fibrinopeptide''.

Dated: February 27, 2002.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 02–5378 Filed 3–6–02; 8:45 am]

BILLING CODE 8320–01–M

Notices

Federal Register
Vol. 67, No. 45
Thursday, March 7, 2002

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

Commodity Credit Corporation

Dockage Specifications for Wheat for Foreign Food Assistance Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) is soliciting public comment on the dockage specifications for CCC purchases of U.S. wheat for foreign food assistance programs and potential purchases under section 5(d) of the CCC Charter Act beginning in U.S. fiscal year 2003.

DATES: Written comments on this notice must be received on or before April 8, 2002 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Please direct written correspondence to: Mary Chambliss, Acting Administrator, Foreign Agricultural Service, STOP 1001, 1400 Independence Ave. SW., Washington, DC 20250. Direct phone, fax and e-mail may be directed to: Robert Riemenschneider, Director, Grain and Feed Division, Foreign Agricultural Service, Phone: (202) 720–6219, Fax: (202) 720–0340, E-mail: *riemenschnei@fas.usda.gov.*

SUPPLEMENTARY INFORMATION: In June 2000, as part of the U.S. Department of Agriculture's (USDA) ''Clean Wheat Initiative,'' CCC announced that it would progressively tighten the standards for the cleanliness of U.S. wheat exports destined for overseas food aid. In fiscal year 2000, the maximum dockage specification for wheat purchased by the CCC for food aid was lowered from 1.0 to 0.8 percent. This specification was lowered again to 0.7 percent for fiscal year 2001 purchases.

USDA announced on February 5, 2002, that it would lower the maximum acceptable dockage level for wheat purchases by the CCC for U.S. foreign food aid programs from 0.7 percent to 0.6 percent for the remainder of fiscal year 2002. We are now seeking public comment regarding whether we should reduce the dockage level further to 0.5 percent in fiscal year 2003.

The CCC purchasing requirements for wheat will apply to CCC's food donations under the Food for Progress Act of 1985, and, with the concurrence of the United States Agency for International Development, title II of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), and any surplus removal under section 5(d) of the CCC Charter Act.

Comments are invited on all aspects of reducing dockage for U.S. foreign food aid purchases under the Clean Wheat Initiative for fiscal year 2003 and future years, *i.e.,* whether the dockage level should be tightened further to 0.5 percent in fiscal year 2003; whether it should remain the same, that is 0.6 percent; whether it should be relaxed; or whether CCC should abandon the Clean Wheat Initiative completely and return to the 1.0 percent dockage level that was in place prior to this initiative. Economic and/or marketing reasons should be discussed, including any likelihood that CCC may be reducing the pool of eligible suppliers of commodities resulting in an adverse impact on competition.

Mary Chambliss,

Acting Administrator, Foreign Agricultural Service and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 02–5479 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Gifford Pinchot National Forest Resource Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The North Gifford Pinchot National Forest Resource Advisory Committee will meet on Tuesday, March 19, 2002, at the Virgil R. Lee building, 221 SW 13th Street, Chehalis, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. The purpose of the meeting is to:

(1) Prioritize the list of Title II projects for fiscal year 2002,
(2) Provide for a Public Open Forum, and
(3) Discus the percentage of indirect support costs.

All North Gifford Pinchot National Forest Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (2) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Tom Knappenberger, Public Officer, at (360) 891–5005, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: March 1, 2002.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 02–5423 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

South Gifford Pinchot National Forest Resource Advisory Committee meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The South Gifford Pinchot National Forest Resource Advisory Committee will meet on Friday, March 15, 2002 at the Skamania County Public Works Department basement located in the Courthouse Annex, 170 N.W. Vancouver Avenue, Stevenson, Washington. The meeting will begin at 8:30 a.m. and continue until 3 p.m. The purpose of the meeting is to:

(1) Prioritize the list of Title II projects for fiscal year 2002,
(2) Provide for a Public Open Forum,
(3) Discuss the percentage of indirect support costs, and
(4) Determine member replacement.

All South Gifford Pinchot National Forest Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (2) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Tom Knappenberger, Public Affairs Officer, at (360) 891–5005, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: March 1, 2002.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 02–5424 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee, Hamilton, MT

Time and Date: March 18, 2002; 6:30 p.m.

Place: Ravalli County Courthouse, 205 Bedford, Hamilton, Montana.

Status: The meeting is open to the public.

Matters To Be Considered: Agenda topics will include Project Solicitation and Review process, and a public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393).

FOR FURTHER INFORMATION CONTACT: Jeanne Higgins, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: February 28, 2002.

Rodd Richardson,

Forest Supervisory.

[FR Doc. 02–5425 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by May 6, 2002.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036, South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. Fax: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. Fax: (202) 720–4120.

Title: Request for Mail List Data, RUS Form 87.

OMB Control Number: 0572–0051.

Type of Request: Extension of a currently approved collection.

Abstract: The RUS Form 87 is used for both the Electric and Telecommunications programs to obtain the names and addresses of the borrowers' officials with whom RUS must communicate directly in order to administer the agency's lending programs. Changes occurring at the borrowers' annual meetings (*e.g.,* the selection of board members, managers, attorneys, certified public accountants, or other officials make necessary the collection of this information. The RUS Form 87 is being revised to add a field for borrowers to provide the address of their website.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hour per response.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 905.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 226 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078. Fax: (202) 720–4120.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: February 28, 2002.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 02–5480 Filed 3–6–02; 8:45 am]

BILLING CODE 3410–15–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting Notice

DATE AND TIME: March 12, 2002; 10 a.m.–12 Noon.

PLACE: The Tides Hotel, 1220 Ocean Drive, Miami, FL 33139.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S.

international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: March 4, 2002.

Carol Booker,

Legal Counsel.

[FR Doc. 02–5544 Filed 3–4–02; 4:25 pm]

BILLING CODE 8320–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia, Maryland and Virginia Advisory Committees

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that subcommittees of the District of Columbia, Maryland and Virginia Advisory Committees to the Commission will convene at 12:00 p.m. and adjourn at 2:30 p.m. on March 27, 2002, at the U. S. Commission on Civil Rights, 624 9th Street NW, 5th Floor Conference Room (540), Washington, DC 20425. The subcommittees, also known as the Inter-SAC Committee, will finalize necessary details in preparation for the community forum on civil rights concerns of Arab and Muslim Americans in the aftermath of 9/11, to be held late April or early May 2002.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–5392 Filed 3–6–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a community forum and planning meeting of the Florida Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on March 26, 2002, at the Sheraton Biscayne Bay, 459 Brickell Avenue, Miami, Florida 33131. The Committee will hold a community forum on Muslim and Arab American civil rights post 9/11, and develop program plans for a June 2002 meeting.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–5391 Filed 3–6–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: National Voluntary Conformity Assessment Systems Evaluation (NVCASE) Program.

Form Number(s): None.

OMB Approval Number: 0693–0019.

Type of Request: Regular submission.

Burden Hours: 30.

Number of Respondents: 10.

Average of Hours Per Response: 3.

Needs and Uses: The information collected is used by NIST to evaluate conformity assessment bodies that are applying for recognition to provide needed services to U.S. manufacturers whose products must satisfy mandatory regulations of the importing country prior to import.

Affected Public: Business or other for profit organizations, not-for-profit institutions.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 28, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–5370 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Requests for the Appointment of a Technical Advisory Committee

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 6, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608,

14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6883, 14th and Constitution Avenue, NW., Washington, DC, 20230.

SUPPLEMENTAL INFORMATION

I. Abstract

The Technical Advisory Committees were established to advise and assist the U.S. Government on export control matters. In managing the operations of the TACs, the Department of Commerce is responsible for implementing the policies and procedures prescribed in the Federal Advisory Committee Act. The Bureau of Export Administration provides technical and administrative support for the Committees.The TACs advise the government on proposed revisions to export control lists, licensing procedures, assessments of the foreign availability of controlled products, and export control regulations.

II. Method of Collection

Written request to BXA.

III. Data

OMB Number: 0694–0100.
Form Number: None.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 1.
Estimated Time Per Response: 5 hours per response.
Estimated Total Annual Burden Hours: 5.
Estimated Total Annual Cost: No capital expenditures are required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 1, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–5373 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

End-User Certificates for High Performance Computer Exports to the People's Republic of China

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 6, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6883, 14th & Constitution Avenue, NW, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Export Administration is required to perform post-shipment verifications on high performance computers exported to the PRC under License Exception CTP in addition to those exported under a license. U.S. exporters of high performance computers to PRC will obtain the End-User Certficate in each transaction.

II. Method of Collection

Submitted in written form.

III. Data

OMB Number: 0694–0112.
Form Number: N/A.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 300.
Estimated Time Per Response: 15 minutes per response.
Estimated Total Annual Burden Hours: 75 hours.
Estimated Total Annual Cost: No capital expenditures are required.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 1, 2002.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–5374 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an

administrative review of the antidumping duty order on certain forged stainless steel flanges (stainless steel flanges) from India (A–533–809) manufactured by Isibars Ltd. (Isibars), Panchmahal Steel Ltd. (Panchmahal), Patheja Forgings and Auto Parts Ltd. (Patheja), and Viraj Forgings Ltd. (Viraj). The period of review (POR) covers the period February 1, 2000, through January 31, 2001. We preliminarily determine that sales of stainless steel flanges have been made below the normal value (NV) for some of the respondents. In addition, we have preliminarily determined to rescind the review with respect to Echjay Forgings Ltd. (Echjay) because it had no shipments of subject merchandise during the period of review. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument 1) a statement of the issues and 2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam, Mike Heaney, or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5222, (202) 482–4475, or (202) 482–0649, respectively.

APPLICABLE STATUTE AND REGULATIONS:

Unless otherwise indicated, all citations to the 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 (April 1, 2001).

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published the antidumping duty order on stainless steel flanges from India (59 FR 5994). On February 14, 2001, the Department published the notice of ''Opportunity to Request Administrative Review'' for this order covering the period February 1, 2000 through January 31, 2001 (66 FR 10269). In accordance with 19 CFR 351.213(b)(2), on February 28, 2001, Isibars, Panchmahal and Viraj requested a review, and the petitioners, under 19 CFR 351.213(b)(1), requested a review of Echjay, Isibars, Panchmahal, Patheja and Viraj. The petitioners are Gerlin Inc., Ideal Forging Corporation, and Maas Flange Corporation. On March 22, 2001, the Department published in the *Federal Register* a notice of initiation of this antidumping duty administrative review (66 FR 16037).

On July 5, 2001, we extended the time limit for the preliminary results of this administrative review to February 28, 2002 (66 FR 35411).

Partial Rescission

On April 4, 2001, Echjay informed the Department that it had no shipments of subject merchandise to the United States during the period of review. The Department conducted a query of U.S. Customs Service data on entries of stainless steel flanges from India made during the POR, and confirmed that Echjay made no entries during the review period. Therefore, we preliminarily determine to rescind the review with respect to Echjay.

Scope of the Review

The products under review are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Period of Review

The POR is February 1, 2000, through January 31, 2001.

Use of Facts Available

Section 776(a)(2) of the Act provides that, ''if an interested party or any other person--(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority...shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong. 2nd Sess. (1994), at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' See Antidumping Duties, Countervailing Duties; Final Rule, 62 FR 27340 (May 17, 1997). The statute notes, in addition, that in selecting from among the facts available the Department may, subject to the corroboration requirements of section 776(c), rely upon information drawn from the petition, a final determination in the investigation, any previous administrative review conducted under section 751 (or section 753 for countervailing duty cases), or any other information on the record.

Section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of a investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that ''corroborate''

means that the Department will satisfy itself that the secondary information to be used has probative value. Id. As noted in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

Patheja failed to respond to our May 28, 2001 antidumping questionnaire, and has provided no probative information for this review. Panchmahal failed to respond to our July 11, 2001 request for supplemental information concerning its section A, B, and C responses to our antidumping questionnaire, and failed to respond to our July 30, 2001 request for cost of production/constructed value (COP/CV) information. Patheja's failure to respond to our antidumping questionnaire is a failure to provide requested information as defined by section 776(a)(2)(B) of the Act. Panchmahal's failure to provide COP/CV information as well as Panchmahal's failure to provide a complete response to sections A, B, and C of our antidumping questionnaire is also a failure to provide requested information as defined by section 776(a)(2)(B) of the Act. Additionally, both of these failures to provide requested information have significantly impeded this proceeding, as defined by section 776(a)(2)(C) of the Act. Moreover, as Patheja and Panchmahal have supplied no information or explanation of why they did not respond to our questionnaire and supplemental questionnaire respectively, sections 782(c)(1), (d) and (e) of the Act are inapplicable. Accordingly, we preliminarily determine that the use of facts available under section 776(a) of the Act is warranted.

Patheja never attempted to respond to our questionnaire or to explain why it could not respond. Panchmahal made an initial response, but thereafter, made no attempt to respond to our supplemental questionnaire. Moreover, Panchmahal provided no explanation as to why it could not respond. The lack of attempt to cooperate or even to offer an explanation for the failure to do so supports our conclusion that the two firms did not cooperate to the best of their ability. As noted above, Section 776(b) of the Act provides that if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts available, which includes information derived from the petition. See SAA at 829–831 and 870 (1994).

Because we were unable to calculate margins for these respondents, we have assigned them the highest margin from any segment of this proceeding, in accordance with our practice. See e.g., Certain Cased Pencils from the People's Republic of China; Preliminary Results and Rescission In Part of Antidumping Duty Administrative Review, 66 FR 1638, 1640 (January 9, 2001). The highest margin assigned for flanges from India is 210 percent. See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges from India, 59 FR 5994 (February 9, 1994) (the Order). This margin was based on information in the petition.

Section 776(c) of the Act provides that when the Department relies on secondary information (such as that in the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (see SAA at 870). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and U.S. Customs Service data, and information obtained from interested parties during the particular investigation (see SAA at 870). Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

To assess the reliability of the petition margin, in accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the calculations of export price and normal value upon which the petitioners based their margins for the petition. The U.S. prices in the petition were based on quotes to U.S. customers, most of which were obtained through market research. See Petition for the Imposition of Antidumping Duties, December 29, 1993. We were able to corroborate the U.S. prices in the petition by comparing these prices to publicly available information based on IM–145 import statistics. See Memorandum from Thomas Killiam, Case Analyst to the File, Corroboration of Petition Rate for Use as Facts Available, January 10, 2002.

The normal values in the petition were based on actual price quotations obtained through market research. The Department did not receive any useful information from Patheja, and we were unable to verify the partial information submitted by Panchmahal prior to its withdrawal from participation in the review. The Department is not aware of other independent sources of information that would enable it to corroborate the margin calculations in the petition further. We note that four Indian manufacturers currently have a 210 percent margin under this order.

The implementing regulation for section 776 of the Act, codified at 19 CFR 351.308(d), states, ''(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' Additionally, the SAA at 870 states specifically that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. The SAA at 869 emphasizes that the Department need not prove that the facts available are the best alternative information. Therefore, based on our efforts, described above, to corroborate information contained in the petition and in accordance with 776(c) of the Act, which discusses facts available and corroboration, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this preliminary determination (see Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review, 64 FR 76, 84 (January 4, 1999)).

Fair Value Comparisons

To determine whether sales of flanges from India 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 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.

We calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States. We used the date of invoice as the date of sale. We based EP on the packed C&F, CIF duty paid, FOB, or ex-dock duty paid prices to the first unaffiliated purchasers in the United States. We added to U.S. price amounts for duty drawback, when reported, pursuant to section 772(c)(1)(B) of the Act. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including: foreign inland freight, foreign brokerage and handling, bank export document handling charges, ocean freight, and marine insurance.

For CEP sales, in accordance with section 772(d)(1) of the Act, 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 imputed inventory carrying costs. In accordance with section 772(d)(3) of the Act, we deducted an amount for profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act.

For these preliminary results, for Viraj's U.S. prices we have used Viraj's prices to its first unaffiliated U.S. customers. In the case of one of Viraj's U.S. customers, we have solicited information bearing on a possible affiliation with Viraj. Prior to issuing our final results, we will further examine whether sales from Viraj to the customer in question, rather than sales from that customer in question to its own customers, constitute the appropriate basis for U.S. price. We invite comments on this issue.

Normal Value

A. Viability

In order to determine whether there is 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 during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR), for each respondent we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Since we found no reason to determine that quantity was not the appropriate basis for these comparisons, we did not use value as the measure. See 351.404(b)(2).

We based our comparisons of the volume of U.S. sales to the volume of home market sales on reported stainless steel flange weight, rather than on number of pieces. The record demonstrates that there can be large differences between the weight (and corresponding cost and price) of stainless steel flanges based on relative sizes, so comparisons of aggregate data would be distorted for these products if volume comparisons were based on the number of pieces.

We determined that for Viraj, the home market was viable because Viraj's home market sales were greater than 5 percent of its U.S. sales based on aggregate volume by weight. Because Isibars reported no home market or third country sales, we based NV on CV, pursuant to section 351.404(f) of the Department's regulations.

B. Arm's Length Sales

Since no information on the record indicates any comparison market sales to affiliates, we did not use an arm's-length test for comparison market sales.

C. Cost of Production Analysis

The petitioners in this proceeding filed timely sales-below-cost allegations with regard to Viraj. See petitioners' letters of June 6, 2001. The petitioners' allegations were based on the respondents' questionnaire responses. We found that petitioners' methodology provided the Department with a reasonable basis to believe or suspect that sales in the home market had been made at prices below the COP. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Viraj's sales of flanges were made at prices below COP during the POR. See memorandum from Thomas Killiam, Case Analyst, to Richard Weible, Office Director, Petitioners' Allegation of Sales Below the Cost of Production, dated July 1, 2001.

Each respondent defined its unique products, and thus its costs, based on different product characteristics. We determined that only grade, type, size, pressure rating, and finish were required to define models for purposes of matching. To make the model definitions for the cost test identical to those in the model match, we used the above criteria to define models and calculate costs. Where necessary, we converted costs from a per-piece basis to a per-kilogram basis. See the company-specific analysis memoranda for Isibars and Viraj, dated concurrently with this notice and available in the Central Records Unit.

In accordance with section 773(b)(3) of the Act, we calculated COP for Viraj based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and packing. We relied on the home market sales and COP information provided by Viraj. After calculating COP, we tested whether home market sales of stainless steel flanges were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model are at prices less than COP, we disregard the below-cost sales because they are 1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

The results of our cost test for Viraj indicated that for certain comparison market models, less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of these comparison market models in our analysis and used them as the basis for determining NV. Our cost test also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain comparison market

models, more than 20 percent of the comparison market sales were sold at prices below COP. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Product Comparisons

We compared Viraj's U.S. sales with contemporaneous sales of the foreign like product in the home market. We considered stainless steel flanges identical based on grade, type, size, pressure rating and finish. We used a 20 percent difference-in-merchandise (DIFMER) cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and comparison market variable costs of manufacturing divided by the total cost of manufacturing of the U.S. product. For Isibars we compared U.S. price to CV.

E. Level of Trade

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 (LOT) as the EP or CEP transaction. The LOT in the comparison market 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 SG&A expenses and profit. With respect to U.S. price for EP transactions, the LOT is also that of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is that of the sale from the exporter to the importer.

To determine whether comparison market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. In analyzing the selling activities of the respondents, we did not note any significant differences in functions provided in any of the markets. Based upon the record evidence, we have determined that for each respondent there is one LOT for all EP sales, the same LOT as for all comparison market sales. Accordingly, because we find the U.S. sales and comparison market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) is warranted.

F. Comparison Market Price

We based comparison market prices on the packed, ex-factory or delivered prices to the unaffiliated purchasers in the comparison market. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparison to EP we made COS adjustments by deducting comparison market direct selling expenses and adding U.S. direct selling expenses.

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a contemporaneous comparison market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. In accordance with 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the 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. For selling expenses, we used the weighted-average comparison market selling expenses. Where appropriate, we made COS adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We also made adjustments, where applicable, for comparison market indirect selling expenses to offset commissions in EP comparisons.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins for the period February 1, 1999, through January 31, 2000, to be as follows:

Manufacturer / Exporter	Margin (percent)
Isibars	0
Panchmahal	210.00
Patheja	210.00
Viraj	3.97

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication. See CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings 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 the final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total quantity (in kilograms) of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of merchandise of that manufacturer/exporter made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of flanges from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or the LTFV

investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or any previous reviews, the cash deposit rate will be 162.14 percent, the ''all others'' rate established in the LTFV investigation (59 FR 5994) (February 9, 1994).

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 notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5477 Filed 3–6–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–810]

Mechanical Transfer Presses From Japan: Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke, In-Part

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan in response to a request by respondents, Komatsu, Ltd. (Komatsu) and Hitachi Zosen Corp. (HZC) and its subsidiary Hitachi Zosen Fukui Corporation, doing business as H&F Corporation (H&F). This review covers shipments of this merchandise to the United States during the period of February 1, 2000 through January 31, 2001. We have preliminarily determined that U.S. sales have not been made below normal value (NV). We also intend, preliminarily, to revoke the order, in part, with respect to Komatsu because we find that Komatsu has met all of the requirements set forth in section Section 351.222(b) of the regulations for revocation. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to liquidate entries without regard to antidumping duties. Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Sally Gannon, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–0666 or (202) 482–0162, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

The Department published an antidumping duty order on MTPs from Japan on February 16, 1990 (55 FR 5642). On March 22, 2001, we published a notice initiating an administrative review of MTPs (66 FR 16037). The review covers three producers/exporters, Komatsu, HZC, and HZC's subsidiary, H&F, which requested the review.

Due to complicated issues in this case, on October 2, 2001, the Department extended the deadline for the preliminary results of this antidumping duty administrative review until no later than February 28, 2002. *See Mechanical Transfer Presses From Japan: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review,* 66 FR 52107 (October 2, 2001).

Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8462.99.8035, 8462.21.8085, and 8466.94.5040. The HTSUS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive. The term ''mechanical transfer presses'' refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order. (*See* ''Final Scope Ruling on Spare and Replacement Parts,'' U.S. Department of Commerce, March 20, 1992; and ''Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.,'' U.S. Department of Commerce, October 3, 1996.)

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information provided by Komatsu using standard verification procedures, including on-site inspection of the manufacturer's facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public and proprietary versions of the verification report, which are on file in the Central Records Unit of the Department.

Intent To Revoke

In its timely submission of February 28, 2001, Komatsu requested, pursuant to 19 CFR 351.222(e)(1), partial revocation of the order with respect to its sales of MTPs. Komatsu certified that (1) it sold the subject merchandise in commercial quantities at not less than NV for a period of at least three consecutive years; (2) in the future it will not sell the subject merchandise at less than NV; and, (3) it agreed to its immediate reinstatement under the order if the Department determines that, subsequent to revocation, it has sold the subject merchandise at less than NV.

Based upon the preliminary results in this review and the final results of the two preceding reviews, Komatsu has preliminarily demonstrated three consecutive years of sales at not less than normal value. Furthermore, we have determined that Komatsu's aggregate sales to the United States have been made in commercial quantities during these three segments of this proceeding. The company also agreed in writing that it will not sell the subject merchandise at less than NV in the future and to the immediate reinstatement of the antidumping order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the partial revocation, Komatsu has sold the subject merchandise at less than normal

value. Based on the above facts, and absent a determination that the continued application of the antidumping order is otherwise necessary to offset dumping, the Department preliminarily determines that partial revocation with respect to Komatsu is warranted.

In order to determine that Komatsu sold subject merchandise at commercial quantities, we requested that Komatsu submit sales quantity and value information for all years in which the order has been in place. During the past three review periods, Komatsu had sales in amounts comparable to both its home market sales and third country sales. Its sales were higher during these three periods than at any earlier time during the course of the order. Therefore, we determine that Komatsu made sales in commercial quantities to the United States during the three review periods in which it was found not to have sold MTPs at less than normal value.

Therefore, if these preliminary results are affirmed in our final results, we intend to revoke the order in part with respect to merchandise produced and exported by Komatsu. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption after February 1, 2001.

Affiliation of HZC and H&F

Based on HZC's ownership interest in H&F (73.01 percent), we preliminarily find HZC and H&F to be affiliated pursuant to sections 771(33)(E) and (G) of the Act.

Collapsing HZC and H&F

Section 351.401(f) of the Department's regulations outlines the criteria for collapsing (*i.e.,* treating as a single entity) affiliated producers. Pursuant to section 351.401(f), the Department will treat two or more 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. Pursuant to section 351.401(f)(2), in identifying a significant potential for the manipulation of price or production, the Department may consider the following factors:

(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.

To establish the first prong of the collapsing test, pursuant to section 351.401(f)(1), the producers must have production facilities equipped to manufacture similar or identical products that would not require substantial retooling of either facility to restructure manufacturing priorities. H&F maintains a production facility that produces MTPs in Fukui Prefecture, and another facility at Kanazu Town that produces press accessories. HZC owns two subsidiaries that sometimes fabricate significant MTP components. One of these two subsidiaries, which is wholly-owned by HZC, is capable of manufacturing complete MTPs, according to HZC's response.

With regard to common ownership, which is one of the factors to be considered under 19 CFR 351.401(f)(2)(i), HZC owns 73.01 percent of H&F's voting stock.

With respect to the extent to which there is a management overlap between HZC and H&F, under 19 CFR 351.401(f)(2)(ii), while there are no common board members between the two companies, we conclude that there is significant management overlap between HZC and H&F. *See Memorandum to Sally Gannon from Mark Hoadley, Analysis of HZC and H&F*, dated February 28, 2002, for a discussion of the business proprietary facts underlying this conclusion.

Finally, with regard to 19 CFR 351.401(f)(2)(iii), there are intertwined operations between companies. According to the response, HZC and H&F ''press businesses were integrated in July 1999. As part of the integration process, {HZC} transferred its press sales staff and engineers to H&F. The former {HZC} engineers have found their home in a newly created Large Presses Department.'' Moreover, HZC ''sometimes acts as the nominal 'reseller' for H&F's MTPs * * * For these 'resales,' {HZC} does not perform any selling functions; it merely allows H&F to use its name for consideration in order to inspire the customer's confidence.''

Based upon a review of the totality of the circumstances, we preliminarily find that collapsing of these two entities is appropriate in this case under 19 CFR 351.401(f).

Normal Value Comparisons

To determine whether respondents' exports of the subject merchandise to the United States were made at less than NV, we compared export price to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Export Price

Komatsu

We calculated an export price (EP) in accordance with section 772(a) of the Act. We calculated EP for Komatsu based on the packed, freight prepaid price to the U.S. customer. We made deductions from the starting price for Japanese inland freight and insurance, brokerage and handling, international freight, marine insurance, U.S. inland freight, duties, and supervision, in accordance with section 772(c)(2) of the Act.

HZC and H&F

We calculated EP in accordance with section 772(a) of the Act. We calculated EP for HZC and H&F based on the packed, freight prepaid price to the U.S. customer. We made deductions from the starting price for Japanese inland freight and insurance, brokerage and handling, international freight, marine insurance, U.S. inland freight, and supervision, in accordance with section 772(c)(2) of the Act.

Normal Value

Komatsu

We preliminarily determine that the use of constructed value (CV) is warranted to calculate NV for Komatsu, in accordance with section 773(a)(4) of the Act. While the home market is viable, sales made to the United States do not permit appropriate price-to-price comparisons with sales made in the home market because the MTPs, each of which is sold for millions of dollars, are made to each customer's specifications, resulting in significant differences among machines. Therefore, we have resorted to the use of CV. This decision is consistent with Department precedent in this proceeding. *See, e.g., Mechanical Transfer Presses From Japan; Preliminary Results of Antidumping Duty Administrative Review, and Intent To Revoke Order in Part*, 63 FR 11211, 11213 (March 6, 1998); *and Mechanical Transfer Presses From Japan; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Administrative Order in Part*, 63 FR 37331 (July 10, 1998).

We note that, in past proceedings involving large, custom-built capital equipment, in addition to prior reviews

of this order, we have normally resorted to CV. *See, e.g., Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 62700, 62702 (October 19, 2000); *Large Power Transformers from France: Final Result of Antidumping Administrative Review*, 61 FR 40403, (August 2, 1996). CV consists of cost of design, direct materials, direct labor, variable overhead, fixed overhead, product-line R&D, and loss on disposals of inventories (yielding total cost of manufacturing), plus selling, general and administrative expenses, net interest expense, profit, and U.S. packing expenses. We subtracted home market direct selling expenses (warranties, commissions, and credit). We added to CV amounts for direct selling expenses (U.S. tax, warranties, and credit) for merchandise exported to the United States. In calculating CV profit, we subtracted from home market gross unit price, warranties, indirect selling expenses, total cost of manufacturing, general and administrative expenses, net interest expense, and movement expenses (including supervision expenses).

HZC and H&F

We preliminarily determine that the use of CV is warranted to calculate NV for HZC and H&F, in accordance with section 773(a)(4) of the Act. While the home market is viable, sales made to the United States do not permit proper price-to-price comparisons with sales made in the home market, as discussed above. Therefore, we have resorted to the use of CV for HZC and H&F, as well as Komatsu. CV consists of direct materials, direct labor, variable overhead, fixed overhead (yielding total cost of manufacturing), plus selling, general and administrative expenses, net interest expense, profit, and U.S. packing expenses. We subtracted home market direct selling expenses (warranties and credit). We added to CV amounts for direct selling expenses (warranties and credit) for merchandise exported to the United States. In calculating CV profit, we subtracted from home market gross unit price, warranties, commissions, indirect selling expenses, cost of goods sold, general and administrative expenses, net interest expense, and movement expenses (including installation and supervision expenses).

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Komatsu, Ltd	02/01/00–01/31/01	0.00
Hitachi Zosen Corp/Hitachi Zosen Fukui Corp	02/01/00–01/31/01	0.00

The Department will disclose, in accordance with 19 CFR 351.224(b), its calculations to interested parties within 5 days of the date of public announcement of these results, or if no public announcement, within 5 days of publication of this notice. Any interested party may request a hearing within 30 days of publication in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit rate will be effective upon publication of the final results of this administrative review for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Komatsu (except if the order is revoked in part), HZC and HZFC, the cash deposit rate will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original 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 subject merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the LTFV investigation, which is 14.51 percent. *See Notice of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Mechanical Transfer Presses from Japan*, 55 FR 5642 (February 16, 1990). These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review. If the order covering MTPs from Japan is revoked in-part for Komatsu, we will instruct Customs to terminate the suspension of liquidation for the merchandise covered by the revocation on the first day after the period under review (February 1, 2001), in accordance with 19 CFR 351.222(f)(3).

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.

This administrative review and notice are issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C 1677f(i)(1)).

Dated: February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5473 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Certain Preserved Mushrooms From Indonesia: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the petitioner,[1] the Department of Commerce is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from Indonesia. The respondents are three manufacturers/exporters of the subject merchandise: PT Dieng Djaya and PT Surya Jaya Abadi Perkasa,[2] PT Indo Evergreen Agro Business Corp., and PT Zeta Agro Corporation. The period of review is February 1, 2000, through January 31, 2001.

We preliminarily determine that sales have been made below normal value by PT Dieng Djaya and PT Surya Jaya Abadi Perkasa. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries of the subject merchandise during the period of review.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Sophie E. Castro or Rebecca Trainor, Office 2, AD/CVD Enforcement Group I, Import Administration–Room B–099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone : (202) 482–0588 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 U.S. Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2001).

Background

On December 31, 1998, the Department published in the Federal Register (63 FR 72268), the final affirmative antidumping duty determination of sales at less than fair value (LTFV) on certain preserved mushrooms from Indonesia. We published an antidumping duty order on February 19, 1999 (64 FR 8310).

On February 14, 2001, the Department published in the Federal Register a notice advising of the opportunity to request an administrative review of this order for the period February 1, 2000, through January 31, 2001 (66 FR 10269). On February 28, 2001, in accordance with 19 CFR 351.213(b), we received a timely request from the petitioner that the Department conduct an administrative review of exports to the United States by PT Dieng Djaya and PT Surya Jaya Abadi Perkasa (Dieng/Surya), PT Indo Evergreen Agro Business Corp. (Indo Evergreen), and PT Zeta Agro Corporation (Zeta). We published a notice of initiation of the review on March 22, 2001 (66 FR 16037).

On March 30, 2001, the Department issued an antidumping questionnaire to Dieng/Surya, Indo Evergreen, and Zeta. We issued supplemental questionnaires in November 2001. In June 2001 and January 2002, we received timely responses to the Department's original and supplemental questionnaires, respectively.

On July 19, 2001, due to the reasons set forth in the Certain Preserved Mushrooms from India, Indonesia, and the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Reviews, 66 FR 37640 (July 19, 2001), we extended the due date for the preliminary results. In accordance with section 751(a)(3)(A) of the Act, we extended the due date for the preliminary results by the maximum 120 days allowable or until February 28, 2002.

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus and Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified'' or ''pickled mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States[3] (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order dispositive.

Fair Value Comparisons

To determine whether sales to the United States of certain preserved mushrooms by Dieng/Surya, Indo Evergreen and Zeta were made at less than normal value, we compared export price to the normal value, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the export prices of individual U.S. transactions to the weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade at prices above the cost of production (COP), as discussed in the ''Cost of Production Analysis'' section below.

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Nottingham, PA; Modern Mushrooms Farms, Inc., Toughkernamon, PA; Monterrey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushrooms Canning Company, Kennett Square, PA; Southwood Farms, Hockessin, DE; Sunny Dell Foods, Inc., Oxford, PA; United Canning Corp., North Lima, OH.

[2] In accordance with 19 CFR 351.401(f), PT Dieng Djaya and PT Surya Jaya Abadi Perkasa were determined to be affiliated companies in the original less–than–fair–value investigation.

[3] As of January 1, 2002, the HTS codes are as follows: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, 0711.51.0000

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Dieng/Surya, Indo Evergreen and Zeta, covered by the description in the ''Scope of the Order'' section, above, sold by the respondents in the home or third country markets during the period of review (POR), to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home or third country markets within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home or third country markets made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the home or third country markets to compare to U.S. sales, we compared U.S. sales to the constructed value (CV) of the product.

In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: preservation method, container type, mushroom style, weight, grade, container solution and label type. See ''Normal Value'' section below for further discussion.

Export Price

For all three respondents we used export price calculation methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the producer/exporter in Indonesia to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) treatment was not otherwise indicated.

We calculated export price based on the packed FOB seaport prices charged to the first unaffiliated customer in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and brokerage and handling, in accordance with section 772(c)(2)(A) of the Act.

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 normal value, we compared each of the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act.

Evergreen and Zeta's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Therefore, we determined that the home market provides a viable basis for calculating normal value for both Evergreen and Zeta, in accordance with section 773(a)(1)(B)(ii)(II) of the Act.

Dieng/Surya reported that its aggregate volume of home market sales was less than five percent of its aggregate volume of U.S. sales of the subject merchandise. However, sales to one of its third country markets were above the five percent threshold and we attempted to use Dieng/Surya's third country market sales, pursuant to section 773(a)(1)(C) of the Act. As discussed below in the ''Cost of Production Analysis'' section of this notice, we were ultimately unable to use Dieng/Surya's third country sales to calculate normal value. As a result, we used the CV of the product as the basis for calculating normal value for Dieng/Surya, in accordance with section 773(a)(4) of the Act.

Arm's–Length Sales

Indo Evergreen and Zeta each reported sales of the foreign like product to affiliated customers. To test whether these sales to affiliated customers were made at arm's length, where possible, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. See Antidumping Duties; Contervailing Duties; Final Rule, 62 FR 27296, 27355 (May 19, 1997) (preamble to the Department's regulations). Consistent with 19 CFR 351.403(c), we excluded from our analysis those sales where the price to the affiliated parties was less than 99.5 percent of the price to the unaffiliated parties.

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade (LOT) as the export price or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997) (Cut-to-Length Plate from South Africa). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the ''chain of distribution''), including selling functions, class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for export price and comparison market sales (i.e., normal value based on either home market or third country prices[4]), we consider the starting prices before any adjustments. 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. See Micron Technology, Inc. v. United States, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing export price or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a normal value LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between normal value and CEP affected price comparability (i.e., no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See Cut-to-Length Plate from South Africa, 62 FR 61731 (November 19, 1997).

We obtained information from Indo Evergreen, Zeta and Dieng/Surya regarding the marketing stages involved in making the reported home market (for Indo Evergreen and Zeta) and third country market (for Dieng/Surya) and U.S. sales, including a description of the selling activities performed by Indo Evergreen, Zeta and Dieng/Surya for

[4] Where normal value is based on constructed value, we determine the normal value LOT based on the LOT of the sale from which we derive selling, general and administrative (SG&A) expenses and profit for constructed value, where possible.

each channel of distribution. Company-specific LOT findings are summarized below.

Indo Evergreen: All of Indo Evergreen's sales in the home market are through distributors who resell the merchandise to wholesalers for distribution, with the exception of a small amount of sales to its employees for consumption. We examined those two channels of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Indo Evergreen. Specifically, Indo Evergreen does not provide inventory maintenance, after sale services, technical advise, advertising, or sales support for any of its home market customers. Indo Evergreen does incur some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided to all home-market customers regardless of the channels of distribution or customer categories. Because Indo Evergreen has the same selling functions for both channels of distribution (i.e., pre-delivery inspections), we find that both channels of distribution constitute one LOT.

In the U.S. market, Indo Evergreen made only export price sales through two channels of distribution: (1) Through trading companies, and (2) through distributors who resold the merchandise to wholesalers for distribution either to supermarket chains or food service distributors. Similar to the home market LOT, Indo Evergreen does not provide inventory maintenance, after sale services, technical advise, advertising, or sales support in selling to its U.S. customers. In addition, Indo Evergreen does incur some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided equally to all customers regardless of the channels of distribution or customer categories. Accordingly, there is only one LOT for U.S. sales.

We compared the export price LOT to the home market LOT and concluded that the selling functions performed for home market customers are the same as those performed for U.S. customers (i.e., pre-delivery inspection). Accordingly, we consider the export price and home market LOTs to be the same. Consequently, we are comparing export price sales to sales at the same LOT in the home market.

Zeta: Zeta reported sales in the home market through two channels of distribution: (1) Unaffiliated distributors, and (2) unaffiliated end-users. We examined the chain of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Zeta. Specifically, Zeta provided only delivery arrangements for distributors and trading companies. Zeta does not maintain inventory or provide technical advice, warranty service or advertising for home market sales. Zeta did not indicate that there are any differences with respect to freight and delivery services between these channels of distribution or customer categories. Therefore, we find that the home market channels of distribution do not differ significantly from each other with respect to selling activities and, therefore, constitute one LOT.

In the U.S. market, Zeta made only export price sales through one channel of distribution: sales to distributors shipped directly to the United States. Zeta incurred freight costs in delivering the product to the port. Zeta provided no technical advice or warranty services in the U.S. market, nor did it provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, there is only one LOT for U.S. sales.

We compared the export price LOT to the home market LOT and concluded that the selling functions performed for home market customers are the same as those performed for U.S. customers (i.e., freight/delivery services). Accordingly, we consider the export price and home market LOTs to be the same. Consequently, we are comparing export price sales to sales at the same LOT in the home market.

Dieng/Surya: As stated above, where normal value is based on CV, we determine the normal value LOT based on the LOT of the sales from which we derive SG&A and profit for CV, where possible. In the case of Dieng/Surya, because we are basing normal value on CV and using the SG&A expenses of Dieng/Surya in the calculation of CV, we conducted our LOT analysis in part based on the information provided by Dieng/Surya concerning its third country and U.S. marketing stages, including selling activities performed for each channel of distribution. In addition, because we are basing Dieng/Surya's profit for CV calculation purposes on the experience of the other two respondents in this review (see ''Calculation of Constructed Value'' section below), we also conducted our LOT analysis in part based on the information provided by the other two respondents.

Dieng/Surya sold the foreign like product directly to trading companies in the third country. We examined the chain of distribution and the selling activities associated with third country sales through this channel of distribution, and determined that there was little difference in the relevant selling functions provided by Dieng/Surya to its third country customers. Specifically, Dieng/Surya provided only delivery services to these customers. Dieng/Surya does not maintain inventory or provide technical advice, warranty service or advertising for its third country sales. Therefore, we find that all of Dieng/Surya's third country sales were made at the same LOT.

In the U.S. market, Dieng/Surya made only export price sales through an affiliated company located in the Netherlands, which in turns sold to three different customers in the United States: 1) distributors, 2) wholesalers and 3) trading companies. For its U.S. sales, Dieng/Surya incurs freight costs in delivering the product to the port. Dieng/Surya provided no technical advice or warranty services in the U.S. market, nor did it provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, we find that there is only one LOT for U.S. sales.

We compared the export price LOT to the third country LOT and concluded that the selling functions performed for third country market customers are the same as those performed for U.S. customers (i.e., freight/delivery services). Accordingly, we consider the export price and third country market LOTs to be the same. Consequently, no LOT adjustment to normal value (i.e., CV) is warranted based on a comparison of Dieng/Surya's third country and U.S. marketing stages.

Furthermore, as discussed above, we found the home market and export price LOTs to be the same for the other two respondents in this review, the data of which were used to derive Dieng/Surya's profit rate. Consequently, no LOT adjustment to normal value is warranted on this basis either.

Cost of Production Analysis

Because we disregarded sales that failed the cost test for Dieng/Surya, Indo Evergreen and Zeta in the last completed segment of the proceeding (see Certain Preserved Mushrooms From Indonesia: Final Results of Antidumping Duty Administrative Review, 66 FR 36754 (July 13, 2001)), we had reasonable grounds to believe or suspect that the respondents' sales of the foreign like product under consideration for the determination of

normal value in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of home market sales made by Indo Evergreen and Zeta, and third country sales made by Dieng/Surya.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Dieng/Surya's, Indo Evergreen's and Zeta's cost of materials and fabrication for the foreign like product, plus amounts for SG&A, interest expenses, and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home (for Indo Evergreen and Zeta) and third country (for Dieng/Surya) market sales, and COP information the respondents provided in their questionnaire responses, except for the following adjustments:

For Indo Evergreen, we adjusted the general and administrative (G&A) expense rate by including Indo Evergreen's foreign exchange losses on accounts payable. For Zeta, we adjusted the reported production quantities by deducting waste production quantities. We also reclassified foreign exchange gains and losses to G&A expense. In addition, we decreased Zeta's claimed offset to material costs by excluding scrap revenue attributable to non-subject merchandise sales. For further details, see Preliminary Calculation Memorandum from Sophie Castro, Financial Analyst, to Irene Darzenta Tzafolias, Program Manager, Office 2, AD/CVD Enforcement Group I, Import Administration, dated February 28, 2002, for Zeta and Indo Evergreen, respectively.

B. Test of Home and Third Country Market Prices

We compared the weighted-average, per-unit COP figures for the POR to home (for Indo Evergreen and Zeta) and third country (for Dieng/Surya) market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) Within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP, consisting of the COM, G&A, and interest, to the home market or third country prices, less any applicable movement charges, rebates, discounts and direct and indirect selling expenses. We adjusted Zeta's reported home market indirect selling expenses to exclude certain misclassified expenses. For further details, see Zeta's Preliminary Calculation Memorandum.

3. Results of COP Test

Pursuant to section 773(b)(2)(C), 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 twenty percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below–cost sales where such sales were found to be made at prices which would not permit the recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act).

For Dieng/Surya, our cost test indicated that all third country sales made by Dieng/Surya, over an extended period of time, were at prices below COP and would not permit full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we excluded these below-cost sales and based normal value on CV.

The results of our cost tests for Indo Evergreen and Zeta indicated for certain home market products that less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining normal value.

Our cost tests also indicated, for both Indo Evergreen and Zeta, that for certain other home market products more than twenty percent of home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we excluded these below–cost sales from our analysis and used the remaining sales as the basis for determining normal value.

Price-to-Price Comparisons

For Indo Evergreen and Zeta, we based normal value on the price at which the foreign like product is first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and at the same LOT as the export price, as defined by section 773(a)(1)(B)(i) of the Act.

Home market prices were based on either ex-factory or delivered prices. We reduced normal value for home market movement expenses, where appropriate, in accordance with section 773(a)(6)(B)(ii). We also reduced normal value for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i), and increased normal value to account for U.S. packing expenses in accordance with section 773(a)(6)(A). We also made adjustments for differences in circumstances of sale (COS) in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, by deducting home market direct selling expenses (i.e., credit) and adding U.S. direct selling expenses (i.e., credit, U.S. warranty and bank charges), where applicable.

Finally, we made adjustments to normal value, where appropriate, for differences in costs attributable to differences in the physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Calculation of Constructed Value

We calculated CV for Dieng/Surya in accordance with section 773(e) of the Act, which indicates that CV shall be based on the sum of the respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A, profit, and U.S. packing costs. For Dieng/Surya, we relied on the submitted CV information except for the following adjustments:

For Dieng/Surya, because of the absence of comparable third country sales during the POR, we derived profit in accordance with section 773(e)(2)(B)(ii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316, Vol. 1 at 839–841 (1994). Section 773(e)(2)(B)(ii) of the Act allows the Department to use the weighted average of the actual profit amounts realized by other exporters or producers that are subject to the review in connection with the production and sale of a foreign like product in the ordinary course of trade, for consumption in the foreign country. See 19 CFR 351.405(b)(2) (stating that under section 773(e)(2)(B) of the Act, ''foreign country''≥ means the country in which the merchandise is produced).

Because Indo Evergreen and Zeta both have a viable home market, and actual company-specific profit data are available, we calculated Dieng/Surya's profit as a weighted average of the profit amounts experienced by Indo Evergreen and Zeta. For further details, see Preliminary Calculation Memorandum

from Rebecca Trainor, Case Analyst, to Irene Darzenta Tzafolias, Program Manager, dated February 28, 2002, for Dieng/Surya.

For Dieng/Surya's selling expenses, we used the company's actual selling expenses incurred on sales to its third country market because this data reflects Dieng's/Surya's actual experience in selling the foreign like product. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile, 63 FR 56613, 56615 (October 22, 1998).

Price-to-Constructed Value Comparisons

For Dieng/Surya, we based normal value on CV, in accordance with section 773(a)(4) of the Act. For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with 773(a)(8) of the Act, and 19 CFR 351.410. We made COS adjustments by deducting third country market direct selling expenses (comprised of imputed credit) and adding U.S. direct selling expenses (comprised of imputed credit, warranties and bank charges).

Currency Conversion

We made currency conversions in accordance with section 773A of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period February 1, 2000, though January 31, 2001, are as follows:

Manufacture/exporter	Margin (percent)
PT Dieng Djaya and PT Surya Jaya Abadi Perkasa	0.59%
PT Indo Evergreen Agro Business Corp.	0.09% (de minimis)
PT Zeta Agro Corporation	0.27% (de minimis)

We will disclose calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice, or the first work day thereafter.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. See 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated in the final results of this review is above de minimis (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined. In order to estimate the entered value, we will subtract applicable movement expenses from the gross sales value.

Cash Deposit Requirements.

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those 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(c)(1), in which case the cash deposit rate 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 original 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 11.26 percent, the ''All Others'' rate made effective by the LTFV investigation. These 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.

This administrative review and notice are published ign accordance with sections 751(a)(1) of the Act and 19 CFR 351.221.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5474 Filed 3–6–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–813]

Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to timely requests by four manufacturer/exporters and the petitioner,[1] on March 22, 2001, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to twelve companies. The period of review is February 1, 2000, through January 31, 2001.

We preliminarily determine that sales have been made below normal value. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Kate Johnson, or Margarita Panayi, Office 2, AD/CVD Enforcement Group I, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136, (202) 482–4929, or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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's (the Department's) regulations are to 19 CFR Part 351 (April 2001).

Background

On February 19, 1999, the Department published in the Federal Register an amended final determination and antidumping duty order on certain preserved mushrooms from India (64 FR 8311).

On February 14, 2001, the Department published a notice advising of the opportunity to request an administrative review of the antidumping duty order on certain preserved mushrooms from India (66 FR 10269). In response to timely requests by four manufacturer/exporters, Agro Dutch Foods Ltd. (Agro Dutch), Himalya International Ltd. (Himalya), Hindustan Lever Ltd. (formerly Ponds India Ltd.) (HLL), and Weikfield Agro Products, Ltd. (Weikfield), and the petitioner, the Department published a notice of initiation of an administrative review with respect to twelve companies: Agro Dutch, Alpine Biotech Ltd. (Alpine Biotech), Dinesh Agro Products Ltd. (Dinesh Agro), Flex Foods Ltd. (Flex Foods), Himalya, HLL, Mandeep Mushrooms Ltd. (Mandeep), Premier Mushroom Farms (Premier), Saptarishi Agro Industries Ltd. (Saptarishi), Techtran Agro Industries Limited (Techtran), Transchem Ltd.(Transchem), and Weikfield (66 FR 16037, March 22, 2001). The period of review (POR) is February 1, 2000, through January 31, 2001.

On March 30, 2001, the Department issued antidumping duty questionnaires to the above-mentioned twelve companies. We received responses to the original questionnaire during the period May through July 2001. We issued supplemental questionnaires in August 2001 and January 2002, and received responses during the period August through September 2000 and February 2002.

On April 23, 2001, we received a timely submission from HLL to withdraw its request for an administrative review. On April 24, 2001, we received a timely submission from the petitioner to withdraw its request for administrative reviews of HLL and Transchem.

In June 2001, counsel for Saptarishi informed the Department that the company would no longer participate in the 2000–2001 administrative review. On June 14, 2001, we received a timely submission from the petitioner to withdraw its request for administrative review of Alpine Biotech, Dinesh Agro, Flex Foods, Mandeep, Premier, and Techtran. On July 13, 2001, the Department published a notice of partial recission of the antidumping duty administrative review with respect to Alpine Biotech, Dinesh Agro, Flex Foods, HLL, Mandeep, Premier, and Techtran, and Transchem (66 FR 36753). Therefore, the Department is reviewing only Agro Dutch, Himalya, Saptarishi and Weikfield in this administrative review.

On July 11, 2001, the Department received an allegation from the petitioner that Himalya sold certain preserved mushrooms in India at prices below the cost of production (COP). On August 9, 2001, the Department initiated a cost investigation of Himalya's home-market sales of this merchandise. See August 9, 2001, Memorandum to Louis Apple from The Team Regarding ''Allegation of Sales Below the Cost of Production for Himalya International Limited (Himalya).'' On July 19, 2001, the Department extended the time limit for the preliminary results in this review until February 28, 2002. See Certain Preserved Mushrooms from India, Indonesia, and the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Reviews, 66 FR 37640.

Scope of the Order

The products covered by this order are certain preserved mushrooms whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. ''Preserved mushrooms'' refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including but not limited to cans or glass jars in a suitable liquid medium, including but not limited to water, brine, butter, or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are ''brined'' mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including ''refrigerated'' or ''quick blanched mushrooms''; (3) dried mushrooms; (4) frozen mushrooms; and (5) ''marinated,'' ''acidified,'' or ''pickled'' mushrooms, which are

[1] The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushrooms Canning Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp.

prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is classifiable under subheadings 2003.10.0027, 2003.10.0031, 2003.10.0037, 2003.10.0043, 2003.10.0047, 2003.10.0053, and 0711.90.4000 of the Harmonized Tariff Schedule of the United States (HTS)[2]. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Use of Facts Otherwise Available

As noted above in the ''Background'' section, Saptarishi informed the Department in June 2001 that it would no longer participate in this review. Because of Saptarishi's refusal to cooperate in this review, we determine that the application of facts available is appropriate, pursuant to section 776(a)(2) of the Act.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Because Saptarishi refused to participate in this administrative review, we find that, in accordance with sections 776(a)(2)(A) and (C) of the Act, the use of total facts available is appropriate (see, e.g., Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 50183, 50184 (August 17, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 40609, 40610–40611 (June 30, 2000)); Notice of Final Determination of Sales at Less Than Fair Value: Persulfates from the People's Republic of China, 62 FR 27222, 27224 (May 19, 1997); and Certain Grain-Oriented Electrical Steel from Italy: Final Results of Antidumping Duty Administrative Review, 62 FR 2655 (January 17, 1997) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Certain Grain-Oriented Electrical Steel from Italy, 61 FR 36551, 36552 (July 4, 1996)).

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103–316, at 870 (1994). Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' See Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296, 27340 (May 19, 1997).

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.'' Saptarishi informed the Department of its unwillingness to participate in this review, thereby failing to comply with this provision of the statute. Therefore, we determine that Saptarishi failed to cooperate to the best of its ability, making the use of an adverse inference appropriate.

In this proceeding, in accordance with Department practice (see, e.g., Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review Brake Rotors From the People's Republic of China, 64 FR 61581, 61584 (November 12, 1999); and Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 65 FR 33295 (May 23, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Fresh Garlic From the People's Republic of China, 64 FR 39115 (July 21, 1999)), as adverse facts available, we have preliminarily assigned to exports of the subject merchandise produced by Saptarishi the rate of 66.24 percent, the highest rate calculated for any cooperative respondent in the original less-than-fair-value (LTFV) investigation or the 1998–2000 administrative review. The rates assigned to respondents in the previous two segments of the proceeding range from single digits for cooperative respondents to a petition rate of 243.87 for non-cooperative respondents. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' See Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998). We find the application of a rate of 66.24 percent to Saptarishi to be sufficiently adverse in this case.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See SAA at 870. The SAA states that ''corroborate'' means to determine that the information used has probative value (id.). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.

Unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can derive calculated dumping margins; the only source for margins is administrative determinations. In an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period, because it was calculated in accordance with the statute.

[2] As of January 1, 2002, the HTS numbers are as follows: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be relevant, the Department will attempt to find a more appropriate basis for facts available. See, e.g., Final Results of Antidumping Duty Administrative Review: Fresh Cut Flowers from Mexico, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

We preliminarily determine that the calculated margin selected, as adverse facts available, is relevant, and has probative value because it is based on verified data from a respondent in the immediately preceding administrative review. Although this margin is the highest in the range of calculated margins, there is no basis to conclude that it is aberrational or is inappropriate as applied to Saptarishi. Accordingly, we determine that this rate is an appropriate rate to be applied in this review to exports of the subject merchandise produced by Saptarishi as facts otherwise available.

Allegation of Duty Reimbursement

In its January 30, 2002, comments, the petitioner alleges that because Agro Dutch and Weikfield are the importers of record for the preserved mushrooms they produce and export to the United States, and, therefore, pay all applicable antidumping cash deposits and duties on this merchandise, they are paying duties on behalf of their respective importers within the meaning of the Department's reimbursement regulation. See 19 CFR 351.402(f). In numerous cases, the Department has held that reimbursement within the meaning of the regulation does not occur when the importer and exporter are the same legal entity. Because Agro Dutch and Weikfield function both as the exporter and U.S. importer of the preserved mushrooms they produce, there is no basis for reducing U.S. price under the Department's reimbursement regulation. See, e.g., Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review, 66 FR 53388 (October 22, 2001), and accompanying Issues and Decision Memorandum at Comment 1.

Fair Value Comparisons

To determine whether sales of certain preserved mushrooms by the respondents to the United States were made at less than normal value, we compared constructed export price (CEP) or export price, as appropriate, to the normal value, as described in the ''Export Price/Constructed Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the export prices of individual U.S. transactions to the weighted-average normal value of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section below.

In this review, neither Agro Dutch nor Weikfield had a viable home or third country market. Therefore, as the basis for normal value, we used constructed value when making comparisons in accordance with section 773(a)(4) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. With respect to Himalya, we compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the home market to compare to U.S. sales, we compared U.S. sales to constructed value. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order: preservation method, container type, mushroom style, weight, grade, container solution, and label type.

For Agro Dutch and Weikfield, we compared U.S. sales to constructed value because these respondents had insufficient home market and/or third country sales during the POR. See ''Normal Value'' section below for further discussion.

Export Price/Constructed Export Price

For Agro Dutch and Weikfield, we used export price methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold first to an unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise indicated. With respect to Himalya, we calculated CEP in accordance with section 772(b) of the Act, because the subject merchandise was first sold by Transatlantic or Global Reliance, Himalya's affiliated importers in the United States, after importation into the United States. We based export price and CEP on packed, FOB, C&F, CIF, ex port/warehouse, and delivered prices, as appropriate, to unaffiliated purchasers in the United States. For each respondent, for those U.S. sales for which the payment was not received as of the date of the last questionnaire response, we recalculated imputed credit for purposes of a circumstance-of-sale (COS) adjustment using the date of the preliminary results, February 28, 2002, as the date of the payment. We will provide the respondents an opportunity to provide updated payment data for use in the final results.

Agro Dutch

We made deductions from the starting price, where appropriate, for foreign inland freight, freight document charges, insurance, foreign brokerage, Indian export duty (CESS), and international freight in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a).

In a February 11, 2002, submission, Agro Dutch stated that it made data entry errors in reporting the per-unit expenses incurred on certain U.S. sales for foreign inland freight, foreign brokerage, and CESS. Agro Dutch provided a revised sales listing with that submission in which it claimed to correct these errors. However, this unsolicited sales data revision is incomplete, as the accompanying narrative lacks details about the nature of the errors and corrections made by Agro Dutch, and is untimely for analysis and use in the preliminary results. Accordingly, we are using the information in the previously submitted sales response for the preliminary results. However, we will provide Agro Dutch with an opportunity to resubmit sales expense corrections, along with detailed explanations, following the issuance of the preliminary results for consideration in the final results.

Also, in the February 11, 2002, submission, Agro Dutch advised the Department for the first time in this

segment of the proceeding that it received monetary advances from one of its customers in anticipation of future shipments for which the product and price were not determined at the time of the advance. This statement suggests that Agro Dutch may have a long-term contract or sales agreement with this customer, yet Agro Dutch claims that it had no binding contracts or agreements with any U.S. customers during the POR (see Agro Dutch's August 30, 2001, supplemental questionnaire response at page 1). Further, Agro Dutch's reporting of pre-payments appears inconsistent with its earlier statement that all of its U.S. sales are sold with payment terms of 90 days after the bill of lading date (see May 25, 2001, Section C questionnaire response at page C–12).

In the previous review, Agro Dutch reported that it had a sales agreement of some sort with this customer, but failed to provide it for the record despite specific requests from the Department. Because the Department could not adequately determine whether Agro Dutch had reported the correct date of sale without reviewing the sales agreement, the Department made an adverse inference in applying facts available to calculation factors affected by the date of sale. See Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review, 66 FR 13896, 13899 (March 8, 2001) (1998–2000 Preliminary Results); and Certain Preserved Mushrooms from India: Final Results of Antidumping Duty Administrative Review, 66 FR 42507 (August 13, 2001), and accompanying Issues and Decision Memorandum at Comment 2.

Agro Dutch's February 11, 2002, description of its sales to this customer requires further explanation as to the existence of any sales agreement with this customer, the appropriate date of sale, and the relevant payment terms. However, we had insufficient time prior to the preliminary results to seek this clarification. Thus, for purposes of the preliminary results, we are relying on the same reasoning as in the 1998–2000 Preliminary Results and applying partial facts available under section 776(a) of the Act to the data affected by date of sale and payment terms, namely the exchange rate for currency conversions and imputed credit. Given the untimeliness and incompleteness of Agro Dutch's explanation of the sale terms to this customer in this review, we find that, for purposes of the preliminary results, Agro Dutch has not cooperated to the best of its ability to comply with the Department's requests in the questionnaire and supplemental questionnaire to supply full information of its payment terms and copies of any sales agreements. Thus, adverse inferences are warranted in applying facts available for the affected data pursuant to section 776(b) of the Act. As adverse facts available for the exchange rate, we are applying the highest exchange rate during the POR for all currency conversions involving these sales. As facts available for imputed credit, we are recalculating imputed credit for these sales by using the date of the preliminary results, February 28, 2002, as the payment date. We will provide Agro Dutch with the opportunity to provide further information on this topic after the issuance of the preliminary results for consideration in the final results.

Himalya

We made deductions from the CEP starting price, where appropriate, for foreign inland freight, brokerage and handling expenses, international freight, marine insurance, U.S. duty, U.S. inland freight, and U.S. warehousing expenses in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a). We also deducted indirect selling expenses, credit expenses, and inventory carrying costs pursuant to section 772(d)(1) of the Act and 19 CFR 351.402(b). We recalculated credit expenses and inventory carrying costs using a public-source U.S. interest rate. See February 28, 2002 Memorandum to the File Preliminary Results Calculation Memorandum for Himalya International Ltd. (Himalya) (Himalya Calculation Memo) for specifics as to why Himalya's reported U.S. interest rate data was insufficient. We made an adjustment for CEP profit in accordance with section 773(d)(3) of the Act. Finally, since there was insufficient time prior to the preliminary results to request additional information/clarification regarding certain expenses/adjustments, we will issue a supplemental questionnaire subsequent to the preliminary results. See Himalya Calculation Memo.

Weikfield

We made deductions from the starting price, where appropriate, for discounts, foreign inland freight, foreign inland and marine insurance, foreign brokerage and handling, international freight, CESS, and U.S. duty (including U.S. brokerage and handling expenses) in accordance with section 772(c)(1) of the Act and 19 CFR 351.402(a).

We revised Weikfield's reported discount amount granted to one customer based on information in the questionnaire responses to correct an allocation error acknowledged by Weikfield.

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 normal value, we compared the respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Himalya's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Therefore, we determined that the home market provides a viable basis for calculating normal value for Himalya.

With regard to Weikfield, we determined that its home market was not viable because the aggregate volume of home market sales of the foreign like product was less than five percent of the aggregate volume of U.S. sales of the subject merchandise. Agro Dutch reported that during the POR it made no home market sales. Neither Agro Dutch nor Weikfield reported any third country sales during the POR. Therefore, we determined that neither the home market nor any third country market was a viable basis for calculating normal value for Agro Dutch and Weikfield. As a result, we used constructed value as the basis for calculating normal value for these two respondents, in accordance with section 773(a)(4) of the Act.

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade (LOT) as the export price or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing (id.); see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the ''chain of distribution''), including selling functions, class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for export price and comparison market sales (i.e., NV based on either home market or third country prices[3]), we consider the starting prices before any adjustments. 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. See Micron Technology, Inc. v. United States, Court Nos. 00–1058–1060 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the export price or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing export price or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a normal value LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between normal value and CEP affected price comparability (i.e., no LOT adjustment is practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. 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).

We examined Himalya's home market and U.S. distribution systems, including selling functions, classes of customers, and selling expenses. Himalya sold to wholesalers, retailers, caterers, canteens, and restaurants in the home market and through their affiliated importers to distributors and wholesalers in the United States. However, Himalya did not provide information on its selling activities for its transactions with its affiliated importers. Therefore, we are unable perform a LOT analysis comparing the selling functions provided by Himalya on its home market sales and those provided by Himalya on sales to its affiliated importers. Accordingly, an adjustment pursuant to sections 773(a)(7)(A) or 773(a)(7)(B) is not warranted.

For Agro Dutch and Weikfield, because we based normal value on constructed value, and are applying the profit rate and selling expense rates calculated for these respondents from the most recently completed segment of this proceeding, i.e., the 1998–2000 administrative review, as both of these respondents had viable foreign markets in that review (see ''Calculation of Constructed Value'' section below), we are also using the information from the previous review for our LOT analysis. In that review, we found a single LOT for both Agro Dutch and Weikfield. See 1998 - 2000 Preliminary Results, 66 FR at 13898. Therefore, we made neither a LOT adjustment nor a CEP offset (in the case of Himalya) to normal value for any of the companies in this review.

Cost of Production Analysis

The Department disregarded certain sales made by Agro Dutch and Weikfield in the 1998–2000 administrative review, pursuant to findings in that review that sales failed the cost test (see Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review, 66 FR 13896 (March 8, 2001)). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that respondents Agro Dutch and Weikfield made sales in the home market or third country at prices below the cost of producing the merchandise in the current review period. However, as discussed above in the ''Normal Value'' section of this notice, neither Agro Dutch nor Weikfield had a viable home or third country market during the POR. Accordingly, we cannot perform a cost test with regard to Agro Dutch or Weikfield. In addition, as stated in the ''Background'' section of this notice, based on a timely allegation filed by the petitioner, the Department initiated an investigation to determine whether Himalya's home market sales were made at prices less than the cost of production within the meaning of section 773(b) of the Act.

A. Calculation of COP

We calculated the COP on a product-specific basis, based on the sum of Himalya's cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative (SG&A) expenses, interest expense, and the cost of all expenses incidental to placing the foreign like product in a condition packed ready for shipment in accordance with section 773(b)(3) of the Act.

We relied on COP information submitted by Himalya, except for the following adjustments: we recalculated G&A and interest expenses to include certain expenses which were not included in the original calculation. See Himalya Calculation Memo.

B. Test of Home Market Prices

For Himalya, we compared the weighted-average, per-unit COP figures for the POR to home market sales of the foreign like product, as required by section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP, consisting of the cost of manufacturing, G&A and interest expenses, to the net home market prices, less any applicable movement charges, rebates, discounts, and direct and indirect selling expenses. We revised indirect selling expenses to allocate 12 months of expenses over 12 months of sales because Himalya reported a ratio of 12 months of expenses to ten months of sales (see Himalya Calculation Memo).

C. Results of COP Test

The results of our cost test for Himalya indicated all sales were at prices above COP. We therefore retained all sales in our analysis and used them as the basis for determining normal value.

Price-to-Price Comparisons

For Himalya, we based normal value on the price at which the foreign like product is first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, and at the same LOT as CEP, as defined by section 773(a)(1)(B)(i) of the Act.

We reduced normal value for inland freight, insurance and brokerage, and discounts and rebates, where appropriate, in accordance with section 773(a)(6) of the Act and 19 CFR 351.401.

We also reduced normal value for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i), and increased normal value to account for U.S. packing expenses in accordance with section 773(a)(6)(A). We made a deduction for credit expenses, where appropriate, pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we made adjustments to normal value, where appropriate, for differences in costs attributable to differences in the physical characteristics of the

[3] Where normal value is based on constructed value, we determine the normal value LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) and profit for constructed value, where possible.

merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Calculation of Constructed Value

We calculated constructed value in accordance with section 773(e) of the Act, which indicates that constructed value shall be based on the sum of each respondent's cost of materials and fabrication for the subject merchandise, plus amounts for SG&A expenses, profit and U.S. packing costs. For Agro Dutch and Weikfield, we relied on the submitted constructed value information except for the following adjustments:

Agro Dutch

Agro Dutch revised its G&A and interest expense rates in its supplemental response but did not submit a revised constructed value data base reflecting these revisions. We recalculated the G&A and interest rates using this revised data.

Weikfield

We recalculated Weikfield's G&A rate using information based on its 2000–2001 audited financial statement. For an explanation of the recalculation, see the February 28, 2002, Memorandum to the File Weikfield Preliminary Results Calculation Notes.

Because Agro Dutch and Weikfield had no viable home or third country market during the POR, we derived profit and selling expenses for Agro Dutch and Weikfield in accordance with section 773(e)(2)(B)(iii) of the Act and the Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316, Vol.1 at 839–841 (1994) (SAA). Section 773(e)(2)(B)(iii) of the Act allows the Department to calculate selling expenses and profit using any reasonable method, provided that the amount for profit does not exceed the amount normally realized by exporters or producers ''in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise,'' the so-called ''profit cap.'' See 19 CFR 351.405(b)(2) (clarifying that under section 773(e)(2)(B) of the Act, ''foreign country'' means the country in which the merchandise is produced). However, when the Department is unable to calculate a ''profit cap'' due to an absence of information on the record, it may calculate profit based on the facts otherwise available based on any reasonable method and without a profit cap. See the SAA at 841.

For this review, we are unable to determine the amounts that exporters and producers of merchandise that is in the same general category of products as the subject merchandise in the foreign market incurred and realized for selling expenses and profit (i.e., we are unable to calculate a ''profit cap'') due to insufficient information on the record. As facts available, we are applying the profit rates and selling expenses calculated for Agro Dutch and Weikfield, respectively, in the most recent segment of this proceeding. See February 28, 2002, Memoranda to the File Agro Dutch 1998–2000 Profit and Selling Expense Rate Calculations and Weikfield 1998–2000 Profit and Selling Expense Rate Calculations. This approach is consistent with that applied in Frozen Concentrated Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 51008, (October 5, 2001), and accompanying Issues and Decision Memorandum at Comment 3.

Agro Dutch provided profit rate information on certain Indian food processors in its February 11, 2002, submission. This unsolicited new factual information was received too late for any consideration in the preliminary results. Further, it is incomplete as the information consists solely of the profit rates and sales results of certain Indian companies, without any supporting information such as complete annual reports or financial statements for these companies. We will provide Agro Dutch with an opportunity to supplement this information with supporting details in time for consideration in the final results. We will extend the same opportunity to the other parties in this segment of the proceeding to submit additional factual information relevant to the selection of the constructed value profit and selling rates for consideration in the final results.

Price-to-Constructed Value Comparisons

For Agro Dutch and Weikfield, we based normal value on constructed value, in accordance with section 773(a)(4) of the Act. For comparisons to Agro Dutch's and Weikfield's export price sales, we made COS adjustments by deducting from constructed value the weighted-average home market direct selling expenses and adding the U.S. direct selling expenses, in accordance with section 773(a)(8) of the Act and section 19 C.F.R. 351.410.

As noted above under the ''Export Price/Constructed Export Price'' section, for Agro Dutch and Weikfield, we recalculated imputed credit expenses used for COS adjustment purposes on U.S. sales unpaid as of the last questionnaire response. As discussed above, we also recalculated imputed credit expenses on U.S. sales made by Agro Dutch to a particular customer.

Currency Conversion

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

Preliminary Results of Review

As a result of this review, we preliminarily determine that the weighted-average dumping margins for the period February 1, 2000, through January 31, 2001, are as follows:

Manufacturer/Exporter	Percent Margin
Agro Dutch Foods, Ltd.	1.54
Himalya International, Ltd.	0.68
Saptarishi Agro Industries, Inc. ..	66.24
Weikfield Agro Products, Ltd.	0.00

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. See 19 CFR 351.310(c). If requested, a hearing will be scheduled upon receipt of responses to supplemental questionnaires and determination of briefing schedule.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the respective case briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted in accordance with a schedule to be determined upon the receipt of responses to supplemental questionnaires, which the Department will issue subsequent to the preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total entered value of the sales examined.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those 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(c)(1), in which case the cash deposit rate 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 original 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 11.30 percent, the ''All Others'' rate made effective by the LTFV investigation. These 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.

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 351.221.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5475 Filed 3–6–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar from India; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review

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

ACTION: Notice of preliminary results and partial rescission of 2000–2001 administrative review.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on stainless steel bar from India with respect to Viraj Group, Limited (''Viraj''). This review covers sales of stainless steel bar to the United States during the period February 1, 2000, through January 31, 2001.

We preliminarily find that, during the period of review, Viraj has not made sales below normal value. If these preliminary results are adopted in our final results of this administrative review, we will instruct the Customs Service not to assess antidumping duties. Interested parties are invited to comment on these preliminary results. Parties who submit arguments are also requested to submit (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Melanie Brown or Cole Kyle, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4987 or (202) 482–1503 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

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

Background

On February 21, 1995, the Department published in the Federal Register (60 FR 9661) the antidumping duty order on stainless steel bar from India. The Department notified interested parties of the opportunity to request an administrative review of this order on February 14, 2001 (66 FR 10269). In February 2001, the Department received requests for review from five Indian producers of the subject merchandise: Shaw Alloys Corp., Ltd (''Shaw''); Ferro Alloys Corp. Ltd. (''FACOR''); Isibars Limited (''Isibars''); Viraj Group, Ltd. (''Viraj''); and Panchmahal Steel Limited (''Panchmahal''). Concurrent with their request for review, Isibars and Viraj also requested revocation from the antidumping duty order. In accordance with 19 CFR 351.221(b)(1), we published a notice of initiation of this antidumping duty administrative review on March 22, 2001 (66 FR 16037) with respect to Shaw, FACOR, Isibars, Viraj, and Panchmahal. The period of review (''POR'') is February 1, 2000, through January 31, 2001.

On March 30, 2001, Shaw Alloys withdrew its request for review. Panchmahal and FACOR withdrew their requests for review on June 1 and June 13, 2001, respectively. The above withdrawal requests were timely and no other interested party had requested a review of these companies. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the reviews of Shaw, FACOR, and Panchmahal.

On December 20, 2001, Isibars withdrew its request for review. Although this withdrawal was received

by the Department after the regulatory deadline of June 20, 2001, section 351.213(d)(1) of the regulations permits the Department to extend the deadline if ''it is reasonable to do so.'' Therefore, in accordance with section 351.213(d)(1) of the Department's regulations, the Department extended the deadline to withdraw requests for review and rescinded the administrative review with respect to Isibars (See the January 3, 2002 memorandum to Richard Moreland entitled, ''Rescission of Administrative Review of Isibars, Ltd.'' which is on file in the Department's Central Records Unit (''CRU'') in the main Department building). Therefore, for purposes of this administrative review, the only company reviewed is Viraj.

On July 19, 2001, the petitioners alleged that Viraj had made sales below the cost of production. Because the petitioners' allegation provided a reasonable basis to believe or suspect that sales in the home market by Viraj had been made at prices below the cost of production, the Department initiated a sales below cost investigation of Viraj on September 7, 2001. (See Cost of Production Analysis below).

Request for Revocation

According to section 351.222(b)(2)(i) of the Department's regulations, the Secretary may revoke an antidumping duty order in part if one or more of the exporters or producers covered by the order have sold the merchandise at not less than normal value for a period of at least three consecutive years. Section 351.222(b)(4)(d)(1) allows that the company requesting revocation need not have been reviewed during the intervening year (i.e., ''any year between the first and final year of the consecutive period on which revocation or termination is conditioned'' (351.222(b)(4)(d)(2)).

Viraj was reviewed in the 1998–1999 administrative review and received a 2.50 percent margin (See, Stainless Steel Bar From India; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review, 65 FR 48965 (August 10, 2000). Viraj was not reviewed in the 1999–2000 administrative review (the ''intervening year''). Viraj's request for revocation is based on an assumption that it will be found to be not dumping in the pending litigation of the 1998–1999 administrative review, not on the basis of an actual finding of no dumping. Because Viraj was found to be dumping in the 1998–1999 administrative review at 2.50 percent, Viraj has not had three consecutive years of no dumping. Accordingly, we find that Viraj does not meet the standard for revocation. In addition, the Department notes that Viraj failed to certify commercial quantities pursuant to 19 CRF 351.222(e)(1)(ii) of the Department's regulations.

Scope of Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut length flat–rolled products (i.e., cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Collapsing

The regulations state that we will treat two or more affiliated producers as a single entity where 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 we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the factors we may consider include the following: (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; (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. See 19 CFR 351.401(f).

The Viraj Group Ltd. has responded to the Department's questionnaire on behalf of the affiliated companies, Viraj Forgings, Ltd. (''VFL''); Viraj Alloys, Ltd. (''VAL''); Viraj Impoexpo, Ltd. (''VIL''); and Viraj USA, Inc. (''Viraj USA''). Based on the information currently on the record, we agree with Viraj that these companies are affiliated and should be collapsed for purposes of these preliminary results.

The information on the record indicates that there is common ownership among the companies in the Viraj Group Ltd. and that certain individuals serve on the board of directors of each of the four companies. The operations of the companies are intertwined through close supplier relationships, as VAL supplies VIL with the input hot-rolled bar VIL processes into bright bar and sells to the United States. VAL, VIL, and VFL each use production facilities for similar or identical merchandise. VAL produces hot–rolled round bars and billets for sale in the home market. VIL also produces stainless steel billets, flanges, forgings and wires. VFL produces stainless steel forged flanges from billets procured from VAL. There is no evidence on the record to indicate that substantial retooling would be required for VAL, VIL, or VFL to restructure their manufacturing priorities.

Because the Viraj companies are under common control and ownership, the three producing companies use similar production facilities to produce similar products, and the operations of the companies are intertwined, we preliminarily find the Viraj companies are affiliated for the purposes of this administrative review and that VAL, VIL, and VFL, should be collapsed and considered one entity pursuant to section 771(33) of the Act and section 351.401(f) of the Department's regulations. We will consider this issue further for the final results.

Fair Value Comparisons

To determine whether sales of stainless steel bar from India to the United States were made at less than

normal value, we compared export price (''EP'') or constructed export price (''CEP'') to the normal value (''NV''), as described in the ''Export Price/ Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated EPs and CEPs for comparison to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the home market during the POR that fit the description in the ''Scope of Investigation'' section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Export Price/Constructed Export Price

We calculated EP in accordance with Section 772(a) of the Act for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on packed, CIF prices to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses including, inland freight, international freight, marine insurance, and brokerage, in accordance with section 772(c)(2)(A) of the Act.

In accordance with Section 772(b) of the Act, we calculated CEP for those sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on packed, CIF duty-paid prices to unaffiliated purchasers in the United States.

We made deductions from the starting price for movement expenses, including inland freight, international freight, marine insurance, brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act, where appropriate. We increased the EP and CEP, where appropriate, by the amount of duty drawback in accordance with section 772(c)(1)(B) of the Act.

Normal Value

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Viraj's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with 19 CFR 404(b)(2) of the Department's regulation. Because Viraj's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable.

2. Cost of Production Analysis

Based on our analysis of an allegation made by petitioners on July 19, 2001, we found that there were reasonable grounds to believe or suspect that the respondent's sales of the subject merchandise in their respective comparison markets were made at prices below their cost of production (''COP''). Accordingly, pursuant to section 773(b) of the Act, we initiated an investigation to determine whether Viraj made home market sales during the POR at prices below the COP, within the meaning of section 773(b) of the Act (See Memorandum from Team to Susan Kubach, Director, AD/CVD Enforcement Office 1, Allegation of Sales Below the Cost of Production for Viraj Impoexpo Ltd., dated September 7, 2001). We conducted the COP analysis described below.

3. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the Viraj's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A), and interest expenses, where appropriate. We relied on the COP information provided by Viraj in its questionnaire responses.

4. Test of Home Market Prices

On a product-specific basis, we compared the weighted–average COPs to home market sales of the foreign like product during the POR, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below the COP. The prices were exclusive of commissions and indirect selling expenses. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of costs within a reasonable period of time.

5. Results of the COP Test

Pursuant to section 773(b)(1) of the Act, where less than 20 percent of a respondent's sales of a given product are made at prices below the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent ''substantial quantities'' within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales are made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. We found that Viraj did not make more than 20 percent of its sales of any product at prices less than the COP. Therefore, all of Viraj's home market sales have been included in the calculation of NV, in accordance with section 773(b)(1).

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the ''chain of distribution''),[1] including selling

[1] The marketing process in the United States and home market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondents' sales occur

Continued

functions,[2] class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales, (i.e., NV based on either home market or third country prices[3]) we consider the starting prices before any adjustments. For CEP sales, we consider only the selling expenses reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See Micron Technology, Inc. v. United States, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a))(7)(B) of the Act. 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).

Viraj reported that it sells to manufacturers and distributors in the home market and to distributors and resellers in the United States. Viraj reported two levels of trade (based on customer category) and a single channel of distribution in the home market. We examined the information reported by Viraj and found that home market sales to both customer categories were identical with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily find that Viraj had only one level of trade for its home market sales.

Viraj reported a single, different, level of trade and a single channel of distribution for its EP and CEP sales. The EP/CEP level of trade differs from the home market only with respect to freight and delivery. Thus, it was unnecessary to make any level-of-trade adjustment. See section 773(a)(7)(A) of the Act.

6. Calculation of Normal Value Based on Home Market Prices

We calculated NV based on ex-factory prices to unaffiliated customers. We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses. We also made adjustments, in accordance with 19 CRF 351.410(e), for indirect selling expenses incurred in the home market or United States where commissions were granted on sales in one market but not in the other (the commission offset).

Preliminary Results of Review

We preliminarily find the following weighted-average dumping margin:

Manufacturer/Exporter	POR	Weighted Average Margin
Viraj Group, Ltd.	2/1/00–1/31/01	0.10 (de minimis)

Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held 37 days after the publication of this notice, or the first business day thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of 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. The Department will issue appraisement instructions directly to the Customs Service.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original LTFV investigation, 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 previous review, or the original 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 and/or exporters of this merchandise, shall be 12.45 percent, the ''all others'' rate established in the LTFV investigation. (See 59 FR 66915, December 28, 1994).

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

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. In addition, this notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR

somewhere along this chain. In performing this evaluation, we considered Viraj's narrative response to properly determine where in the chain of distribution the sale occurs.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

351.305, that continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

February 28, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5472 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–847]

Antidumping Duty Order: Stainless Steel Bar From Korea

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

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Sophie Castro at (202) 482–1766 and (202) 482–0588, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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's (''the Department's'') regulations refer to 19 CFR part 351 (April 2001).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* here 77964B.1 cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* here 77964B.1 (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from Korea is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value:* Stainless Steel Bar from Korea, here 77964B.1 67 FR 3149 (January 23, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Korea. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from Korea. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value:* Stainless Steel Bar from Korea, here 77964B.1 66 FR 40222 (August 2, 2001).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Changwon Specialty Steel Co., Ltd	13.38
Dongbang Industrial Co., Ltd	4.75
All Others	11.30

This notice constitutes the antidumping duty order with respect to stainless steel bar from Korea pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of Act and 19 CFR 351.211(b).

Dated: March 9, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5642 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–822]

Antidumping Duty Order: Stainless Steel Bar From the United Kingdom

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

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor at (202) 482–4929 and (202) 482–4007, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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's (''the Department's'') regulations refer to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order dispositive.

Antidumping Duty Order:

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from the United Kingdom,* 67 FR 3146 (January 23, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the United Kingdom. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from the United Kingdom. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Bar from the United Kingdom,* 66 FR 40192 (August 2, 2001).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Corus Engineering Steels, Ltd	4.48
Crownridge Stainless Steel, Ltd/Valkia Ltd.	125.77
Firth Rixson Special Steels, Ltd	125.77
All Others	4.48

This notice constitutes the antidumping duty order with respect to stainless steel bar from the United Kingdom pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of Act and 19 CFR 351.211.

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for, Import Administration.

[FR Doc. 02–5643 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–830]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Bar From Germany

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

ACTION: Notice of amended final determination of sales at less than fair value and Antidumping Duty Order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Andrew McAllister or Craig Matney, (202) 482–1174 or (202) 482–1778, respectively; 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 (''URAA''). In addition, unless otherwise indicated, all citations

to the Department of Commerce (''Department'') regulations are to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this investigation is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Amended Final Determination

On January 15, 2002, the Department determined that stainless steel bar from Germany is being sold in the United States at less than fair value (''LTFV''), as provided in section 735(a) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Germany*, 67 FR 3159 (January 23, 2002) (''*SSB Germany Final Determination*''). On January 28, 2002, we received ministerial error allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from the BGH Group of Companies (''BGH''), Edelstahl Witten-Krefeld GmbH (''EWK'') and Krupp Edelstahlprofile (''KEP'') regarding the Department's final margin calculations.[1] BGH, EWK and KEP requested that we correct the errors and publish a notice of amended final determination in the **Federal Register**, pursuant to 19 CFR 351.224(e). BGH's submission alleges that the Department inadvertently failed to fully incorporate certain intended revisions to variable cost of manufacturing and to factory overhead in its programming language. EWK and KEP assert that there was a flaw in the programming language used for model matching.

The petitioners in this proceeding did not submit comments on the BGH, EWK or KEP's ministerial error allegations.

In accordance with section 735(e) of the Act, we have determined that ministerial errors in the calculation of BGH's home market variable cost of manufacturing and factory overhead were made in our final margin calculations. Also, we have determined that there were ministerial errors in the computer programming in our final margin calculations for EWK and KEP. In addition, because the margin programs are identical in this respect for each of the four respondents in this investigation, we have revised the final determination margin programs for all four respondents. For a detailed discussion of the above-cited ministerial error allegation and the Department's analysis, *see* Memorandum to Richard W. Moreland, ''Allegation of Ministerial Error; Final Determination in the Antidumping Duty Investigation of Stainless Steel Bar from Germany'' dated February 22, 2002, which is on file in the Central Records Unit (''CRU''), room B–099 of the main Department building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of stainless steel bar from Germany to correct these ministerial errors. The ''All Others'' rate has been revised as well. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin percentage
BGH	16.62	13.63
Einsal	4.31	4.17
EWK	15.54	15.40
KEP	32.24	32.32
All Others	17.77	16.96

[1] We did not receive ministerial error allegations concerning the final determination margin calculations for Walzwerke Einsal GmbH (''Einsal'').

Antidumping Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from Germany is being, or is likely to be, sold in the United States at LTFV. *See SSB Germany Final Determination.* On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of LTFV imports of subject merchandise from Germany. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from Germany. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register** (66 FR 40214).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Revised weighted-average margin percentage
BGH	13.63
Einsal	4.17
EWK	15.40
KEP	32.32
All Others	16.96

This notice constitutes the antidumping duty order with respect to

stainless steel bar from Germany, pursuant to section 736(a) of the Act. Interested parties may contact the Department's CRU for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5645 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–829]

Notice of Antidumping Duty Order: Stainless Steel Bar From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Antidumping Duty Order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Jarrod Goldfeder, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0189.

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 to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (i.e., cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from Italy is being sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy,* 67 FR 3155 (January 23, 2002). Subsequently, the Department amended its final determination of the antidumping duty investigation of stainless steel bar from Italy to correct a ministerial error in the final margin calculation for one respondent. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy,* 67 FR 8228 (February 22, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from Italy.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the U.S. Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the subject merchandise exceeds the export price or constructed export price of the subject merchandise for all entries of stainless steel bar from Italy, except for subject merchandise both produced and exported by Trafilerie Bedini, Srl (''Bedini''), which received a *de minimis* final margin. For all producers and exporters, with the exception of Bedini and Acciaierie Valbruna Srl/Acciaierie Bolzano S.p.A. (which was *de minimis* at the Department's preliminary determination), antidumping duties will be assessed on all unliquidated entries of stainless steel bar entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date of publication of the Department's preliminary determination in the **Federal Register** 66 FR 40214), and the Department will direct Customs to refund any cash deposits made, or bonds posted, on any subject merchandise which was entered prior to the Department's preliminary determination publication date of August 2, 2001. For Acciaierie Valbruna Srl/Acciaierie Bolzano S.p.A., antidumping duties will be assessed on all unliquidated entries of stainless steel bar entered, or withdrawn from warehouse, for consumption on or after January 23, 2002, the date of publication of the Department's final determination in the **Federal Register** 67 FR 3155), and the Department will direct Customs to refund any cash deposits made, or bonds posted, on any subject merchandise which was entered prior to the Department's final determination publication date of January 23, 2002. Finally, for Bedini, we will instruct Customs to liquidate without regard to antidumping duties and to refund all cash deposits, or bonds posted, for entries of subject merchandise both produced and exported by Bedini.

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Revised Weighted-average margin percentage
Acciaierie Valbruna Srl/ Acciaierie Bolzano S.p.A	2.50

Exporter/manufacturer	Revised Weighted-average margin percentage
Acciaiera Foroni SpA	7.07
Trafilerie Bedini, Srl	([2])
Rodacciai S.p.A	3.83
Cogne Acciai Speciali Srl	33.00
All Others	3.81

[1] Excluded.

This notice constitutes the antidumping duty order with respect to stainless steel bar from Italy, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5646 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–820]

Antidumping Duty Order: Stainless Steel Bar From France

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Terre Keaton at (202) 482–1766 and (202) 482–1280, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

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's (''the Department's'') regulations refer to 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the term ''stainless steel bar'' includes articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order dispositive.

Antidupming Duty Order

In accordance with section 735(a) of the Act, the Department published its final determination that stainless steel bar from France is being, or is likely to be, sold in the United States at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from France,* 67 FR 3143 (January 23, 2002). On February 28, 2002, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from France. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the Customs Service to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of stainless steel bar from France. These antidumping duties will be assessed on all unliquidated entries of imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after August 2, 2001, the date on which the Department published its notice of affirmative preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Bar from France,* 66 FR 40201 (August 2, 2001).

On or after the date of publication of this notice in the **Federal Register**, Customs Service officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Aubert & Duval, S.A	71.83
Ugine-Savoie Imphy, S.A	3.90
All Others	3.90

This notice constitutes the antidumping duty order with respect to stainless steel bar from France pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of Act and 19 CFR 351.211(b).

Dated: March 4, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–5644 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–856]

Synthetic Indigo from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a timely request from a U.S. importer, on July 23, 2001, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on synthetic indigo from the People's Republic of China with respect to China Jiangsu International Economic Technical Cooperation Corp., and Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry. The period of review is September 15, 1999, through May 31, 2001. As a result of this review, the Department of Commerce has preliminarily determined that dumping margins exist for exports of the subject merchandise by the above–referenced companies for the covered period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 7, 2002.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4136.

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 (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department's'') regulations are to 19 CFR Part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

On June 19, 2000, the Department of Commerce (''the Department'') published in the Federal Register (65 FR 37961) an antidumping duty order on synthetic indigo from the People's Republic of China (''PRC''), which was amended on June 23, 2000 (65 FR 39128). On June 29, 2001, Clariant Corporation (''Clariant''), a U.S. importer, requested, in accordance with 19 CFR 351.213, that we conduct an administrative review of exports to Clariant by China Jiangsu International Economic Technical Cooperation Corp. (''CJIETCC'') and Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry (''Wonderful/Jiangsu Taifeng''). On July 2, 2001, Clariant's request was revised to include the review of all sales of subject merchandise exported by CJIETCC and Wonderful/Jiangsu Taifeng to the United States. On July 23, 2001, the Department published a notice of initiation of an administrative review of the antidumping duty order on synthetic indigo from the PRC with respect to CJIETCC and Wonderful/Jiangsu Taifeng (66 FR 38252). On August 16, 2001, we issued the antidumping questionnaire to these companies. On October 9, 2001, these companies submitted a letter notifying the Department that they were no longer willing to cooperate in this review.

Scope of Order

The products subject to this order are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as ''Vat Blue 1.'' Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre–reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (e.g., powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this order are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Period of Review

The period of review covers the period September 15, 1999 through May 31, 2001.

Separate Rates Determination

In previous antidumping duty proceedings, the Department has treated the PRC as a non–market economy (''NME'') country. We have no evidence suggesting that this determination should be changed. Accordingly, the Department has determined that NME treatment is appropriate in this review. See section 771(18)(c)(i) of the Act. To establish whether a company operating in a NME is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test 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 by the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (''Silicon Carbide''). Under this test, companies operating in a NME are entitled to separate, company–specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities (Sparklers, 56 FR 20589). 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 the 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 (id.). *De facto* absence of government control over exports is based on four factors: (1) whether each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management (see Silicon Carbide, 59 FR 22587). In the instant review, neither CJIETCC nor Wonderful/Jiangsu Taifeng submitted responses to the Department's antidumping duty questionnaire, including the separate rates section. We therefore preliminarily determine that these companies did not establish their entitlement to a separate rate in this review and, therefore, are presumed to be part of the PRC NME entity and, as such, are subject to the PRC country–wide rate. Accordingly, exports by these companies are preliminarily assigned the PRC–wide rate, which is the highest margin in the less–than–fair–value (''LTFV'') petition.

PRC–Wide Rate and Use of Facts Otherwise Available

As noted above, CJIETCC and Wonderful/Jiangsu Taifeng submitted a

letter on the record stating that they would not participate in this review. Because of their refusal to cooperate in this review and their failure to establish their entitlement to a separate rate, we have assigned them the PRC–wide rate, which is based on facts available, pursuant to section 776(a)(2) of the Act.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Because CJIETCC and Wonderful/Jiangsu Taifeng have refused to participate in this administrative review, we find that, in accordance with sections 776(a)(2)(A) and (C) of the Act, the use of total facts available is appropriate (see, e.g., Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 50183, 50184 (August 17, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China, 65 FR 40609, 40610–40611 (June 30, 2000)); Notice of Final Determination of Sales at Less Than Fair Value: Persulfates from the People's Republic of China, 62 FR 27222, 27224 (May 19, 1997); and Certain Grain–Oriented Electrical Steel from Italy: Final Results of Antidumping Duty Administrative Review, 62 FR 2655 (January 17, 1997) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Certain Grain–Oriented Electrical Steel from Italy, 61 FR 36551, 36552 (July 4, 1996)). Because these respondents have provided no information, sections 782(d) and (e) are not relevant to our analysis.

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' See Statement of Administrative Action (''SAA'') accompanying the URAA, H.R. Doc. No. 103–316, at 870 (1994).

Section 776(b) of the Act authorizes the Department to use as adverse facts available information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a ''full explanation and suggested alternative forms.'' CJIETCC's and Wonderful/Jiangsu Taifeng's October 9, 2001, letter documented for the record their refusal to provide this information and they have otherwise failed to respond to our request for information, thereby failing to comply with this provision of the statute. Therefore, we determine that the respondents failed to cooperate to the best of their ability, making the use of an adverse inference appropriate.

In this proceeding, in accordance with Department practice (see, e.g., Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review: Brake Rotors From the People's Republic of China, 64 FR 61581, 61584 (November 12, 1999); and Preliminary Results of Antidumping Duty Administrative Review: Fresh Garlic From the People's Republic of China, 64 FR 39115 (July 21, 1999); and Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 65 FR 33295 (May 23, 2000) (for a more detailed discussion, see Preliminary Results of Antidumping Duty Administrative Review: Fresh Garlic From the People's Republic of China, 64 FR 39115 (July 21, 1999)), as adverse facts available, we have preliminarily assigned to exports of subject merchandise by CJIETCC and Wonderful/Jiangsu Taifeng the PRC–wide rate of 129.60 percent, which is the PRC–wide rate established in the LTFV investigation and the highest dumping margin determined in any segment of this proceeding. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' See Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998).

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. Secondary information is described in the SAA as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See SAA at 870. The SAA states that ''corroborate'' means to determine that the information used has probative value (id.). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. To examine the reliability of margins in the petition, we examine whether, based on available evidence, those margins reasonably reflect a level of dumping that may have occurred during the period of investigation by any firm, including those that did not provide us with usable information. This procedure generally consists of examining, to the extent practicable, whether the significant elements used to derive the petition margins, or the resulting margins, are supported by independent sources. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be relevant, the Department will attempt to find a more appropriate basis for facts available. See, e.g., Final Results of Antidumping Duty Administrative Review: Fresh Cut Flowers from Mexico, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

In the underlying LTFV investigation, we established the reliability and relevance of the petition margin (see Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination:

Synthetic Indigo from the People's Republic of China, 64 FR 69723, 60726–69727 (December 14, 1999); and Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value, 65 FR 25706, 25707 (May 3, 2000). As there is no information on the record of this review that demonstrates that the petition rate is not an appropriate adverse facts available rate for the PRC–wide rate, we determine that this rate has probative value and, therefore, is an appropriate basis for the PRC– wide rate to be applied in this review to exports of subject merchandise by CJIETCC and Wonderful/Jiangsu Taifeng as facts otherwise available.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin applies for the period September 15, 1999, through May 31, 2001, for those imports where the exporter is CJIETCC or Wonderful/Jiangsu Taifeng:

Manufacturer/producer/exporter	Margin Percent
PRC–wide Rate	129.60

Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

In addition, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs. Any hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice, containing: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issued raised in the hearing will be limited to those raised in case and rebuttal briefs.

The Department will publish the final results of this administrative review with respect to subject merchandise exports by CJIETCC and Wonderful/Jiangsu Taifeng, including the results of its analysis of issues raised in any case or rebuttal briefs or at a hearing, not later than 120 days after the date of publication of these preliminary results.

Assessment Rates and Cash Deposit Requirements

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Upon publication of the final results of this administrative review, the cash deposit rate for all shipments by CJIETCC or Wonderful/Jiangsu Taifeng of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, will be the PRC–wide rate stated in the final results of this administrative review, as provided for by section 751(a)(1) of the Act. The cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding for which there was no request for administrative review will continue to be the rate assigned in that segment of the proceeding. The cash deposit rate for the PRC NME entity will continue to be 129.60 percent, and the cash deposit rate for non–PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213.

February 28, 2002.

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

[FR Doc. 02–5476 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 02–005. *Applicant*: The Pennsylvania State University, EM Facility, The Life Sciences Consortium, 519 Wartik Lab, University Park, PA 16802. *Instrument*: Slow Scan CCD Camera, Model TemCam F–224. *Manufacturer*: Tietz Video and Image Processing Systems GmbH, Germany. *Intended Use*: The instrument is intended to be used to study the following: (1) Organized chromatin domains in yeast minichromosomes, (2) viruses, cell organelles and whole cells, (3) ultrathin sections of tissues, (4) colloids, (5) nanostructures, and (6) biopolymers. Experiments in plant pathology involve the imaging of aphid vector viruses; those in analytical chemistry—barcode patterns built into metal rods during their synthesis via template-directed electrochemical disposition; those in neurochemistry — neurotransmitters in dense core vesicles and others in solid state synthesis—three-dimensional perovskites from two-dimensional precursors. *Application accepted by Commissioner of Customs*: February 21, 2002.

Docket Number: 02–006. *Applicant*: Saint Joseph's University, Department of Biology, 5600 City Avenue, Science Center, Philadelphia, PA 19131.

Instrument: Electron Microscope, Model JEM–1010. *Manufacturer*: JEOL, Ltd., Japan. *Intended Use*: The instrument is intended to be used to examine negative stained bacteria and ultrathin sections of various biological material. Research projects include:

(1) Characterization of the ultrastructural organization of vertebrate and invertebrate retina and associated cells, and cellular structures of a fungus.

(2) Observation of shark endoskeletal structures to characterize patterns of mineralization during development.

(3) Examination of the bacterium, Bdellivibrio bacteriovorus, to study the developmental life cycle.

(4) Qualitative examination of particle morphology and electron diffraction studies of synthesized metal oxides involving the role of metal oxides on the reduction of organic pollutants. Application accepted by Commissioner of Customs: February 22, 2002.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–5471 Filed 3–6–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University.

ACTION: Board of Visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held in the Packard Conference Center, Building 184, Fort Belvoir, Virginia on Tuesday, March 26, 2002 from 0900–1500. The purpose of this meeting is to report back to the BoV on continuing items of interest.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Kelley Berta at 703–805–5412.

Dated: March 1, 2002.

L.M. Bynum,

Alternate, OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 02–5364 Filed 3–6–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DOD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The meeting will be held on Monday, March 18, 2002 from 8:30 a.m. to 1:00 p.m. The closed Executive Session will be from 12:15 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Dining Room of Alumni Hall at the U.S. Naval Academy.

FOR FURTHER INFORMATION CONTACT: Commander Thomas E. Osborn, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of a partially closed meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of title 5, U.S.C.

Dated: February 28, 2002.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–5399 Filed 3–6–02; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD

ACTION: Notice to amend records systems.

SUMMARY: The Department of the Navy proposes to amend two systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on April 8, 2002 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, DNS10, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the systems of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The records systems being amended is set forth below, as amended, published in their entirety.

Dated: March 1, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01500–2

SYSTEM NAME:

Student/SMART Records (June 21, 2001, 66 FR 33240).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Student/SMART/VLS Records.'

SYSTEM LOCATION:

Delete entry and replace with 'Student records are located at schools and other training activities or elements of the Department of the Navy and Marine Corps. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Sailor/Marine American Council on Education Registry Transcript (SMART) database is maintained at the Naval Educational and Training Professional Development Technology Center, Code N6, 6490 Saufley Field Road, Pensacola, FL 32509–5237.

Vertical Launch System (VLS) records are maintained at the Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add a new paragraph 'VLS records cover civilians, active duty Navy members, and Department of the Navy contractors.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Add a new paragraph 'VLS records: Name, quiz scores, homework scores, and test scores. In those instances when the student has performed below the minimum requirements, copies of the minutes of the Academic Review Board will be included.'

* * * * *

PURPOSE(S):

Add to entry 'VLS records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; and provide guidance and counseling to students.'

* * * * *

RETENTION AND DISPOSAL:

Add a new paragraph 'VLS records: Destroyed 2 years after completion of training.'

* * * * *

N01500–2

SYSTEM NAME:

Student/SMART/VLS Records.

SYSTEM LOCATION:

Student records are located at schools and other training activities or elements of the Department of the Navy and Marine Corps. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Sailor/Marine American Council on Education Registry Transcript (SMART) database is maintained at the Naval Educational and Training Professional Development Technology Center, Code N6, 6490 Saufley Field Road, Pensacola, FL 32509–5237.

Vertical Launch System (VLS) records are maintained at the Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Student records cover present, former, and prospective students at Navy and Marine Corps schools and other training activities or associated educational institution of Navy sponsored programs; instructors, staff and support personnel; participants associated with activities of the Naval Education and Training Command, including the Navy College Office and other training programs; tutorial and tutorial volunteer programs; dependents' schooling.

SMART records cover Active duty Navy and Marine Corps members, reservists, and separated or retired Navy and Marine Corps members.

VLS records cover civilians, active duty Navy members, and Department of the Navy contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student records: Schools and personnel training programs administration and evaluation records. Such records as basic identification records i.e., Social Security Number, name, sex, date of birth, personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service, professional records i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes, test scores, psychological profile, basic test battery scores, and Navy advancement test scores. Educational records *i.e.,* education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories. Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

SMART records: Certified to be true copies of service record page 4; certificates of completion; college transcripts; test score completions; grade reports; Request for Sailor/Marine American Council on Education Registry Transcript.

VLS records: Name, quiz scores, homework scores, and test scores. In those instances when the student has performed below the minimum requirements, copies of the minutes of the Academic Review Board will be included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

PURPOSE(S):

Student records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; provide guidance and counseling to students; prepare required reports; and for other training administration and planning purposes.

SMART records: To provide recommended college credit based on military experience and training to colleges and universities for review and acceptance. Requesters may have information mailed to them or the college(s)/university(ies) of their choice.

VLS records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; and provide guidance and counseling to students.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records may be stored in file folders, card files, file drawers, cabinets, or other filing equipment. Automated records may be stored on magnetic tape, discs, or in personal computers.

RETRIEVABILITY:

Records are retrieved by name and Social Security Number.

SAFEGUARDS:

Access is provided on a 'need-to-know' basis and to authorized personnel only. Records are maintained in controlled access rooms or areas. Data is limited to personnel training associated information. Computer terminal access is controlled by terminal identification and the password or similar system. Terminal identification is positive and maintained by control points. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional managers. Information provided via batch processing is of a predetermined and rigidly formatted nature. Output is controlled by the functional managers who also control the distribution of output.

RETENTION AND DISPOSAL:

Student records: Destroyed after completion of training, transfer, or discharge, provided the data has been recorded in the individual's service record or on the student's record card.

SMART records: Automated SMART (transcripts) are retained permanently. Documents submitted to compile, update, or correct SMART records, which include service record page 4s, transcripts, and certificates, are destroyed after 3 years.

VLS records: Destroyed 2 years after completion of training.

SYSTEM MANAGER(S) AND ADDRESS:

For student records: The commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

For SMART records: Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509–5204.

For VLS records: Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division, 4363 Missile Way, Port Hueneme, CA 93043–4307.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate official below:

For student records: Address inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices. Requester should provide his full name, Social Security Number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present drivers license, military or Navy civilian employment identification card, or other similar identification.

For SMART records: Requester should address inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509–5204. Send a completed ''Request for Sailor/Marine American Council on Education Registry Transcript'' which solicits full name, command address, current rate/rank, Social Security Number, home and work telephone numbers, current status branch of service, etc., and must be signed.

For VLS records: Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307. Requester should provide full name, Social Security Number, military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the appropriate official below:

For student records: Address inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices. Requester should provide his full name, Social Security Number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present drivers license, military or Navy civilian employment identification card, or other similar identification.

For SMART records: Requester should address inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509–5204. Send a completed ''Request for Sailor/Marine American Council on Education Registry Transcript'' which solicits full name, command address, current rate/rank, Social Security Number, home and work telephone numbers, current status branch of service, etc., and must be signed.

For VLS records: Requester should address inquiries to the Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043–4307. Requester should provide full name, Social Security Number, military, civilian or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; schools and educational institutions; Commander, Navy Personnel Command; Chief of Naval Education and Training; Commandant of the Marine Corps; Commanding Officer, Naval Special Warfare Center; Commander, Navy Recruiting Command; and instructor personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N04650–1

SYSTEM NAME:

Personnel Transportation System (September 9, 1996, 61 FR 47483).

CHANGES:

* * * * *

SYSTEM NAME:

Delete 'Personnel' and replace with 'Passenger'.

SYSTEM LOCATION:

Delete entry and replace with 'All Personnel Support Activity Detachments (PSD Dets) and Navy Passenger Transportation Offices Worldwide and Naval Support Activity, Bahrain. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete the phrase 'requests for extension of time limit on travel by retired members to home of record;'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Date of travel or passenger name. Applications for dependent's travel are filed under name of sponsor.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are retained for three years and then destroyed.'

* * * * *

N04650–1

SYSTEM NAME:

Passenger Transportation System.

SYSTEM LOCATION:

All Personnel Support Activity Detachments (PSD Dets) and Navy Passenger Transportation Offices Worldwide and Naval Support Activity, Bahrain. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy military personnel (active and retired), civilian employees of the Navy, dependents, Midshipmen, and other individuals authorized through Navy commands to travel at Government expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for travel and, where applicable, for passports and visas; requests for exceptions of policies/procedures involving travel entitlements/eligibilities; supporting documents; correspondence, and approvals/disapprovals relating to the above records; travel arrangements in response to above applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5702 et seq. Travel, Transportation and Subsistence; 10 U.S.C. 2631–2635 and Chapter 7; 37 U.S.C. 404, Travel and Transportation Allowances-General; and E.O. 9397 (SSN).

PURPOSE(S):

To provide official travel services; determine eligibility for transportation; to authorize or deny transportation; and otherwise manage the Navy-wide passenger transportation system. Information is also used for audit or research purposes to obtain background information/data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To officials and employees of other departments and agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the provision of transportation; diplomatic, official, and other no-cost passports; and visas to subject individuals.

To Foreign embassies, legations, and consular offices—to determine eligibility for visas to respective countries, if visa is required.

To Commercial Carriers providing transportation to individuals whose applications are processed through this system of records.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes/disks. Manual records in file folders or file-card boxes, and microfiche or microfilm.

RETRIEVABILITY:

Date of travel or passenger name. Applications for dependent's travel are filed under name of sponsor.

SAFEGUARDS:

Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Computer terminals are controlled by password or other user code system.

RETENTION AND DISPOSAL:

Records are retained for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Chief of Naval Operations (N413), 2000 Navy Pentagon, Washington, DC 20350–2000.

RECORD HOLDERS:

Personnel Support Activity Detachments and Navy Passenger Transportation Offices Worldwide and Naval Support Activity, Bahrain. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the local activity where the request for transportation was initiated. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain date and location of travel, full name, address and signature of the requester.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the local activity where the request for transportation was initiated. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain date and location of travel, full name, address and signature of the requester.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; member's service record/civilian personnel file; officials and employees of the Department of the Navy, Department of Defense, State Department; and other agencies of the Executive Branch and components thereof; foreign embassies, legations, and consular offices reporting approval/disapproval of visas; and carriers reporting on provision of transportation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–5366 Filed 3–6–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of quarterly meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Educational Research Policy and Priorities 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 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 Mary Grace Lucier at (202) 219–2253 no later than March 15. 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.

Date: March 29, 2002.

Time: 9 a.m. to 4 p.m.

Location: Room 100, 80 F St., NW., Washington, DC 20208–7564.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Designated Federal Official, National Educational Research Policy and Priorities Board, 80 F St., NW., Washington, DC 20208–7564. Telephone: (202) 219-2253; fax: (202) 219–1528; e-mail: *Mary.Grace.Lucier@ed.gov.* Main telephone for Board office: (202) 208–0692.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The agenda for March 29 will cover a report from the National Research Council/National Academy of Sciences on the dissemination of a report of a study sponsored by the Board on Scientific Research in Education. The Board will also receive a briefing on legislation that will provide for improvement of Federal education research, statistics, evaluation, information, and dissemination. A final agenda will be available from the Board's office on March 22, and will be posted on the Board's web site, *http://www.ed.gov/offices/OERI/NERPPB/.*

Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, 80 F St. NW., Washington, DC 20208–7564.

Dated: March 1, 2002.

Rafael Valdivieso,

Executive Director.

[FR Doc. 02–5375 Filed 3–6–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of Availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–02NT15377 entitled ''Technology Development with Independents.'' The Department of Energy (DOE) National Energy Technology Laboratory (NETL), on behalf of its National Petroleum Technology Office (NTPO), seeks cost-shared applications for Research and Development advocating solutions for production problems experienced by small U.S. independent oil producing operators. Small independent oil producing operators are defined as (1) companies employing less than 50 full-time employees; and (2) having no affiliation with a major oil or gas producer (domestic or foreign) unless the combined number of employees of all affiliates is less than 50 full-time employees and total gross revenues of all affiliates is less than $100 million.

Proposed efforts must incorporate innovative field technologies for use by small U.S. independent oil producing operators to increase production, reduce operating costs, increase environmental compliance, or combinations thereof. The types of technologies to be considered are not limited to buy may include reservoir characterization, well drilling, completion or stimulation, environmental compliance, artificial lift, well remediation, secondary or tertiary oil recovery, and production management.

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) Web page located at *http://e-center.doe.gov* on or about 11 February 2002. Applicants can obtain access to the solicitation from the address above or through DOE/NETL's Web site at *http://www.netl.doe.gov/business.*

FOR FURTHER INFORMATION CONTACT: Mary Beth Pearse MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, 626 Cochrans Mill Rd., P.O. Box 10940, Pittsburgh, PA 15236–0940. E-mail Address: *pearse@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: The National Petroleum Technology Office of the Department of Energy (DOE) Office of Fossil Energy (FE) National Energy Technology Lab (NETL) is soliciting cost-shared applications for solutions for production problems and is restricted to small U.S. independent oil producing operators.

DOE anticipates issuing Financial Assistance (Grant) awards. DOE reserves the right to support or not support, with or without discussions, any or all applications received in whole or in part, and to determine how many awards will be made. Multiple awards are anticipated. Approximately $900,000 of DOE funding is planned over a one-year period for this solicitation. The program seeks to sponsor projects for a single budget/project period of 24 months or less. All applicants are required to cost share at a minimum of 50% of the project total, the estimated funding or cost sharing by the DOE being $75,000 per award, or less. Details of the cost sharing requirement, and the specific funding levels are contained in the solicitation.

Once released, the solicitation will be available for downloading from the IIPS internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751, or e-mail the Help Desk personnel at IIPS *HelpDesk@e-center.doe.gov.* The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available.

Prospective applicants who would like to be notified as soon as the solicitation is available should subscribe to the Business Alert Mailing List at *http://www.netl.doe.gov/business.* Once you subscribe, you will receive an announcement by e-mail that the solicitation has been released to the public. Telephone requests, written requests, e-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA, on 20 February 2002.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 02–5433 Filed 3–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–66–001]

Egan Hub Partners, L.P.; Notice of Petition To Amend

March 1, 2002.

Take notice that on February 20, 2002, Egan Hub Partners, L.P. (Egan Hub), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP01–66–001 a petition to amend the order issued June 14, 2001, in Docket No. CP01–66–000, pursuant to section 7 (c) of the Natural Gas Act to construct and operate a third cavern at its existing storage facility in Acadia Parish, Louisiana, to provide the same level of storage capacity certificated in the June 14 order, all as more fully set forth in the petition 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).

It is stated that by order issued June 14, 2001, Egan Hub was authorized to increase the combined maximum operating capacity of Cavern Nos. I and II in the Egan Storage Facility from 15.5 Bcf to 21.0 Bcf, thereby expanding the maximum operating capacities of each cavern individually from 7.75 Bcf to 10.5 Bcf; install an additional 19,130 HP of compression to increase the aggregate maximum average injection rate from 600 MMcfd to 800 MMcfd; and continue charging market-based rates for its storage and hub services.

Egan Hub maintains that due to changes in the nationwide storage market, net storage withdrawals have steadily declined, while storage inventories have either remained steady or have increased. Egan Hub states that this has resulted in increased inventories of parked gas in storage facilities. Consequently, use of conventional solution mining or the Solution Mining Under Gas technique to expand the cavern space of Cavern Nos. I and II in the Egan Storage Facility can no longer occur at a pace necessary for Egan Hub's market requirements. Therefore, Egan Hub states that it has had to examine alternative means in order to continue the expansion authorized by the June 14 order, while accommodating the increased storage inventories in the Egan Storage Facility. Accordingly, Egan Hub requests authorization to amend the June 14, 2001 order to provide for the construction and operation of a third storage cavern at the Egan Storage Facility (Cavern No. III).

Egan Hub states that the proposed Cavern No. III will be developed for the increment of capacity approved in the June 14 order but not yet constructed in the existing Cavern Nos. I and II. Egan Hub states that the total combined capacity of the three caverns will not exceed the certificated 21 Bcf, nor will the maximum capacity of any single cavern exceed 10.5 Bcf consistent with the June 14 order. Egan Hub maintains that since it does not propose to increase the certificated storage capacity nor the injection or withdrawal capability of the Egan Storage Facility, the proposal does not alter the Commission's determination that Egan Hub lacks significant market power and may charge market-based rates for storage and hub services.

Egan Hub requests waiver as to Exhibit K (cost of facilities), Exhibit L (financing), Exhibit N (revenues, expenses and income), and Exhibit O (depreciation and depletion) as required by Section 157.14 of the Commission's Regulations. In addition, Egan Hub requests waiver of Section 284.7(e) of the Commission's Regulations, which requires that natural gas companies providing Part 284 storage services charge reservation fees that recover all fixed costs based on the SFV rate design methodology, and the accounting and reporting requirements of Part 201 and Section 260.2 (Form No. 2A) which are also based on the presumption that cost-based rates are being charged and collected.

Questions regarding the details of this proposed project should be directed to Steven E. Tillman, Director of Regulatory Affairs, Egan Hub Partners, L.P., P.O. Box 1642, Houston, Texas 77251–1642 at (713) 627–5113.

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 March 22, 2002, 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 petition to amend 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5438 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–82–000]

Equitrans, L.P.; Notice of Application

March 1, 2002.

Take notice that on February 7, 2002, Equitrans, L.P. (Equitrans), 100 Allegheny Center Mall Pittsburgh, PA 15212, tendered for filing an abbreviated application for a certificate of public convenience and necessity pursuant to section 7(b) of the Natural Gas Act (NGA) to abandon certain service agreements, all as more fully set forth in the application, which is on file and open to public inspection. The application may be viewed on the Web at *www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' from the RIMS menu and follow the instructions (call (202) 208–2222 for assistance).

Equitrans requests authority to abandon firm storage services provided for Elizabethtown Gas Company (now NUI Corporation), New Jersey Natural Gas Company and South Jersey Gas Company provided under its Rate Schedule SS–3 and to abandon the firm transportation service provided to Elizabethtown Gas Company under its Rate Schedule STS–1. Equitrans asserts that the various agreements for storage and transportation with these shippers expire by the terms of the agreements on April 1, 2002. Equitrans further asserts that these shippers seek to discontinue service. Equitrans submits that the Commission authorized these service agreements in Docket No. CP85–876–000. No abandonment of any facility is proposed.

Any question regarding this application may be directed to Mr. Fredrick Dalena, Vice President, Equitrans, L.P., 100 Allegheny Center Mall Pittsburgh, PA 15212, at (412) 395–3270.

Any person desiring to be heard or to protest these filings should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, by or before March 22, 2002, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

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.

Take notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or motion to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5440 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–64–000]

Northern California Power Agency; Notice of Petition for Declaratory Order

March 1, 2002.

Take notice that on February 28, 2002, the Northern California Power Agency (NCPA), filed with the Federal Energy Regulatory Commission (Commission or FERC) a Petition for Declaratory Order establishing certain existing contractual rights under PG&E FERC Rate Schedule No. 79 (Contract 2948A) between the Pacific Gas & Electric Company (PG&E) and the Western Area Power Administration (Western). The petition seeks to clarify the status of certain ongoing scheduling provisions pertaining to power that is wheeled from Western to NCPA members by PG&E, pursuant to the contract. NCPA is seeking to resolve a controversy over the continuing nature of these rights in light of PG&E's proposed termination of the NCPA/PG&E Interconnection Agreement, presently pending in Docket ER01–2998–000.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: March 11, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5441 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–153–002]

Tuscarora Gas Transmission Company; Notice of Amendment to Certificate of Public Convenience and Necessity

March 1, 2002.

Take notice that on February 25, 2002, Tuscarora Gas Transmission Company (Tuscarora), 1575 Delucchi Lane, Suite 225, Reno, Nevada 89520–3057, filed in Docket No. CP01–153–002 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations to amend the certificate of public convenience and necessity issued to Tuscarora on January 30, 2002 in Docket Nos. CP01–153–000 and CP01–153–001, all as more fully set forth in the application 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).

The January 30, 2002 certificate of public convenience and necessity (January 30 Order) authorized Tuscarora to construct, install, own, operate and maintain, 14.2 miles of 20-inch diameter natural gas pipeline, one valve site, two meter stations, three compressor stations, a booster compressor unit, and appurtenant facilities to provide up to 95,912 Dth per day of firm transportation service for four expansion shippers.

By this amendment, Tuscarora requests all authorizations necessary to amend its certificate to construct and operate the facilities authorized in the January 30 Order in two phases. Tuscarora states that this will allow it construct and operate all of the facilities necessary to provide service for its expansion shippers other than Duke Energy North America, L.L.C. (DENA) by the 2002–2003 heating season. Tuscarora states that the Phase 1 facilities will consist of: (i) Approximately 10.5 miles of pipeline extending from the Wadsworth Tap to the proposed Paiute Interconnect Meter Station, (ii) one new valve site, (iii) the Paiute Meter Station, (iv) a booster compressor unit, (v) the Radar Compressor Station, (vi) the Shoetree Compressor Station, and (vii) appurtenant facilities. Tuscarora states that the Phase 2 facilities necessary to provide the transportation service for DENA will consist of: (i) Approximately 3.7 miles of pipeline extending from the Paiute Interconnect Meter Station to the Washoe Energy Facility, (ii) the Washoe Meter Station, (iii) any necessary interconnecting facilities at the Washoe Energy Facility, and (iv) the Likely Compressor Station. Tuscarora requests that the Commission issue an amended certificate order by April 12, 2002 to enable Tuscarora to commence construction of the Phase 1 facilities before the end of April 2002 to enable Tuscarora to provide service to the Phase 1 customers by the 2002–2003 heating season.

Any questions concerning this application may be directed to Gregory L. Galbraith, Tuscarora Gas Transmission Company, 1575 Delucchi Lane, Suite 225, P.O. Box 30057, Reno, Nevada 89520–3057, call (775) 834–4292 or fax (775) 834–3886.

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 March 11, 2002, 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.

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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5439 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–98–000, et al.]

Lake Superior Power Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

February 28, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Lake Superior Power Limited Partnership

[Docket No. EG02–98–000]

Take notice that on February 26, 2002, Lake Superior Power Limited Partnership 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. The applicant states that it is a Canadian partnership that is engaged directly and exclusively in developing, owning, and operating a gas-fired 110 MW combined cycle power plant in Ontario, Canada, which is an eligible facility.

Comment Date: March 21, 2002.

2. Garnet Energy LLC

[Docket No. EG02–99–000]

Take notice that on February 26, 2002, Garnet Energy LLC, 3380 Americana Terrace, Suite 300, Boise, Idaho 83706 (Applicant), filed with the Federal Energy Regulatory Commission (the Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it is an Idaho limited liability company and a wholly

owned subsidiary of Garnet Power Company, an Idaho corporation (Garnet Power). Garnet Power is a wholly owned subsidiary of Ida-West Energy Company, an Idaho corporation (Ida-West). Ida-West is a wholly owned subsidiary of IDACORP, Inc., a publicly traded Idaho corporation.

Applicant states it will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, one or more eligible facilities (the Facilities) and selling wholesale electric energy from the Facilities. Once constructed, the Facilities will consist of a 270 MW combined-cycle natural gas-fired generation facility in Canyon County, Idaho and may also include another 270 MW combined-cycle natural gas-fired expansion facility at the same site.

Copies of the application have been served upon the Idaho Public Utilities Commission, the Public Utility Commission of Oregon and the Public Service Commission of Wyoming, each an ''affected state commission'' under 18 CFR 365.2(b)(3), and the Securities and Exchange Commission.

Comment Date: March 21, 2002.

3. Southern Company Services, Inc.

[Docket No. ER02–352–001]

Take notice that on February 25, 2002, Southern Company Services, Inc. (SCS), as agent for Georgia Power Company (Georgia Power), tendered for filing an amendment to the filing of the Interconnection Agreement between Georgia Power and Southern Power Company (Southern Power) for Goat Rock CC Unit 2 (the Agreement), as a service agreement under Southern Operating Companies' Open Access Transmission Tariff (FERC Electric Tariff, Fourth Revised Volume No. 5). The amendment contains SCS's response to the January 11, 2002, letter issued in Docket No. ER02–352–000 by Ms. Alice Fernandez, Director, Division of Tariff and Rates—East. *Comment Date:* March 18, 2002.

4. Southern Company Services, Inc.

[Docket No. ER02–430–002]

Take notice that on February 25, 2002, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APC), filed with the Federal Energy Regulatory Commission (Commission) a revised Interconnection Agreement (Agreement) between Blount County Energy, LLC and APC in compliance with a letter order of the Commission dated January 25, 2002.

Comment Date: March 18, 2002.

5. American Electric Power Service Corporation

[Docket No. ER02–1074–000]

Take notice that on February 25, 2002, Indiana Michigan Power Company tendered for filing an executed Interconnection and Operation Agreement between Indiana Michigan Power Company and Indeck-Niles, L.L.C. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of April 24, 2002. Copies of Indiana Michigan Power Company's filing have been served upon the Indiana Utility Regulatory Commission and Michigan Public Service Commission.

Comment Date: March 18, 2002.

6. American Electric Power Service Corporation

[Docket No. ER02–1075–000]

Take notice that on February 25, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing Service Agreements for new customers under the AEP Companies' Power Sales Tariffs. The Power Sales Tariffs were accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5 (Wholesale Tariff of the AEP Operating Companies) and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket ER98–542–000 (Market-Based Rate Power Sales Tariff of the CSW Operating Companies). AEPSC respectfully requests waiver of notice to permit the attached Service Agreements to be made effective on or prior to February 25, 2002.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: March 18, 2002.

7. Illinois Power Company

[Docket No. ER02–1076–000]

Take notice that on February 25, 2002, Illinois Power Company (Illinois Power), filed a First Revised Interconnection Agreement entered into with AmerGen Energy Company, L.L.C. (AmerGen) and subject to Illinois Power's Open Access Transmission Tariff.

Illinois Power requests an effective date of February 15, 2002 for the First Revised Interconnection Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power has served a copy of the filing on AmerGen.

Comment Date: March 18, 2002.

8. Louisville Gas and Electric Company; Kentucky Utilities Company

[Docket No. ER02–1077–000]

Take notice that on February 25, 2002, Louisville Gas and Electric Company and Kentucky Utilities Company (the Companies) filed with the Federal Energy Regulatory Commission (Commission) a market-based rate tariff, including a form of umbrella Service Agreement and a Statement of Policy and Code of Conduct. The proposed market-based rate tariff does not replace the Companies' existing market-based rate tariff, currently on file as FERC Electric Tariff, Volume No. 2. The Companies have requested a waiver of the Commission's regulations to allow the proposed tariff to take effect March 1, 2002.

Comment Date: March 18, 2002.

9. Ameren Services Company

[Docket No. ER02–1078–000]

Take notice that on February 25, 2002, Ameren Services Company (Ameren Services) tendered for filing a Service Agreement for Network Integration Transmission Service and a Network Operating Agreement between Ameren Services and Central Illinois Light Company. Ameren Services asserts that the purpose of the Agreements is to permit Ameren Services to provide transmission service to Central Illinois Light Company pursuant to Ameren's Open Access Tariff.

Comment Date: March 18, 2002.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1079–000]

Take notice that on February 25, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act (FPA), 16 USC 824d (2000) and Part 35 of the Commission's Regulations proposed revisions to the Midwest ISO Open Access Transmission Tariff. The Midwest ISO proposes to modify existing terms and conditions of Schedule 14 (Regional Through and Out Rate) to allow for discounts on the RTOR surcharge (RTOR Adder).

The Midwest ISO has requested an effective date of March 1, 2002. Pursuant to the Commission's Regulations, the Midwest ISO has

served this filing on all parties on the official service list in this proceeding. In addition, the Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: March 18, 2002.

11. PacifiCorp

[Docket No. ER02–1080–000]

Take notice that on February 25, 2002, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Notice of Cancellation of a Sales Agreement between PacifiCorp and El Paso Merchant Energy, L.P. (originally in the name of Engage Energy US, L.P.) dated June 27, 1997.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: March 18, 2002.

12. Indeck-Oswego Limited Partnership

[Docket No. ER02–1081–000]

Take notice that on February 25, 2002, Indeck-Oswego Limited Partnership (Applicant) tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Federal Energy Regulatory Commission's regulations, a request for authorization to make sales of electrical capacity, energy, and certain ancillary services at market-based rates and for related waivers and blanket authorizations.

Comment Date: March 18, 2002.

13. Kansas City Power & Light Company

[Docket No. ER02–1082–000]

Take notice that on February 25, 2002, Kansas City Power & Light Company (KCPL) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to its Municipal Participation Agreement with Independence, MO. KCPL requests an effective date of April 1, 2002, and therefore requests a waiver of the Commission's notice requirement

Comment Date: March 18, 2002.

14. South Carolina Electric & Gas Company

[Docket No. ER02–1083–000]

Take notice that on February 25, 2002, South Carolina Electric & Gas Company (SCE&G) submitted a service agreement establishing Engage Energy America LLC as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date one day subsequent to the date of filing. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon Engage Energy America LLC and the South Carolina Public Service Commission.

Comment Date: March 18, 2002.

15. Alcan Power Marketing Inc.

[Docket No. ER02–1084–000]

Take notice that on February 22, 2002, Alcan Power Marketing Inc. (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves and ancillary services at market-based rates, and to reassign transmission capacity and resell Firm Transmission Rights.

Comment Date: March 18, 2002.

16. Keyspan-Ravenswood, Inc.

[Docket No. ER02–1085–000]

Take notice that on February 25, 2002, KeySpan-Ravenswood, Inc. (Ravenswood) filed an informational letter with the Federal Energy Regulatory Commission (Commission), pursuant to Section 35.15(c) of the Commission's rules notifying it that the following power sales agreements on file with the Commission terminated by their own terms: (1) Transition Capacity Agreement between Ravenswood and The Consolidated Edison Co. of New York, Inc. (Con Edison) accepted in Docket No. ER99–2376–000 and designated by the Commission as Ravenswood's Rate Schedule FERC No. 1 and the (2) Transition Energy Agreement between Ravenswood and Con Edison accepted in Docket No. ER99–3183–000 and designated by the Commission as Ravenswood's Rate Schedule FERC No. 2.

Comment Date: March 18, 2002.

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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5369 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–40–006]

Florida Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Compressor Station 31 Relocation Project, Request for Comments on Environmental Issues, and Notice of Site Visit

March 1, 2002.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts involved with Florida Gas Transmission Company's (FGT) construction and operation of Compressor Station 31 at its newly proposed location in Osceola County, Florida.[1] This EA/EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Background

FGT originally proposed to construct this station on a parcel owned by Osceola County adjacent to Osceola Parkway. This location, and alternative

[1] FGT's amended application was filed with the Commission under Sections 7(c) of the Natural Gas Act on January 22, 2002. The original application in Docket No. CP00–40–000 was filed by FGT on December 1, 1999.

locations, were analyzed in the Environmental Impact Statement (EIS) issued by the Commission in July 2001 for FGT's Phase V Expansion Project. The EIS also responded to the numerous comments received on the draft EIS expressing concerns and the proximity of the station to residences and other related issues.[2] The analysis in the EIS indicated that none of the alternative locations were environmentally preferable to the original location.

After consideration of the issues in the proceeding, the Commission approved FGT's Phase V Expansion Project, with conditions, in an Order granting a Certificate of Public Convenience and Necessity on July 27, 2001. Several of the environmental conditions in the Order specifically address the remaining concerns related to noise and visual impacts associated Compressor Station 31.

Recognizing the concerns surrounding the approved location, FGT reevaluated the engineering criteria used to design the compressor station. As a result, FGT determined that it could move the compressor station further than previously indicated, and consequently filed its amendment to requesting authorization from the Commission to move the station.

Summary of the Proposed Project

The proposed facilities consist of a single 2,500-horsepower, gas driven compressor and associated piping to be installed at milepost 12.6 on FGT's existing St. Petersburg Lateral. The compressor would be enclosed within a small building.

The proposed new location of the compressor station would be constructed near the intersection of Interstate 4 and County Road 545. Both the original site and newly proposed station site are shown on the map in appendix 1.[3]

Land Requirements for Construction

FGT has executed an option to purchase a 5-acre tract to construct the compressor station. Of the 5 acres, only 1 acre would be occupied by the compressor station during operation. The remaining 4 acres would be held as a buffer area.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[4] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Our independent analysis of the impacts that could occur as a result of the construction and operation of the proposed project will be in the EA. We will also evaluate possible alternatives to the project, and make recommendations on how to lessen or avoid impacts on the various resources. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

This notice is being sent to landowners of property within a half-mile radius of newly proposed location for Compressor Station 31; parties who commented on Compressor Station 31 in the EIS process; Federal, state, and local agencies; elected officials; Indian tribes that might attach religious and cultural significance to historic properties in the area of potential effects; environmental and public interest groups; and local libraries and newspapers. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 5.

Additional information about the Commission's process can be found on a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'', which was attached to the project notice FGT provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site, *www.ferc.gov*.

Currently Identified Environmental Issues

In general, the EA will address:

- geology and soils;
- wetlands;
- wildlife and vegetation;
- threatened and endangered species;
- land use and visual resources
- cultural resources;
- air quality and noise;
- public safety; and
- alternatives

We have already identified several specific issues that we think deserve attention based on a preliminary review of the environmental information provided by FGT. This preliminary list of issues may be changed based on your comments and our analysis.

- *Land Use and Visual Resources*

—proposed expansion of Interstate 4 in the vicinity of the to the station
—relocation of adjacent recreational vehicle park
—visibility of the station from the adjacent roadways
—potential for residential development near the station site

- *Public Safety*

—lightning strikes

- *Air Quality and Noise*

—compressor station emissions
—noise from compressor station equipment

- *Alternatives*

—comparison of approved and currently proposed sites

We will not discuss impacts to water resources and fisheries since these resources are not in the project area and would not be affected by the construction or operation of the proposed compressor station.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your

[2] The draft EIS was issued by the Commission in April 2001 for a 45-day comment period. The majority of comments on the draft EIS were related to Compressor Station 31.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[4] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

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

• Label one copy of the comments for the attention of OEP—Gas 1, PJ–11.1.

sbull; Reference Docket No. CP00–40–006.

• Mail your comments so that they will be received in Washington, DC on or before April 1, 2002.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

We may mail the EA for comment. If you are interested in receiving it, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Site Visit

We will also be visiting the proposed location on Wednesday, March 13, 2002 beginning at approximately 11:00 a.m. Anyone interested in participating in the site visit should contact the Commission's Office of External Affairs identified at the end of this notice for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[5] Only intervenors have the right to seek rehearing of the Commission's decision.

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

Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 (direct line) or you can call the FERC operator at 1–800–847–8885 and ask for External Affairs. Information is also available on the FERC Web site, *www.ferc.gov*, using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

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

Magalie R. Salas,

Secretary.

[FR Doc. 02–5437 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

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

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM01–12–000, RT01–2–000, RT01–10–000, RT01–15–000, ER02–323–000, RT01–34–000, RT01–35–000, RT01–67–000, RT01–74–000, RT01–75–000, RT01–77–000, RT01–85–000, RT01–86–000, RT01–87–000, RT01–88–000, RT01–94–000, RT01–95–000, RT01–98–000, RT01–99–000, RT01–100–000, RT01–101–000, EC01–146–000, ER01–3000–000, RT02–1–000, EL02–9–000, EC01–156–000, ER01–3154–000, and EL01–80–000]

Electricity Market Design and Structure, (RTO Cost Benefit Analysis Report); Notice of Regional Teleconferences and Due Dates for Comments and Reply Comments

March 1, 2002.

The Federal Energy Regulatory Commission (FERC) issued an RTO Cost Benefit Report entitled ''Economic Assessment of RTO Policy'' at its regular open meeting on February 27, 2002. The report, prepared by ICF Consulting, is the result of a study commissioned by FERC to examine potential economic cost and benefits of a move toward Regional Transmission Organization (RTO's). The report is available on the Commission's Web site at *www.ferc.gov*. The Commission's Staff and ICF Consulting plan on holding a series of regional teleconferences with State Commissions, members of the industry and the public to discuss the results of the report from March 13–19, 2002. These teleconferences are designed to assist the participants in understanding the report results and in preparing written comments for submission to the Commission.

There will be four regional teleconferences with State Commissions and an additional four teleconferences with Industry and others as follows.

For State Commissioners

March 13th 10 a.m. EST to Noon, Midwest State Commissioners
2 p.m. EST to 4 p.m., Southeast State Commissioners
March 15th 10 a.m. EST to Noon, Northeast State Commissioners
2 p.m. EST to 4 p.m., Western State Commissioners

For Industry and Public

March 18th 10 a.m. EST to Noon, Midwest Region
2 p.m. EST to 4 p.m., Southeast Region
March 19th 10 a.m. EST to Noon, Northeast Region
2 p.m. EST to 4 p.m., Western Region

Instructions for participating in these teleconferences will be included in a

future notice. All of the regional teleconferences will be transcribed and be placed in appropriate and related dockets. Copies of the transcripts will be available from Ace-Federal Reporters (800–336–6646 or 202–347–3700) at cost and will be available on the Commission's Web site 10 days after receipt from Ace-Federal Reporters.

All written comments on the RTO Cost Benefit Report will be due on April 9, 2002. Reply comments will be due on April 23, 2002.

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 under the ''e-Filing'' link. Paper copies require the original and fourteen copies pursuant to the Commission's regulations.

Contact Information

For State Commissions

Edward Meyers 202–208–0004
Edward.meyers@ferc.gov

Thomas Russo 202–208–0004
Thomas.russo@ferc.gov

Federal Energy Regulatory Commission, 888 N. Capitol Street, NE, Washington DC 20426, 202–208–0004.

For Industry and Public

William Meroney 202–208–1069
William.meroney@ferc.gov

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Federal Energy Regulatory Commission, 888 N. Capitol Street, NE., Washington DC 20426

Magalie R. Salas,
Secretary.

[FR Doc. 02–5443 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

March 1, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

EXEMPT

Docket No.	Date filed	Presenter or requester
1. CP01–361–000	02–28–02	John Wisniewski.
2. Project No. 10942–000	02–28–02	David Turner and Frank Winchell.
3. CP01–361–000	02–28–02	John Wisniewski.
4. Project No. 2342–011	02–28–02	P. Stephen DiJulio.
5. Docket Nos. RT02–2–000, RT01–67–000, RT01–74–000, RT01–75–00, RT01–77–000, RT01–100–000, RT01–1–000, RM98–1–002.	03–1–02	Commission*.

*Transcript of State-Federal Southeast Regional Panel Discussion convened 2/15/02 pursuant to the Commission's Notice issued 2/8/02 in Docket No. RT02–2–000, *et al.*

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02–5442 Filed 3–6–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; Ambient Air Quality Surveillance

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 renewal Information Collection Request (ICR) to the Office of Management and Budget (OMB): Ambient Air Quality Surveillance, OMB Number (2060–0084), EPA ICR # 0940.16 expires September 30, 2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed

information collections as described below.

DATES: Comments must be submitted on or before May 6, 2002.

ADDRESSES: Office of Air Quality Planning and Standards; Emissions, Monitoring, and Analysis Division (C339–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: David Lutz, Emissions, Monitoring, and Analysis Division (C339–02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5476, FAX (919) 541–1903.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those State and local air pollution control agencies which collect and report ambient air quality data for the criteria pollutants to EPA.

Title: Ambient Air Quality Surveillance, OMB Number (2060–0084), EPA ICR # 0940.16 expires September 30, 2002.

Abstract: The general authority for the collection of ambient air quality data is contained in sections 110 and 319 of the Clean Air Act (42 U.S.C. 1857). Section 110 makes it clear that State generated air quality data are central to the air quality management process through a system of State implementation plans (SIP's). Section 319 was added via the 1977 Amendments to the Act and spells out the key elements of an acceptable monitoring and reporting scheme. To a large extent, the requirements of section 319 had already been anticipated in the detailed strategy document prepared by EPA's Standing Air Monitoring Work Group (SAMWG). The regulatory provisions to implement these recommendations were developed through close consultation with the State and local agency representatives serving on SAMWG and through reviews by ad-hoc panels from the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials. These modifications to the previous regulations were issued as final rules on May 10, 1979 (44 FR 27558) and are contained in 40 CFR part 58.

Major amendments which affect the hourly burdens, were made in 1983 for lead, 1987 for PM_{10}, 1993 for the enhanced monitoring for ozone, and 1997 for $PM_{2.5}$. The specific required activities for the burden include establishing and operating ambient air monitors and samplers, conducting sample analyses for all pollutants for which a national ambient air quality standard (NAAQS) has been established, preparing, editing, and quality assuring the data, and submitting the ambient air quality data and quality assurance data to EPA.

Some of the major uses of the data are for judging attainment of the NAAQS, evaluating progress in achieving/maintaining the NAAQS or State/local standards, developing or revising SIP's, evaluating control strategies, developing or revising national control policies, providing data for model development and validation, supporting enforcement actions, documenting episodes and initiating episode controls, documenting population exposure, and providing information to the public and other interested parties. 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.

In the previous ICR approval, OMB requested that EPA update the 1993 ''Guidance for Estimating Ambient Air Monitoring Costs for Criteria Pollutants and Selected Air Toxic Pollutants.'' The EPA agrees and is proceeding with this update.

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 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: It is estimated that there are presently 136 State and local agencies which are currently required to submit the ambient air quality data and quality assurance data to EPA on a quarterly basis. The current annual burden for the collection and reporting of ambient air quality data has been estimated on the existing ICR to be (2,404,606) hours, which would average out to be approximately (17,681) hours per respondent. As a part of this ICR renewal, an evaluation will be made of the labor burden associated with this activity.

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: February 22, 2002.

J. David Mobley,

Acting Director, Emissions, Monitoring, and Analysis Division.

[FR Doc. 02–5453 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–3]

Agency Information Collection Activities: Collection; See List of ICRs To Be Submitted in Section A

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 two current Information Collection Requests (ICR) have been forwarded to the Office of Management and Budget (OMB) for renewal: Best Management Practices (''BMP''), Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category (EPA ICR No. 1829.02), expiring on March 31, 2002, and Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category (EPA ICR No. 1877.02), expiring on February 28, 2002. OMB approved the current BMP information collection on March 2, 1999, and approved the current Milestones Plan collection on January 13, 1999. The ICRs describe the nature of the information collection and their expected burden and cost.

DATES: Comments must be submitted on or before April 8, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1829.02 and OMB Control No. 2040–0207, or EPA ICR No. 1877.02 and OMB Control No. 2040–0202 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, **FOR FURTHER INFORMATION:** For a copy of the ICR contact Susan Auby at EPA at (202) 260–4901, by e-mail at *auby.susan@epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1829.02 and 1877.02. For technical information about the collections, contact Mr. Ahmar Siddiqui by telephone at (202) 260–1826, or by e-mail at *siddiqui.ahmar@epa.gov.*

SUPPLEMENTARY INFORMATION: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is submitting the following two ICRs to the Office of Management and Budget (OMB) for renewal:

(1) Best Management Practices, Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207;

(2) Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1877.02, OMB Control No. 2040–0202.

(1) *Title:* Best Management Practices, Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207, Expires on 03/31/2002.

Abstract: EPA has established Best Management Practices (BMPs) provisions as part of final amendments to 40 CFR part 430, the Pulp, Paper and Paperboard Point Source Category promulgated on April 15, 1998 (*see* 63 FR 18504). These provisions, promulgated under the authorities of sections 304, 307, 308, 402, and 501 of the Clean Water Act, require that owners or operators of bleached papergrade kraft and soda mills and papergrade sulfite mills implement site-specific BMPs to prevent or otherwise contain leaks and spills of spent pulping liquors, soap and turpentine and to control intentional diversions of these materials (*see* 40 CFR 430.03).

EPA has determined that these BMPs are necessary because the materials controlled by these practices, if spilled or otherwise lost, can interfere with wastewater treatment operations and lead to increased discharges of toxic, nonconventional, and conventional pollutants. For further discussion of the need for BMPs, *see* section VI.B.7 of the preamble to the amendments to 40 CFR part 430 (*see* 63 FR 18561–18566).

The BMP program includes information collection requirements that are intended to help accomplish the overall purposes of the program by, for example, training personnel, *see* 40 CFR 430.03(c)(4), analyzing spills that occur, *see* 40 CFR 430.03(c)(5), identifying equipment items that might need to be upgraded or repaired, *see* 40 CFR 430.03(c)(2), and performing monitoring—including the operation of monitoring systems—to detect leaks, spills and intentional diversion and generally to evaluate the effectiveness of the BMPs, *see* 40 CFR 430.03(c)(3), (c)(10), (h), and (i). The regulations also require mills to develop and, when appropriate, amend plans specifying how the mills will implement the specified BMPs and to certify to the permitting or pretreatment authority that they have done so in accordance with good engineering practices and the requirements of the regulation (*see* 40 CFR 430.03(d), (e) and (f)). The purpose of those provisions is, respectively, to facilitate the implementation of BMPs on a site-specific basis and to help the regulating authorities to ensure compliance without requiring the submission of actual BMP plans. Finally, the recordkeeping provisions are intended to facilitate training, to signal the need for different or more vigorously implemented BMPs, and to facilitate compliance assessment (*see* 40 CFR 430.03(g)).

EPA has structured the regulation to provide maximum flexibility to the regulated community and to minimize administrative burdens on National Pollutant Discharge Elimination System (NPDES) permit and pretreatment control authorities that regulate bleached papergrade kraft and soda and papergrade sulfite mills. Although EPA does not anticipate that it will be necessary for mills to submit any confidential business information (CBI) or trade secrets as part of this ICR, all data claimed as CBI will be handled by EPA pursuant to 40 CFR part 2.

Comments to First Notice: EPA received no comments to the first notice of submission of this ICR to OMB.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 468 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: Entities potentially affected by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard; those operations that chemically pulp wood fiber using papergrade sulfite methods to produce pulp and/or paper; and State and local governments which regulate areas where such operations are located.

Estimated Number of Respondents: 130.

Frequency of response: Periodic.

Estimated Total Annual Hour Burden: 60,909.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

The recurring burden for a mill to periodically review and amend the BMP plan, prepare spill reports, perform additional monitoring, hold refresher training, and conduct recordkeeping and reporting is estimated to be 617, 641 and 665 hours annually per mill for simple, moderately complex, and complex mills, respectively. The total recurring cost for mills associated with the BMP requirements is estimated at $1,807,670.

The recurring burden to State NPDES and pretreatment control authorities is estimated at ten hours per year per facility for reviewing periodic (*e.g.,* annual or semi-annual) monitoring reports and conducting compliance reviews. The total recurring costs for State NPDES and pretreatment control authorities is estimated at $32,100.

(2) *Title:* Milestones Plan, Effluent Limitations Guidelines and Standards, Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category, EPA ICR No. 1877.02, OMB Control No. 2040–0202, Expires on 02/28/2002.

Abstract: EPA established the Milestones Plan requirements as an element of the Voluntary Advanced

Technology Incentives Program (VATIP) codified at 40 CFR 430.24(b). The Milestone Plan requirements were promulgated as amendments to VATIP on July 7, 1999 (*see* 64 FR 36582) and are codified at 40 CFR 430.24(b)(3). The Milestones Plan provisions, promulgated under the authorities of sections 301, 304, 306, 308, 402, and 501 of the Clean Water Act, require owners or operators of bleached papergrade kraft and soda mills enrolled in the VATIP to submit information to describe each envisioned new technology component or process modification the mill intends to implement in order to achieve the VATIP Best Available Technology (BAT) limits, including a master schedule showing the sequence of implementing new technologies and process modifications and identifying critical-path relationships within the sequence.

EPA has determined that the Milestones Plan will provide valuable benchmarks for reasonable inquiries into progress being made by participating mills toward achieving interim and ultimate tier limits of the VATIP and will offer the necessary flexibility to the mill and the permit writer so that the milestones selected to be incorporated into the mill's NPDES permit reflect the unique situation of the mill.

The Milestones Plan must include the following information for each new individual technology or process modification: (1) A schedule of anticipated dates for associated construction, installation, and/or process changes; (2) the anticipated dates of completion for those steps; (3) the anticipated date that the Advanced Technology process or individual component will be fully operational; (4) and the anticipated reductions in effluent quantity and improvements in effluent quality as measured at the bleach plant (for bleach plant, pulping area and evaporator condensates flow and BAT parameters other than Adsorbable Organic Halides (AOX)) and the end of the pipe (for AOX) (*see* 40 CFR 430.24(c)(3)). For those technologies or process modifications that are not commercially available or demonstrated on a full-scale basis at the time of Plan development, the Plan must include a schedule for initiating and completing research (if necessary), process development, and mill trials (*see* 40 CFR 430.24(c)(3)(i)). The Plan must also include contingency plans in the event that any of the technologies or processes specified in the Milestones Plan need to be adjusted or alternative approaches developed to ensure that the ultimate tier limits are achieved by the deadlines specified in 40 CFR 430.24(b)(4)(ii) (*see* 40 CFR 430.24(c)(4)).

EPA has structured the Plan to provide maximum flexibility to the regulated community and to minimize administrative burdens on NPDES permit authorities that regulate bleached papergrade kraft and soda mills. All data claimed as CBI or trade secrets submitted by the mills as part of this ICR will be handled by EPA pursuant to 40 CFR part 2. Although EPA does not anticipate that it will be necessary for mills to submit any CBI or trade secrets as part of this ICR, if a mill claims all or part of the milestones plan as CBI, the mill must prepare and submit to the NPDES permitting authority a summary of the plan for public release (*see* 40 CFR 430.24(c)).

Comments to First Notice: EPA received no comments to the first notice of submission of this ICR to OMB.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 120 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: Entities potentially affected by this action are those existing, direct discharging mills with operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard and that choose to participate in the Voluntary Advanced Technology Incentives Program established under 40 CFR 430.24(b).

Estimated Number of Respondents: 29 mills.

Frequency of response: The burden for a mill (which chooses to participate voluntarily in the incentives program) to prepare and submit a Milestones Plan is estimated to average approximately 120 hours per respondent. This is a one-time burden. State NPDES permitting authorities burden to review the Milestones Plans is estimated at 16 hours per respondent as an initial burden with an average recurring annual review burden of 6 hours per respondent. There is no recurring burden for mill respondents associated with this information collection.

Estimated Total Annual Hour Burden: 1,418 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Dated: February 26, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–5449 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Operator Certification Guidelines and Operator Certification Expense Reimbursement Grants Program

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Operator Certification Guidelines and Operator Certification Expense Reimbursement Grants Program, OMB Control Number 2040–0236, expiration date February 28, 2002. 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 April 8, 2002.

ADDRESSES: Send comments, referencing EPA ICR #1955.02, and OMB Control No. 2040–0236 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue NW., Washington, DC, 20460; 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@epa.gov,* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR #1955.02. For technical questions about the ICR, contact Jenny Jacobs, Drinking Water Protection Division (Mailcode 4606M), Office of Ground Water and Drinking Water, U.S. EPA, 1200 Pennsylvania Avenue NW., Washington, DC, 20460. Ms. Jacobs may be contacted by phone at (202) 564–3836 or by E-mail at *jacobs.jenny@epa.gov.*

SUPPLEMENTARY INFORMATION: Operator Certification Guidelines and Operator Certification Expense Reimbursement Grants Program (OMB Control Number 2040–0236; EPA ICR Number 1955.02) expiring 2/28/02. This is an extension of a currently approved collection.

Abstract: This information collection is to determine if states are meeting the requirements of EPA's operator certification guidelines, which were published in the **Federal Register** on February 5, 1999 (64 FR 5916). Section 1419(a) of the Safe Drinking Water Act (SDWA) Amendments of 1996 requires EPA to develop operator certification guidelines for state operator certification programs and to publish final guidelines by February 6, 1999. Pursuant to section 1419(b) of the SDWA, beginning two years after the date on which EPA publishes operator certification guidelines (February 5, 2001), EPA shall withhold 20 percent of the funds a state is otherwise entitled to receive under SDWA section 1452 unless a state has adopted and is implementing a program that meets the requirements of EPA's operator certification guidelines. EPA is required under SDWA section 1419 to make an annual determination on whether to withhold 20 percent of a state's Drinking Water State Revolving Fund (DWSRF) allotment. In order to make these decisions, EPA must collect information from the states as required by EPA's guidelines. States, in turn, must collect information from water systems as required by their respective programs.

SDWA section 1419(d) requires EPA to reimburse (through grants to states) the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating community and nontransient noncommunity public water systems serving 3,300 persons or fewer that are required to undergo training pursuant to EPA's operator certification guidelines. Prior to awarding grants to states, EPA will need to collect information from states to ensure that the state has a plan for distributing the funds to small system operators. 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. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 2/28/01 (66 FR 12776); 1 comment was received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 4 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: Owners/operator of public water systems, State Environmental Water Quality Agencies, State Departments of Health.

Estimated Number of Respondents: 68,396.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 302,425 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $898,000.

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. 1955.02 and OMB Control No. 2040–0236 in any correspondence.

Dated: February 26, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–5450 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7154–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Clean Watersheds Needs Survey, EPA ICR No. 0318.09, OMB Control No. 2040–0050, Expiration Date February 28, 2002

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 EPA ICR No. 0318.09, OMB Control No. 2040–0050, expiration date February 28, 2002. 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 April 8, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 0318.09 and OMB Control No. 2040–0050, 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@epa.gov* or download off the internet or download off of the Internet at *http://www.epa.gov/icr* and refer to EPA ICR 0318.09. For technical questions about the ICR please call Sandra Perrin at (202) 564–0668 in the Office of Water.

SUPPLEMENTARY INFORMATION:

Title: Clean Watersheds Needs Survey (OMB Control No. 2040–0050; EPA ICR No. 0318.09; expiring 2/28/2002. This is a renewal of a currently approved collection.

Abstract: The Clean Watersheds Needs Survey is required by sections 205(a) and 516(b)(1) of the Clean Water Act. It is a periodic inventory of existing and proposed publicly owned wastewater treatment works (POTWs) and other water pollution control

facilities in the United States, as well as an estimate of how many POTWs are needed to be built. The Clean Watersheds Needs Survey is a voluntary joint effort of EPA and the States. The Survey records cost and technical data associated with all POTWs and other water pollution control facilities, existing and proposed, in the United States. The States provide this information to EPA. No confidential information is used, nor is sensitive information protected from release under the Public Information Act, used. EPA achieves national consistency in the final results through the application of uniform guidelines and validation techniques. 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. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on July 27, 2001; no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 2 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: The respondents are the States, District of Columbia, Puerto Rico, Virgin Islands and Pacific Territories.

Estimated Number of Respondents: 56.

Frequency of Response: every 4 years.

Estimated Total Annual Hour Burden: 7,672 hours.

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.0318.09 and OMB Control No. 2040–0050 in any correspondence.

Dated: February 26, 2002.

Oscar Morales, Director,

Collection Strategies Division.

[FR Doc. 02–5451 Filed 3–6–02; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Advisory Committee was established by P.L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Monday, March 18, 2002, at 9:30 AM to 12:45 PM. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: Agenda items include the introduction of this year's action plan, introduction of the 2002 Advisory Committee Members, and a legislative update.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to March 10, 2002, Nichole Westin, Room 1257, 811 Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3542 or TDD (202) 565–3377.

FURTHER INFORMATION: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3542.

Peter Saba,

General Counsel.

[FR Doc. 02–5384 Filed 3–6–02; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

March 1, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments May 6, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Herman, Federal Communications Commission, 445 12th Street, SW., Room 1-C804, Washington, DC 20554 or via Internet to *jbherman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith Herman at 202–418–0214 or via Internet at *jbherman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0835.

Title: Ship Inpsection Certificates.

Form Nos: FCC 806, 824, 827, and 829.

Type of Review: Extension of a currently approved collection.

Respondents: Business or Other for Profit.

Number of Respondents: 1,210.

Estimated Time Per Response: 5 minutes (.084 hours).

Total Annual Burden: 102 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annual reporting requirement.

Needs and Uses: The Communications Act requires that the Commission must inspect the radio installation of large cargo ships and certain passenger ships at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act. Additionally, the communications Act requires the inspection of small passenger ships at least once every five years. The Safety Convention (which the United States is signatory) also requires an annual inspection, however, permits an Administration to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it. There, the United States can have other entities conduct the radio inspection of vessels for compliance with the Safety Convention. The Commission adopted Rules that FCC-licensed technicians provide a summary of the results of the inspection in the ship's log and provide the vessel with a ship inspection safety certificate.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–5398 Filed 3–6–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, March 12, 2002 at 10:00 A.M.

PLACE: 999 E. Street, NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

Items To Be Discussed

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g; 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, March 14, 2002 at 10:00 A.M.

PLACE: 999 E. Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

Items To Be Discussed

Correction and Approval of Minutes.

Final Rules and explanation and Justification for Independent Expenditure Reporting.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–5662 Filed 3–5–02; 2:54 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Request for Public Comments Regarding Extensions to Existing OMB Clearances

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Federal Maritime Commission (FMC or Commission) is preparing submissions to the Office of Management and Budget (OMB) for continued approval of the following information collections (extensions with no changes) under the provisions of the Paperwork Reduction Act of 1995, as amended: OMB No. 3072–0012 (Security for the Protection of the Public and Related Application Form FMC–131, Application for a Certificate of Financial Responsibility); OMB No. 3072–0018 (Licensing, Financial Responsibility Requirements and General Duties for Ocean Transportation Intermediaries and FMC Form 18); OMB No. 3072–0045 (Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984); OMB No. 3072–0060 (Controlled Carriers); OMB No. 3072–0061 (Marine Terminal Operator Schedules and Related Form FMC–1); OMB No. 3072–0064 (Carrier Automated Tariff Systems and Related Form FMC–1); and OMB No. 3072–0065 (Service Contracts). Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval and will become a matter of public record.

DATES: Comments must be submitted on or before May 6, 2002.

ADDRESSES: Send comments to: Austin L. Schmitt, Deputy Executive Director, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (Telephone: (202) 523–5800), *AustinS@fmc.gov.*

FOR FURTHER INFORMATION CONTACT: Send requests for copies of the current OMB clearances to: George D. Bowers, Director, Office of Information Resources Management, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (Telephone: (202) 523–5835, *George@fmc.gov,* or visit our Website at *http://www.fmc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3072–0012 (Expires May 31, 2002).

Abstract: Sections 2 and 3 of Public Law 89–777 (46 U.S.C. app. 817(d) and (e)) require owners or charterers of passenger vessels with 50 or more passenger berths or stateroom accommodations and embarking passengers at United States ports and territories to establish their financial responsibility to meet liability incurred for death or injury to passengers and other persons, and to indemnify passengers in the event of nonperformance of transportation. The Commission's Rules at 46 CFR part 540 implement Public Law 89–777 and specify financial responsibility coverage requirements for such owners and charterers.

Needs and Uses: The information will be used by the Commission's staff to ensure that passenger vessel owners and charterers have evidenced financial responsibility to indemnify passengers and others in the event of nonperformance or casualty.

Frequency: This information is collected when applicants apply for a certificate or when existing certificants change any information in their application forms.

Type of Respondents: The types of respondents are owners, charterers and operators of passenger vessels with 50 or more passenger berths that embark passengers from U.S. ports or territories.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 60.

Estimated Time Per Response: The time per response ranges from .5 to 6 hours for complying with the regulations and 8 hours for completing Application Form FMC–131. The total average time for both requirements for each respondent is 34.66 person-hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 2,080 person-hours.

OMB Approval Number: 3072–0018 (Expires August 31, 2002).

Abstract: Section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718, provides that no person in the United States may act as an ocean transportation intermediary (OTI) unless

that person holds a license issued by the Commission. The Commission shall issue an OTI license to any person that the Commission determines to be qualified by experience and character to act as an OTI. Further, no person may act as an OTI unless that person furnishes a bond, proof of insurance or other surety in a form and amount determined by the Commission to insure financial responsibility. The Commission has implemented the provisions of section 19 in regulations contained in 46 CFR part 515, including financial responsibility forms FMC–48, FMC–67, FMC–68, and FMC–69, and its related license application form, FMC–18.

Needs and Uses: The Commission uses information obtained from Form FMC–18, as well as information contained in the Commission's files and letters of reference, to determine whether an applicant meets the requirements for a license. If the collection of information were not conducted, there would be no basis upon which the Commission could determine if applicants are qualified for licensing.

Frequency: This information is collected when applicants apply for a license or when existing licensees change certain information in their application forms.

Type of Respondents: Persons desiring to obtain a license to act as an OTI.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 3,450.

Estimated Time Per Response: The time per response for completing Application Form FMC–18 averages 1.5 hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 5,175 person-hours.

OMB Approval Number: 3072–0045 (Expires August 31, 2002).

Abstract: The Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.*, requires certain classes of agreements between and among ocean common carriers and marine terminal operators to be filed with the Commission, specifies the mandatory content of those agreements, and defines the Commission's authorities and responsibilities in overseeing those agreements. 46 CFR 535 establishes the form and manner for filing agreements and for the underlying commercial data necessary to evaluate agreements.

Needs and Uses: Under its pre-effectiveness review process, the Commission reviews agreement filings to determine statutory and regulatory compliance, as well as to assess any anti-competitive impact the agreement may have. After agreements become effective, the Commission continues to monitor agreement activities to ensure continued statutory and regulatory compliance. To accomplish this, the Commission continuously gathers, reviews, and interprets commercial data regarding the impact of agreements on competition, prices, and service in the U.S. foreign trades.

Frequency: The Commission has no control over how frequently agreements are entered into; this is solely a matter between the negotiating parties. When parties do reach an agreement that falls within the jurisdiction of the Commission, that agreement must be filed with the Commission. Ongoing surveillance of agreement activities is conducted through the review of minutes and quarterly monitoring reports filed by certain types of agreements the Commission has identified as having greater potential effects on competition.

Type of Respondents: Parties that enter into agreements subject to the Commission's oversight are ocean common carriers and marine terminal operators operating in the U.S. foreign trades.

Number of Annual Respondents: Over the last five years the Commission has averaged 362 agreement filings a year from an estimated potential universe of 682 regulated entities. Starting in 1996, certain agreements were required to file quarterly monitoring reports under these regulations. The number of annual respondents under this program will vary according to the number of agreements subject to the reporting obligation. Last year, agreements subject to the monitoring report requirements filed 221 reports.

Estimated Time Per Response: It is estimated that the time for preparing and filing an agreement ranges anywhere from as little as three person-hours to as much as 150 person-hours. The latest estimate of the average burden per respondent was 70 person-hours. Time required for preparing monitoring reports varies according to the complexity of the filing obligation. Class C agreements have the least burden, and it was estimated to be about 20 person-hours. Class A/B agreements require more detailed data and hence a greater burden. It was estimated that Class B monitoring reports require about 130 person-hours, and Class A reports about 170 person-hours. The latest estimated time per respondent under the record-keeping obligations of the regulation was five person-hours.

Total Annual Burden: The latest reported annual burden on respondents was estimated at 109,750 person-hours: 105,000 person-hours as the filing burden, and 4,750 person-hours as the record-keeping burden.

OMB Approval Number: 3072–0060 (Expires August 31, 2002).

Abstract: Section 9 of the Shipping Act of 1984 requires that the Federal Maritime Commission monitor the practices of controlled carriers to ensure that they do not maintain rates or charges in their tariffs and service contracts that are below a level that is just and reasonable; nor establish, maintain or enforce unjust or unreasonable classifications, rules or regulations in those tariffs or service contracts which result or are likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. 46 CFR part 565 establishes the method by which the Commission determines whether a particular ocean common carrier is a controlled carrier subject to section 9 of the Shipping Act of 1984. When a government acquires a controlling interest in an ocean common carrier, or when a controlled carrier newly enters a United States trade, the Commission's rules require that such a carrier notify the Commission of these events.

Needs and Uses: The Commission uses these notifications in order to effectively discharge its statutory duty to determine whether a particular ocean common carrier is a controlled carrier and therefore subject to the requirements of section 9 of the Shipping Act of 1984.

Frequency: The submission of notifications from controlled carriers are not assigned to a specific time frame by the Commission; they are submitted as circumstances warrant. The Commission only requires notification when a majority portion of an ocean common carrier becomes owned or controlled by a government, or when a controlled carrier newly begins operation in any United States trade.

Type of Respondents: Controlled carriers are ocean common carriers which are owned or controlled by a government.

Number of Annual Respondents: Although it is estimated that only 5 of the 14 currently-classified controlled carriers may respond in any given year, because this is a rule of general applicability, the Commission considers the number of annual respondents to be 10.

Estimated Time Per Response: The estimated time for compliance is 7 person-hours per year.

Total Annual Burden: The Commission estimates the person-hour burden required to make such

notifications at 70 person-hours per year.

OMB Approval Number: 3072–0061 (Expires August 31, 2002).

Abstract: Section 8(f) of the Shipping Act of 1984, 46 U.S.C. app. 1707(f), provides that a marine terminal operator (MTO) may make available to the public a schedule of its rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal, subject to section 10(d)(1), 46 U.S.C. app. 1709(d)(1), of the Act. The Commission's rules governing MTO schedules are set forth at 46 CFR part 525.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to determine the organization name, organization number, home office address, name and telephone number of the firm's representatives and the location of MTO schedules of rates, regulations and practices, and publisher, should the MTOs determine to make their schedules available to the public, as set forth in section 8(f) of the Shipping Act.

Frequency: This information is collected prior to an MTO's commencement of its marine terminal operations.

Type of Respondents: Persons operating as MTOs.

Number of Annual Respondents: The Commission estimates the respondent universe at 186.

Estimated Time Per Response: The Commission estimates an average of five hours per schedule.

Total Annual Burden: The Commission estimates the total person-hour burden at 930.

OMB Approval Number: 3072–0064 (Expires August 31, 2002).

Abstract: Except with respect to certain specified commodities, section 8(a) of the Shipping Act of 1984, 46 U.S.C. app. 1707(a), requires that each common carrier and conference shall keep open to public inspection, in an automated tariff system, tariffs showing its rates, charges, classifications, rules, and practices between all ports and points on its own route and on any through transportation route that has been established. In addition, individual carriers or agreements among carriers are required to make available in tariff format certain enumerated essential terms of their service contracts. 46 U.S.C. app. 1707(c). The Commission is responsible for reviewing the accessibility and accuracy of automated tariff systems, in accordance with its regulations set forth at 46 CFR part 520.

Needs and Uses: The Commission uses information obtained from Form FMC–1 to ascertain the location of common carrier and conference tariff publications.

Frequency: This information is collected when common carriers or conferences publish tariffs.

Type of Respondents: Persons desiring to operate as common carriers or conferences.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 3000.

Estimated Time Per Response: The time per response averages five person-hours per respondent for Form FMC 1 and tariff publication matters.

Total Annual Burden: The Commission estimates the total person-hour burden at 313,400 person-hours.

OMB Approval Number: 3072–0065 (Expires August 31, 2002).

Abstract: The Shipping Act of 1984, 46 U.S.C. app. 1707, requires service contracts, except those dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper or paper waste, and their related amendments and notices to be filed confidentially with the Commission.

Needs and Uses: The Commission monitors service contract filings for acts prohibited by the Shipping Act of 1984.

Frequency: The Commission has no control over how frequently service contracts are entered into; this is solely a matter between the negotiating parties. When parties enter into a service contract it must be filed with the Commission.

Types of Respondents: Parties that enter into service contracts are ocean common carriers and agreements among ocean common carriers on the one hand, and shippers or shipper's associations on the other.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 155.

Estimated Time Per Response: The time per response ranges from one to eight hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 303,953.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–5358 Filed 3–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 008005–008.

Title: New York Terminal Conference Agreement.

Parties: American Stevedoring Inc., Port Newark Container Terminal L.L.C., Universal Maritime Service Corp.

Synopsis: The amendment restates the agreement and updates the list of the current members.

Agreement No.: 011493–003.

Title: C&S Shipping Joint Service Agreement.

Parties: LauritzenCool AB, Seatrade Group N.V.

Synopsis: The proposed agreement modification would authorize the parties to operate as a joint service in the trade from Australian ports to U.S. ports.

Agreement No.: 011665–003.

Title: Specialized Reefer Shipping Association.

Parties: LauritzenCool AB, NYK Star Reefers Limited, Seatrade Group N.V.

Synopsis: Nippon Yusen Kaisha is replaced by NYK Star Reefers Limited as member and LauritzenCool's address is updated.

Agreement No.: 011791.

Title: COSCON/KL/YMUK/Hanjin/Senator Asia/U.S. Pacific Coast Slot Exchange Agreement.

Parties: COSCO Container Lines Company, Limited, Kawasaki Kisen Kaisha, Ltd., Yangming (UK), Ltd., Hanjin Shipping Co., Ltd., Senator Lines GmbH.

Synopsis: The proposed agreement authorizes the parties to charter container space to and from each other and rationalize port calls and sailings in the trade between the U.S. Pacific Coast and Japan, Korea, China, Taiwan, Singapore, Malaysia, the Philippines, Vietnam, Thailand, India, Sri Lanka, Pakistan, and Bangladesh. This agreement will replace several existing vessel-sharing agreements between and among the parties.

By Order of the Federal Maritime Commission.

Dated: March 1, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–5360 Filed 3–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Sunny International Logistics Inc. dba Sunny Line 812 South Stoneman Ave., #A Alhambra, CA 91801 Officers: Yan Yun Sang, Vice President (Qualifying Individual) Sunny Pang, President.

Richfield Logistics, Inc. 939 Dodsworth Avenue Covina, CA 91724 Officers: Lyndon L.S. Fan, Vice President (Qualifying Individual) Daqiang Lin, President.

Trans World Freight Services, Inc. dba Trans Young Shipping Co. 165–55 148th Avenue Jamaica, NY 11434 Officers: Dal Pyo Lee, President (Qualifying Individual) Yeau Myung Yoon, Secretary.

Pacific-Net Logistics Inc. 1490 W. Walnut Parkway Compton, CA 90220 Officers: Kin Lau, Chief Operation Officer (Qualifying Individual) Michael Tsang, C.E.O.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

WK Trading & Cargo, Inc. 4055 NW 79th Avenue Miami, FL 33166 Officers: Julia Batista, Operation/Sales (Qualifying Individual) Walter Lavigne, President.

El Capitan International Inc. 2470 N.W. 102 Place, #104 Miami, FL 33172 Officer: Teresita Rodriguez-Adan, V.P. Operations (Qualifying Individual).

Interfreight Harmonized Logistics Inc. 221 Sheridan Blvd. Inwood, NY 11096 Officers: Ian C. Wilcken, Manager (Qualifying Individual) Thomas Staub, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

American Royal Shipping Line 14823 Elmont Drive Houston, TX 77095 M. Bashir Sarakbi Sole Proprietor.

Prince International Trading, LLC 9720 NW 114 Way, Suite 100 Miami, FL 33178 Officers: Mirgani O. Elgaali, President (Qualifying Individual) Nada M. Bushara, Vice President.

EP International Shipping 4570 Eucalyptus Avenue, Unit E Chino, CA 91710 Elliott C. Penalosa Sole Proprietor.

Dated: March 1, 2002.

Theodore A. Zook,

Assistant Secretary.

[FR Doc. 02–5359 Filed 3–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for public comment on draft Fiscal Year 2002 Program Guidelines/Application Solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the draft Fiscal Year 2002 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program to inform the public. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. This Solicitation merges all public sector grants into one category and allows the return of FMCS competitive grant funds to be awarded on a non-competitive basis.

DATES: Comments must be submitted with 30 days from the date this publication in the **Federal Register**.

ADDRESSES: Send Comments to: Jane A. Lorber, Director, Labor Management Grants Program, FMCS 2100 K Street, NW., Washington, DC 20427

FOR FURTHER INFORMATION CONTACT: Jane A. Lorber, 202–606–8181

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY2002

A. Introduction

The following is the draft solicitation for the Fiscal Year (FY) 2002 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978, which was initially implemented in FY81. The Act authorizes FMCS to provide assistance in the establishment and operation of company/plant, area, public sector, and industry-wide labor-management committees which:

(A) have been organized jointly by employers and labor organizations representing employees in that company/plant, area, government agency, or industry; and

(B) are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a company/plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the company/plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication

between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the fore mentioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (company), area, industry, or public sector levels.

A plant or company committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon a particular city, county, contiguous multicounty, or statewide jurisdiction. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 2002, competition will be open to company/plant, area, private industry, and public sector committees. Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.)

Required Program Elements

1. *Problem Statement*—The application should have numbered pages and discuss in detail what specific problem(s) face the company/plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the company/plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee will accomplish during the life of the grant. Applications that promise to provide objectives *after* a grant is awarded will receive little or no credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in *specific* and *measurable* terms. Applicants should focus on the outcome, impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts of the grantee, as well as the FMCS grants program.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) a discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) a listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or company/plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as résumés for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet (we require meetings at least every other month) as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees, a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 2002, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applicants must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under Section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) the submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) from existing committees, a copy of the existing staffing levels, a copy of the by-laws (if any), a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) a detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) an assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) an assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) the extends to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and *measurable* goals and objectives have been developed to address the problems/needs of the applicant.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the applications's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third-party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities that can document that a major purpose or function of their organization is the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third-parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are not eligible to re-apply. The only exception will be made for grantees that seek funds on behalf of an entirely different committee whose efforts are totally outside of the scope of the original grant.

D. Allocations

The FY2002 appropriation for this program anticipated to be $1.5 million, of which at least $1,000,000 available competitively for new applicants. Specific funding levels will not be established for each type of committee. The review process will be conducted in such a manner that at least two awards will be made in each category (company/plant, industry, public sector, and area), provided that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be considered according to merit without regard to category.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its non-reserved appropriation to be awarded on a non-competitive basis. These funds will be used only to support applications that have been solicited by the Director of the Service and are not subject to the dollar range noted in Section E. All funds returned to FMCS from a competitive grant award may be awarded on a non-competitive basis in accordance with budgetary requirements.

FMCS reserves the right to retain up to five percent of the FY2002 appropriation to contract from program support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants

Awards to expand existing or establish new labor-management committees will be for a period of up to 18 months. If successful progress is made during this initial budget period and all grant funds are not obligated within the specified period, these grants may be extended for up to six months. No continuation awards will be made.

The dollar range of awards is as follows:

—Up to $65,000 over a period of up to 18 months for company/plant committees or single department public sector applicants;

—Up to $125,000 per 18-month period for area, industry, and multi-department public sector committee applicants.

Applicants are reminded that these figures *represent maximum Federal funds only.* If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources. Applicants are also strongly encouraged to consult with their local or regional FMCS field office to determine what kinds of training may be available at no cost before budgeting for such training in their applications. A list of our field leadership team and their phone numbers is included in the application kit.

F. Cash Match Requirements and Cost Allowability

All applicants must provide at least 10 percent of the total allowable project costs in cash. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as ''in-kind'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for committee purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in committee training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* full-time staff as an expense or match contribution. For a

more complete discussion of cost allowability, applicants are encouraged to consult the FY2002 FMCS Financial and Administrative Grants Mutual, which will be included in the application kit.

G. Application Submission and Review Process

The Application for Federal Assistance (SF–424) form must be signed by *both* a labor and management representative. In lieu of signing the SF–424 form representatives may type their name, title, and organization on plain bond paper with a signature line signed and dated, in accordance with block 18 of the SF–424 form. Applications must be postmarked or electronically transmitted no later than June 28, 2002. No applications or supplementary materials will be accepted after the deadline. It is the responsibility of the applicant to ensure that the U.S. Postal Service or other carrier correctly postmarks the application. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW, Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored preliminarily by one or more Grant Review Boards. The Board(s) will recommend selected applications for rejection or further funding consideration. The Director, Labor-Management Grants Program, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process. Please be sure that person is available between June and September of 2002.

All FY2002 grant applicants will be notified of results and all grant awards will be made before October 1, 2002. Applications submitted after the June 28 deadline date or fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grants Program.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. Please consult the FMCS Web site (*www.fmcs.gov*) to download forms and information.

These kits and additional information or clarification can be obtained free of charge by contacting the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427; or by calling 202–608–8181.

George W. Buckingham,

Deputy Director, Federal Mediation and Conciliation Service.

[FR Doc. 02–5434 Filed 3–6–02; 8:45 am]

BILLING CODE 6737–01–M

FEDERAL RESERVE SYSTEM

Notice of Meeting of Consumer Advisory Council; Correction

This notice corrects a notice (FR Doc. 02-4490) published on page 8802 of the issue for February 26, 2002.

Under the Consumer Advisory Council, the entry is revised to read as follows:

The Consumer Advisory Council will meet on Thursday, March 14, 2002. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, DC, in Dining Room E on the Terrace level of the Martin Building. Anyone planning to attend the meeting should, for security purposes, register no later than Tuesday, March 12, by completing this form on line: http://www.federalreserve.gov/ConsumerRegistration.cfm. In addition, attendees must present photo identification to enter the building.

The meeting will begin at 9:00 a.m. and is expected to conclude at 1:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the various consumer financial services laws and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Home Mortgage Disclosure Act - Discussion of issues related to recent amendments to Regulation C, which implements the Home Mortgage Disclosure Act.

Equal Credit Opportunity Act - Discussion of issues raised by proposed rules in the review of Regulation B, which implements the Equal Credit Opportunity Act.

Community Reinvestment Act - Discussion of issues identified in connection with the current review of Regulation BB, which implements the Community Reinvestment Act.

Committee Reports - Council committees will report on their work.

Other matters initiated by Council members also may be discussed.

Persons wishing to submit views to the Council on any of the above topics may do so by sending written statements to Ann Bistay, Secretary of the Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Information about this meeting may be obtained from Ms. Bistay, 202-452-6470.

Board of Governors of the Federal Reserve System, March 1, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–5426 Filed 3–6–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Cooperative Agreement with Central State University for the Family and Community Violence Prevention Program

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice.

Authority: This program is authorized under section 1707(e)(1) of the Public Health Service Act (PHS), as amended.

SUMMARY: The purpose of the Family and Community Violence Prevention Program (FCVP) is to address the disproportionate incidence of violence and abusive behavior in low income, at-risk, minority communities by targeting these communities through the mobilization of community partners. The intent of this program is to demonstrate the merit of programs that involve institutions of higher education in partnership with primary and secondary schools, community organizations and community citizens to improve the community's quality of life. In order to have the anticipated impact, interventions conducted through partnerships must be directed to the individual, the family and the community as a whole, and must be designed to impact the academic and personal development of those who are at risk.

ADDRESSES: Send the original and two copies of the complete grant application to: Ms. Karen Campbell, Grants Management Officer, Division of Management Operations, Office of

Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852.

DATES: The grant application must be received by the Office of Minority Health (OMH) Grants Management Officer by 5:00 p.m. EST on May 6, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Campbell may be contacted for technical assistance on budget and business aspects of the application. She can be reached at the address above or by calling (301) 443–8441. For further explanations and answers to questions on programmatic aspects, contact: Ms. Cynthia H. Amis, Director, Division of Program Operations, Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852; or call: Cynthia Amis at (301) 594–0769.

SUPPLEMENTARY INFORMATION:

OMB Catalog of Federal Domestic Assistance: The Catalog of Federal Domestic Assistance Number for this program is 93.910.

Availability of Funds: Approximately $7,150,000 (indirect and direct costs) is expected to be available to fund one award to Central State University (CSU) of Wilberforce, Ohio in FY 2002 for a 12-month budget period. Assistance will be provided only to CSU. No other applications are solicited. Support may be requested for a total project period not to exceed 4 years.

CSU is uniquely qualified to administer this cooperative agreement because it has:

- An established infrastructure to manage a multi-faceted demonstration program, coordinated among widely dispersed and diverse institutions of higher education, which addresses family and community violence.
- In place a management staff with the background and experience to guide, develop and evaluate the FCVP Program; and
- Experience in carrying out a program designed to address the risk factors for youth violence in at-risk, minority communities.

As the single source recipient, CSU:

- Shall commence the FCVP program on August 1, 2002.
- Shall, in FY 2002, award $4,950,000 in continuation funds to the 23 undergraduate institutions currently funded under the FCVP program to support established Family Life Centers (FLCs).
- Shall, in FY 2002, award $900,000 in new awards to three additional undergraduate institutions to support the establishment of model FLCs.
- Will be able to apply for noncompeting continuation awards for an additional three years. After Year 1, funding will be based on:

1. The amount of money available, up to $7.4 million per year; and
2. Success or progress in meeting project objectives.

For the noncompeting continuation awards, CSU must submit continuation applications, written reports, and continue to meet the established program guidelines.

Use of Cooperative Agreement Funds: Budgets of up to $7.15 million total costs in Year 1 and up to $7.4 million for each of the three subsequent years (direct and indirect) may be requested to cover costs of:

- Personnel
- Consultants
- Supplies
- Equipment
- Grant Related Travel

Funds may not be used for:

- Medical Treatment
- Construction
- Building alterations or renovations

Note: All budget requests must be fully justified in terms of the proposed purpose, objectives and activities and include an explanation of how costs were computed for each line item.

Background

Despite an overall decline in crime since 1994, injuries and deaths due to violence and abusive behavior continue to be a widespread problem in the United States, costing the Nation over $200 billion annually. According to the Department of Justice, Bureau of Justice Statistics (BJS), minorities are disproportionately represented among both victims and perpetrators of violent crime. While violent crime rates have declined significantly for almost every demographic group examined, those most vulnerable to violent victimization in the past—males, teens and Blacks for example—continued to be the most vulnerable in 2000. The rates of violent crime victimization for Blacks, 35.3 per 1000, and Hispanics, 28.4 per 1000, are higher than the rate for whites, 27.1. The BJS report *American Indians and Crime* (1999) includes data from the National Victimization Survey which show that in 1996, American Indians accounted for 1.4 percent of all violent victimizations while representing only .9 percent of the U.S. population.

According to the *Healthy People 2000 Final Review* (National Center for Health Statistics, HHS 2001), the United States has the highest rates of lethal childhood violence when compared to other industrialized countries. In 1998, 5,506 young people aged 15 to 24 years were victims of homicide, an average of 15 homicides per day. Among youth aged 10 to 14 years, homicide is the third leading cause of death and among 15 to 19 year olds, it is the second leading cause (*Healthy People 2010 Objectives for Improving Health*, 2nd ed., HHS 2000). About one in every eight people murdered in 2000 was less than 18 years old.

According to *Youth Violence: A Report of the Surgeon General* (HHS 2001), youth violence begins either before puberty, before age 13, or later in adolescence. Those youth who become involved in violence before age 13 usually commit more crimes, exhibiting a pattern of escalating violence through childhood and sometimes through adulthood. The report further states that surveys have found that 30 to 40 percent of male youths and 15 to 30 percent of female youths have committed a serious violent offense by age 17.

Minority youth are victims and perpetrators of violent crime at a disproportionate rate. Homicide is the leading cause of death for African Americans 15 to 24 years of age. Young Black males and females are 11 and 4 times, respectively, more likely to be killed than white youth. Data published by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) show that 52 percent of juvenile murder victims in 1997 were minorities. Also in 1997, minorities accounted for 24 percent of the total juvenile population; however, minority males and females represented 63 and 50 percent, respectively, of the juveniles in residential placement. Further, minority juveniles represented approximately 69 percent of all juveniles in residential placement for violent offenses. Black juveniles had the highest rate of placement for violent offenses at 259 per 1,000. Additionally, the rates for violent offenses among Hispanics (138 per 1,000), American Indians (143 per 1,000) and Asians (59 per 1,000) all exceeded the rate for white juveniles (45 per 1,000) (Sickmund & Wan, 2001; analysis of OJJDP's *Census of Juveniles in Residential Placement 1997 and 1999)*.

Risk factors for violence and aggression are additive and follow a developmental sequence. Risk factors are also interdependent and are affected by a range of life experiences and influences involving family, peers, community, and culture, as well as an individual's personal physical and mental health status (*Youth and Violence, Medicine, Nursing and Public Health: Connecting the Dots to Prevent Violence,* Commission for the Prevention of Youth Violence, 2000). As stated in the Surgeon General's Report, ''risk factors and protective factors exist

in every area of life-individual, family, school, peer group, and community.'' The Report further states that risk and protective factors have varying influences depending on when they occur during a child's development. For example, substance abuse, involvement in serious (not necessarily violent) crime, being male, physical aggression, low family socioeconomic status or poverty, and antisocial parents are cited as the strongest risk factors for violent behavior during childhood. During adolescence, however, peer influences supplant those of the family and weak ties to conventional peers, ties to antisocial or delinquent peers, gang membership and involvement in other criminal acts become the strongest risk factors. Violence prevention programs that have been demonstrated to be highly effective combine components that address both individual risks and environmental conditions. Eliminating or reducing risk factors holds promise for reducing violence.

Since 1985, HHS has recognized violence as a leading public health problem in the United States and has supported initiatives to prevent violence. The Family and Community Violence Prevention Program (FCVP) is such an initiative supported through the Office of Minority Health (OMH).

Through this announcement OMH will continue its partnership with CSU and the FCVP initiative begun in 1994 as A Series of HBCU Models to Prevent Minority Male Violence. Sixteen Historically Black Colleges and Universities (HBCUs), collectively known as the Minority Male (Min-Male) Consortium were supported to conduct violence prevention programs targeted to minority males. Three more HBCUs joined the Consortium in 1995. In 1997, the program was renamed the Family Community and Violence Prevention Program (FCVP) and its focus expanded to include females and families. Seven institutions, including Hispanic Serving Institutions and Tribal Colleges/Universities, were added to the Program in 1999 in an effort to address the problem of youth violence among all of the racial/ethnic minority populations served by OMH. Currently, 23 minority institutions in 17 states, the District of Columbia and the U.S. Virgin Islands are supported through the FCVP.

In FY 2002 the FCVP will continue to support community-based interventions designed to address the risk factors for violence and enhance the protective factors for participating minority youth and their families. The award will be made to CSU via a cooperative agreement which provides for substantial federal programmatic involvement in the project (see OMH Responsibilities listed in this announcement).

Project Requirements

CSU will develop a project plan which must include:

- A management team comprised of personnel with appropriate background and experience to develop, guide and execute the FCVP; and
- An operational plan for coordinating the FCVP and its component parts (Advisory Board, Family Life Centers and Management Team) to achieve the purpose of the Program.

CSU Responsibilities and Activities

At minimum, CSU must:

- Develop and implement a plan for maintaining regular communication with OMH and the Family Life Centers (FLCs).
- Develop and implement guidelines for FLC operations, notice of availability of funds for FLC establishment, and guidelines for competitive application preparation.
- Development and implement a plan for conducting a yearly evaluation of the activities of each of the funded institutions, as well as the overall project.
- Develop by-laws for the operation of the Advisory Board and submit to OMH for review and approval.
- In FY 2002, award $4,950,000 in continuation funds to the 23 undergraduate institutions currently funded under the FCVP Program to support established FLCs.
- In FY 2002, award $900,000 in new awards to three additional undergraduate institutions to support the establishment of model FLCs.
- In FY 2003, solicit proposals from four-year undergraduate institutions historically identified as providing education primarily to minority students, or having a majority enrollment of minority students, and from two-year Tribal Colleges which are members of the American Indian Higher Education Consortium, to establish FLCs in low income, at-risk minority communities, and to implement programs that employ a variety of approaches that address violent and abusive behavior that meet their unique needs.
- In FY 2003, provide funding to up to 24 selected undergraduate institutions at a level of up to $250,000 each (total awards of $5,300,000) to conduct comprehensive programs of support and education for a defined community. The selected undergraduate institutions must:

—Establish a FLC within a 10 mile radius of the target community to facilitate access to the program's services/activities on a regular basis (FLCs established on American Indian reservations are excepted). The FLC can be located at the undergraduate school site, or at a facility of a community institution/organization with which it has an established partnership. The FLC is to be open year round (at least 45 weeks), with activities/services offered at various times (*e.g.* weekdays, evenings, weekends) to accommodate the target group(s).

—Offer project activities in the areas of Academic Enrichment, Personal Development, Family Bonding, Cultural/Recreational Enrichment, and Career Development for at least 25 at-risk youth and their families.

—Offer opportunities for the target population to participate in activities on campus or at other appropriate sites. At a minimum activities must:

- Address primary and/or secondary prevention (see Definitions section of this announcement);
- Involve parents, guardians and/or adult caretakers of participating youth;
- Include faculty and/or staff from the institution in program delivery;
- Include students from the institution serving as mentors and in other areas of program delivery; and
- Include a summer academic enrichment program of at least 3 weeks.

—Develop at least 3 formal arrangements/partnerships, one of which must be with a primary or secondary school. Other partners would include community organizations and citizens that provide in-kind contributions and/or assist in the implementation of program activities.

—Evaluate activities conducted using forms required by the Management Team and, if desired, other forms/instruments that are compatible with the overall FCVP evaluation plan. The evaluation design must include use of a random assignment or matched comparison group.

—Submit semi-annual reports describing program activities conducted and progress toward meeting objectives. Reports must meet formatting and content requirements prescribed by the Management Team.

- In FY 2003 and FY 2004 make continuation awards at a level of up to $300,000 each (total awards of $900,000) to the three institutions selected in FY 2002. These continuation awards will be based on satisfactory progress in meeting program requirements.

• In FY 2004 and FY 2005 make continuation awards at a level of up to $250,000 each (total awards of $5,200,000) to the institutions (up to 24) selected in FY 2003.

• Monitor the activities of the funded undergraduate institutions to ensure compliance with the intent of the FCVP Program.

• Each year conduct three technical assistance workshops for participating FLCs in conjunction with three meetings of the Advisory Board.

Note: The technical assistance workshop and the Advisory Board meeting are to be held concurrently or on consecutive dates at the same site.

• Provide technical assistance to individual FLCs, as needed, throughout each year of the project.

• Plan and conduct a national conference of the FCVP program to take place during Year 03 of the project period.

• Submit recommendations or requests for changes in program strategies, scope, evaluation activities and adjustments in funding levels of participating institutions to OMH for review and approval.

• Develop a manual or tool kit which documents procedures and methods for implementing successful violence prevention programs for specific types of communities (i.e. rural, urban, Indian reservation).

OMH Responsibilities and Activities

At a minimum, substantial federal programmatic involvement will include the following.

• Provide technical assistance and oversight for the overall design and operation of the FCVP program.

• Review and approve all documents prepared by the Management Team for the solicitation of proposals, including FLC operational and application guidelines.

• Develop the evaluation criteria for the selection and funding of FLC applications.

• Manage the objective review and selection of FLC applications.

• Appoint an 11-member Advisory Board based on nominations from the Management Team, FLC staff and federal agencies.

• Identify OMH staff to serve on the Advisory Board in an ex-officio capacity.

• Review and approve Management Team recommendations or requests for changes in program strategies, scope, evaluation activities and adjustments in funding levels of participating institutions.

• Participate in the planning of and attend all of the Advisory Board meetings, Technical Assistance Workshops for FLC staff and the national conference.

• Participate in site visits to the participating institutions as deemed appropriate by OMH staff.

Application Kit

• For this cooperative agreement, CSU must submit a proposal using Form PHS 5161–1 (Revised July 2000 and approved by OMB under Control Number 0348–0043).

• CSU is advised to pay close attention to the specific program guidelines and general instructions provided in the application kit.

• The application kit will be sent to CSU by the Grants Management Officer, OMH.

Review of Application

The application submitted by CSU will be reviewed by OMH to ensure that all program requirements are met and that the proposed plan is in compliance with the intent of the FCVP Program. Once the proposal has been approved by OMH, CSU will be notified and the award will be made.

Reporting and Other Requirements

General Reporting Requirements: The successful applicant under this notice will submit: (1) Progress reports; (2) an annual Financial Status Report; and (3) a final progress report and Financial Status Report in the format established by the OMH, in accordance with provisions of the general regulations which apply under 45 CFR part 74.51–74.52.

Healthy People 2010: The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a PHS-led national activity announced in January 2000 to eliminate health disparities and improve years and quality of life. More information may be found on the Healthy People 2010 web site: *http//www.health.gov/*People2010: Volumes I and II can be purchased (cost $70.00 for printed version; $19.00 for CD-ROM). Another reference is the Healthy People 2000 Review 1998–99.

For a free copy of Healthy People 2010, contact: The National Center for Health Statistics (NCHS), Division of Data Services, 6525 Belcrest Road, Hyattsville, MD 20782–2003; or telephone (301) 458–4636; as for DHHS Publications No. (PHS) 99–1256.

This document may also be downloaded from the NCHS web site *http://www.cdc.gov/nchs.*

Definitions

For purposes of this grant announcement, the following definitions are provided:

Hispanic Serving Institution (HSI)—Any local education agency or institution of higher education, respectively, whose student population is more than 25 percent Hispanic (Executive Order 12900, February 22, 1994, Education Excellence for Hispanic Americans, Section 5).

Historically Black College or University (HBCU)—An institution established prior to 1964, whose principal mission was, and is, the education of Black Americans. (National Center for Education Statistics. Compendium: Historically Black Colleges and Universities: 1976–1994. September 1996. [NCES 96–902]).

Majority Enrollment of Minority Students—Enrollment of minorities exceeding 50 percent of the total number of students enrolled (**Federal Register**, Vol. 53, No. 57, March 24, 1988).

Minority Populations—American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or Other Pacific Islander. (Revision to the Standards for the Classification of Federal Data on Race and Ethnicity, **Federal Register**, Vol. 62, No. 210, pg. 58782, October 30, 1997.)

Primary Prevention—Strategies and interventions targeting a broad population with universal programs designed to prevent the initial development of violent behaviors (From the Commission for the Prevention of Youth Violence, December 2000).

Risk Factor—The environmental and behavioral influences capable of causing ill health with or without predisposition.

Secondary Prevention—Strategies and interventions designed to serve specific populations at risk for or involved in violence (From the Commission for the Prevention of Youth Violence, December 2000).

Tribal College or University (TCU)—One of the institutions cited in section 532 of the Equity in Education Land-Grants Status Act of 1994 (U.S.C. 301 note) or that qualify for funding under the Tribally Controlled Community College Assistance Act of 1978, (25 U.S.C. 1801 *et seq*), and Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95–471, Title II (25 U.S.C. 640a note).

Dated: March 1, 2002.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 02–5363 Filed 3–6–02; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–29]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: National Healthcare Safety Network (NHSN)—New—National Center for Infectious Disease (NCID), Centers for Disease Control and Prevention (CDC). In 1970, OMB first approved the information collection now known as the ''National Nosocomial Infections Surveillance (NNIS) System'' (OMB No. 0920–0012) and in 1999 approved the ''Surveillance for Bloodstream and Vascular Access Infections in Outpatient Hemodialysis Centers'' (OMB No. 0920–0442). These two data collections have been modified and merged to create the NHSN and constitute the first phase of this national surveillance system to collect data on adverse events associated with healthcare. The NHSN will evolve with the addition of modules and healthcare institutions from a wide spectrum of settings.

The NHSN is a knowledge system for accumulating, exchanging, and integrating relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and to promote healthcare safety. Specifically, the data will be used to determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients with similar risks. They will be used to detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing patient risks.

Healthcare institutions that participate in NHSN voluntarily report their data to CDC through the National Electronic Disease Surveillance System that uses a web browser-based technology for data entry and data management. Data are collected by trained surveillance personnel using written standardized protocols. The cost to participating institutions is the salaries of data collector and data entry personnel, a computer capable of supporting an internet service provider (ISP), and access to an ISP. The amount expended for annual salaries will vary widely depending on the module(s) selected. Salaries will range from approximately $940.00 for collection of dialysis incident data to $3500.00 for collection of bloodstream infections data using the Device-associated Module in 2 ICUs. The table below shows the estimated annual burden in hours to collect and report data by form for the entire NHSN project. The estimated annualize cost to respondents will be $6,900.

Title	Number of respondents	Number of responses/respondent	Avg. burden per response (in hours)	Total Burden (in hours)
NHSN Application Annual Survey	350	1	1	350
Dialysis Application/Annual Survey	80	1	1	80
Patient Safety Monthly Reporting Plan	350	9	25/60	1,313
Patient Data	350	111	5/60	3,238
Surgical Site Infection (SSI)	200	27	25/60	2,250
Pneumonia (PNEU)	200	54	25/60	4,500
Primary Bloodstream Infection (BSI)	230	54	25/60	5,175
Urinary Tract Infection (UTI)	150	45	25/60	2,813
Dialysis Incident (DI)	80	90	12/60	1,440
Custom Event (not reported to CDC)	125			
Denominator for Procedure	200	540	5/60	9,000
Denominator for Specialty Care Area (SCA)	75	9	5	3,375
Denominator for Neonatal Intensive Care Unit (NICU)	100	9	4	3,600
Denominator for Intensive Care Unit (ICU)/Other locations (Not NICU or SCA)	245	18	5	22,050
Denominator for Outpatient	80	9	5/60	60
Antimicrobial Use and Resistance (AUR)—Microbiology Lab	20	45	3	2,700
Antimicrobial Use and Resistance (AUR)— Pharmacy	20	36	2	1,440
Total				63,384

Dated: February 28, 2002.

Julie Fishman,

Acting Deputy Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–5396 Filed 3–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0039]

Medical Devices; Draft Guidance for Industry and FDA on Premarket Notification Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA.'' This document provides guidance concerning the content and format of 510(k) submissions for medical sterilization packaging systems intended for the sterilization of medical devices in health care facilities. This guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on the draft guidance by June 5, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies on a 3.5 diskette of the draft guidance entitled ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed labels to assist that office in processing your request, or fax your request to 301–443–8818.

Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

Medical sterilization packaging systems encompass sterilization wrap, sterilization pouches or packages, sterilization containers, trays, cassettes, including mats, holders, or any other related component that is used for sterilization of medical devices. These devices are class II devices, regulated under 21 CFR 880.6850. The draft guidance provides advice on the kind of information and data needed to demonstrate the substantial equivalence of a medical sterilization packaging system device.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA.'' 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 statute and regulations.

III. Electronic Access

In order to receive the draft guidance entitled ''Premarket Notification [510(k)] Submissions for Medical Sterilization Packaging Systems in Health Care Facilities; Draft Guidance for Industry and FDA'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1388) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. A search capability for all CDRH guidance documents is available at http://www.fda.gov/cdrh/guidance.html. Guidance documents are also available at http://www.fda.gov/ohrms/dockets.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance by June 5, 2002. 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 document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 26, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–5489 Filed 3–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects [section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13], the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Health Care for the Homeless Program User/Visit Surveys—New

The Bureau of Primary Health Care (BPHC) of HRSA is planning to conduct User/Visit Surveys of the Health Care for Homeless Program (HCHP). The purpose of this study is to conduct nationally representative surveys, which have the following components: (1) A personal interview survey of HCHP site users; and (2) a record-based study of visits to HCHP sites.

The HCHP is the Federal program with the sole responsibility for addressing the critical primary health care needs of homeless individuals. The HCHP is administered by the BPHC. The BPHC is interested in knowing more about the general and specific characteristics of the HCHP users and their visits to the HCHP sites. As a consequence, a personal interview survey (User Survey) will be administered to a nationally representative sample of HCHP users and a representative sample of medical visits of HCHP sites (Visit Survey) will be examined as well. These surveys are designed and intended to be primary sources of information on the health and visits of the HCHP users. The information will provide policymakers with a better understanding of the services that HCHP users are receiving at HCHP sites and how well these sites are meeting the needs of HCHP users.

Data from the surveys will provide quantitative information on the homeless population served by the HCHP, specifically: (a) Sociodemographic characteristics, (b) health care access and utilization, (c) health status and morbidity, (d) health care experiences and risk behaviors, (e) content of medical encounters, (f) preventive care, and (g) living conditions. These surveys will provide data useful to the HCHP and will enable HRSA to provide data required by Congress under the Government Performance and Results Act of 1993.

The estimated burden on respondents and HCHP site staff is as follows:

Form	Number of respondents	Hours per respondent	Total hour burden
Users of HCHP Sites	1000	1	1000
Abstraction of Visit Records by HCHP Site Staff	1000	.25	250
Total	1000		1,250

Send comments to Susan Queen, Ph.D., HRSA Reports Clearance Officer, Room 11–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 4, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–5488 Filed 3–6–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meetings; Addendum

In **Federal Register** Document 01–28108, appearing on pages 56689–56690 in the issue for Friday, November 9, 2001, the following meetings for the Health Professions and Nurse Education Special Emphasis Panel have been added:

Name: Allied Health Projects.
Date and Time: April 8–11, 2002.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: April 8, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 8, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 9–11, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Quentin N. Burdick Program for Rural Interdisciplinary Training.
Date and Time: April 8–11–2002.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: April 8, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 8, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 9–11, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.)

Name: Residency Training in Primary Care.
Date and Time: April 22–25, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: April 22, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 22, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 23–25, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Physician Assistant Training in Primary Care.
Date and Time: April 22–25, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: April 22, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 22, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 23–25, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Faculty Development Training in Primary Care.
Date and Time: April 29–May 2, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: April 29, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: April 29, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 30–May 2, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Geriatric Education Centers.
Date and Time: April 29–May 2, 2002.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Open on: April 29, 8:00 a.m. to 10:00 a.m.
Closed on: April 29, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); April 30–May 2, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Residency Training in Primary Care.
Date and Time: May 6–9, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: May 6, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: May 6, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 7–9, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Residencies in the Practice of Pediatric Dentistry and Residencies and Advanced Education in the Practice of General Dentistry.
Date and Time: May 6–9, 2002.
Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.
Open on: May 6, 2002, 8:00 a.m. to 10:00 a.m.
Closed on: May 6, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May

7–9, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Predoctoral Training in Primary Care.

Date and Time: May 13–16, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: May 13, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: May 13, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 14–16, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Geriatric Training for Physicians, Dentists, and Behavioral and Mental Health Professionals.

Date and Time: May 13–16, 2002.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Open on: May 13, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: May 13, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 14–16, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Academic Administrative Units in Primary Care.

Date and Time: May 20–23, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: May 20, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: May 20, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); May 21–23, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Geriatric Academic Career Awards.

Date and Time: June 3–6, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: June 3, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: June 3, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); June 4–6, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Health Education and Training Centers.

Date and Time: June 10–13, 2002.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Open on: June 10, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: June 10, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); June 11–13, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: Graduate Psychology Education Program.

Date and Time: July 29–August 1, 2002.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Open on: July 29, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: July 29, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); July 30–August 1, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Name: National Research Service Awards.

Date and Time: August 5–6, 2002.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Open on: August 5, 2002, 8:00 a.m. to 10:00 a.m.

Closed on: August 5, 2002, 10:00 a.m. to adjournment (approximately 6:00 p.m.); August 6, 2002, 8:00 a.m. to adjournment (approximately 6:00 p.m.).

Dated: March 1, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–5357 Filed 3–6–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunity for a Cooperative Research and Development Agreement (CRADA) To Develop Live Attenuated Dengue Viruses for Use as Vaccines in Humans

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases (NIAID) of the National Institutes of Health (NIH) is seeking Capability Statements from parties interested in entering into a Cooperative Research and Development Agreement (CRADA) on a project to develop live attenuated dengue viruses for use as vaccines to prevent dengue hemorrhagic fever and dengue shock syndrome in humans. This project is part of ongoing vaccine development activities in the Laboratory of Infectious Diseases (LID), Division of Intramural Research, NIAID.

DATES: Only written CRADA Capability Statements received by the NIAID on or before April 18, 2002, will be considered.

ADDRESSES: Capability Statements should be submitted to Dr. Michael R. Mowatt, Office of Technology Development, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 31 Center Drive MSC 2137, Building 31, Room 3B62, Bethesda, MD 20892–2137; Tel: 301/496–2644, Fax: 301/402–7123; Electronic mail: *mmowatt@nih.gov.*

SUPPLEMENTARY INFORMATION: The CRADA will employ attenuated dengue virus strains (types 1 through 4) developed in LID using recombinant DNA methodologies to (1) identify and characterize the mutations responsible for attenuation, (2) engineer viral strains suitably attenuated for use as human vaccines, and (3) evaluate the attenuated viruses as live vaccines in animals, including rhesus monkeys, and humans. The Public Health Service (PHS) has filed patent applications both in the U.S. and internationally related to these technologies.

The LID has extensive experience in evaluating the safety, immunogenicity and efficacy of various human viral pathogens and vaccines thereof both in experimental animals and human volunteers. The LID has identified two approaches to produce attenuated dengue virus vaccine candidates each incorporating a stable, clinically tested deletion mutation capable of attenuating dengue viruses for humans. In addition, a large set of additional attenuating mutations have been identified that will be available to further attenuate vaccine candidates that prove to be incompletely attenuated in human trials. The Collaborator in this endeavor is expected to commit several scientists off-site to support the activities defined by the CRADA Research Plan. These scientists, in collaboration with investigators in the LID, would coordinate the production and release testing of the candidate vaccines, generate monoclonal antibodies or other antibodies needed for production and characterization of clinical lots, and use molecular virologic techniques to generate attenuating mutations suitable for use in live vaccine candidates. The LID and Collaborator will identify the best candidate dengue virus attenuated derivatives for each of the four dengue virus serotypes to formulate a tetravalent vaccine. In addition, it is expected that the Collaborator will provide funds to supplement LID's research budget for the project and would make a major funding commitment to support the safety, immunogenicity and efficacy studies for candidate vaccines developed under the CRADA.

The capability statement must address, with specificity and providing appropriate examples, each of the following selection criteria: (1) The technical expertise of the Collaborator's Principal Investigator and laboratory group in molecular virology; (2) The number of personnel that the Collaborator plans to assign to this project; (3) Ability of Collaborator to manufacture experimental vaccine lots for parenteral administration under Good Manufacturing Practices (GMP) conditions and the number of lots that could be produced annually, (4) Access to a qualified bank of cells for vaccine manufacture, specifically Vero cells or DBS FRhL–2 cells, (5) Capability to manage regulatory affairs attendant to licensure by FDA and international regulatory bodies, and (6) Ability to provide adequate and sustained funding to support pre-clinical development at NIH and at collaborator's site and for the

requisite vaccine safety, immunogenicity, and efficacy studies in humans.

Dated: February 28, 2002.

Michael R. Mowatt,

Director, Office of Technology Development, NIAID.

[FR Doc. 02–5504 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable 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 Cancer Institute Special Emphasis Panel.

Date: March 15, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Boulevard, Rockville, MD 20892. (Telephone Conference Call).

Contact Person: Raymond A. Petryshyn, PHD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., 8th Fl., Room 8133, Bethesda, MD 20892. 301/594–1216.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5493 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel Comparative Medicine.

Date: March 20, 2002.

Time: 1:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Camille M. King, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, MSC 7965, 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892–7965. (301) 435–0810. *kingc@ncrr.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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5496 Filed 3–6–02; 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: April 16, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Jon M. Ranhand, PhD, 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: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5491 Filed 3–6–02; 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 paternable 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 General Medical Sciences Special Emphasis Panel.

Date: March 25, 2002.

Time: 11:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Room 1AS–13, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Helen R. Sunshine, PhD, Chief, Office of Scienifitic Review, NIGMS, Natcher Building, Room 1AS–13, Bethesda, MD 20892, (301) 594–2881.

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: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5492 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, March 26, 2002, 7:00 PM to March 28, 2002, 6:00 PM, Hawthorn Suites Hotel, 300 Meredith Drive, Durham, NC, 27713 which was published in the **Federal Register** on February 22, 2002, 67 FR 8278.

The starting date of this meeting will change to March 27 at 8:30 a.m. The meeting is closed to the public.

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5494 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Allergy and Infectious Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Secretary's Advisory Committee on Xenotransplantation, March 11–12, 2002, 8:00 am, Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD, which was published in the **Federal Register** on February 19, 2002, 67 FR 7391.

In addition to the topics described in the earlier FR notice, on the second day of the meeting, March 12, the Committee will hear a presentation on, and then discuss, the FDA Draft Guidance for Industry: Precautionary Measures to Reduce the Possible Risk of Transmission of Zoonoses by Blood and Blood Products from Xenotransplantation Product Recipients and their Intimate Contacts.

Individuals who wish to provide public comment (oral or written) should contact the SACX Executive Director, Mary Groesch, by telephone at 301–496–0785 or e-mail at *groeschm@od.nih.gov.*

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5498 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: April 11, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Nasrin Nabavi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301 496–2550. *nn30t@nih. gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5499 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Flavivirus Infections: Pathogenesis and Prevention.

Date: March 20, 2002.

Time: 10:00 AM to 3:00 PM.

Agenda: to review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Yen Li, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301 496–2550. *yli@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5500 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Acute Infection and Early Disease Research Program.

Date: April 2–3, 2002.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Georgetown, DC 20007.

Contact Person: Hagit David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2117, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610. 301–496–2550. *hdavid@mercury.niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5501 Filed 3–6–02; 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 hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Gene Therapy for Alzheimer's Disease.

Date: March 4–5, 2002.

Time: 6:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The Lodge at Torrey Pines, 11480 North Torrey Pines Road, La Jolla, CA 92037.

Contact Person: Louise L. Hsu, PhD, 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, Age, Race, and Ethnicity in Prostate Cancer.

Date: March 19–20, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn, Conference Room, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arthur D. Schaerdel, DVM, 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: March 25–26, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Louise L. Hsu, PhD, 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, Aging Auditory System: Presbycusis and its Neural Bases.

Date: March 25–26, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard By Marriott Brighton, 33 Corporate Woods, Rochester, NY 14623.

Contact Person: Ramesh Vemuri, PhD, National Institute on Aging, 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, Lipid Oxidation Products in Alzheimer's Disease.

Date: March 28–29, 2002.

Time: 6 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Lowes Vanderbilt Hotel, 2100 West End Ave., Nashville, TN 37203.

Contact Person: Arthur D. Schaerdel, DVM, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892. (301) 496–9666.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5502 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 11–12, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Latham Hotel, 3000 M Street, NW, Washington, DC 20007.
Contact Person: Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892. (301) 435–1211.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 12, 2002.
Time: 4 p.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892. (301) 435–1037. *dayc@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 12, 2002.
Time: 5 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Joyce C. Gibson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892. 301–435–4522. *gibsonj@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 8 a.m. to 9:14 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 9:15 a.m. to 9:44 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 9:45 a.m. to 10:29 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 10 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892. (301) 435–1169. *dowellr@drg.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 10:30 a.m. to 10:59 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 11 a.m. to 11:29 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 13, 2002.
Time: 11:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW, Washington, DC 20007–3701.
Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892. (301) 435–1169. *dowellr@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MDC 7840, Bethesda, MD 20892. (301) 435–1019.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892. (301) 435–0676. *siroccok@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7852, Bethesda, MD 20892, (301) 435–1165.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 9:00 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, NW, Washington, DC 20009.
Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892. 3014350902. *krausem@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 2:00 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7840, Bethesda, MD 20892. (301) 435–1195.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 15, 2002.
Time: 2:00 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: HIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Michael A. Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892. 301–435–3565. *oxmanm@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 17–19, 2002.
Time: 7:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Rochester, 125 East Main Street, Rochester, NY 14604.
Contact Person: Tracy E. Orr, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 5118, Bethesda, MD 20892. (301) 435–1259. *orrt@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Empahsis Panel.
Date: March 18, 2002.
Time: 8:00 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892. (301) 435–1728.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18, 2002.
Time: 8:00 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 28017.
Contact Person: Peter Lyster, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7806, Bethesda, MD 20892. (301) 435–1256. *lysterp@mail.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18–19, 2002.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18–19, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, Washington, DC 20037.
Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892. (301) 435–3566. *cooperc@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18–19, 2002.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892. (301) 435–0692. *tathamt@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18, 2002.
Time: 10 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 220892. (Telephone Conference Call).
Contact Person: Michael A. Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892. (301) 435–3565. *oxmanm@mail.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 18, 2002.
Time: 4 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892. (301) 435–1718.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 18, 2002.

Time: 12 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD. 20892. (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892. (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.983, National Institutes of Health, HHS)

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5490 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(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: Center for Scientific Review Special Emphasis Panel.

Date: March 6, 2002.

Time: 9:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD. 20892. (Telephone Conference Call).

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, levinv@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333; Clinical Research, 93.333; 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institute of Health, HHS)

Dated: February 28, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5497 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2002.

Time: 10:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892. 301–435–0695.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2002.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: David J. Remondini, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892. (301) 435–1038. *remondid@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 15, 2002.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Sherry L. Stuesse, PHD, Scientific Review Administrator, Division of Clinical and Population-Based Studies, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892. 301–435–1785. *stuesses@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 17–19, 2002.

Time: 7 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: University Guest House, 110 S. Fort Douglas Boulevard, Salt Lake City, UT 84113.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892. (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19, 2002.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20814.

Contact Person: Peter Lyster, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7806, Bethesda, MD 20892. (301) 435–1256. *lysterp@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 19, 2002.

Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call.)
Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892. (301) 435–1022. *ehrenspeckg@nih.csr.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 19, 2002.
Time: 4 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892. (301) 435–1777.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20–21, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Grand Westin Hotel, 2350 M Street, NW., Washington, DC 20037–1417.
Contact Person: Michael Nunn, PhD, Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892. (301) 435–1257.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 8 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: The American Inn, 8130 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892. (301) 435–1044.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review and Special Emphasis Panel.
Date: March 20, 2002.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesdsa, MD 20892. (301) 435–1775.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 2:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692. 301–435–3504. *fungv@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 3 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892. (301) 435–0692. *tathamt@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892. (301) 435–1718.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 20, 2002.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892. (301) 435–0902. *krausem@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel
Date: March 20, 2002.
Time: 12 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892. (301) 435–1779. *riverse@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications
Place: Westin Grand Hotel, 2350 M Street, NW, Washington, DC 20037–1417.
Contact Person: Carole L. Jelsema, PhD, Scientific Review Administrator, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD @20892. (301) 435–1248. *jelsemac@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21–22, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 Twenty-Fifth Street, NW, Washington, DC 20037.
Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892. (301) 435–1024. *rodewair@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21–22, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Jay Cinque, MSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892. (301) 435–1252.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 21, 2002.
Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW, Washington, DC 20009.

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 74848, Bethesda, MD 20892. (301) 435–0692.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7818, Bethesda, MD 20892. (301) 435–1169. *dowellr@drg,nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892. (301) 435–1261.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 704, Bethesda, MD 20814–9692. (301) 435–3504. *fungv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892. (301) 435–1044.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 21, 2002.

Time: 12:15 p.m. to 1:15 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jeffrey W. Elias, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892. (301) 435–0913.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Westin Hotel, 2350 M Street, NW, Washington, DC 20037–1417.

Contact Person: Anne E. Schaffner, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7850, Bethesda, MD 20892. (301) 435–1239. *schaffna@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Syed Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892. (301) 435–1043. *amirs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: Donald L. Schneider, PhD, Director, DMCM, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892. (301) 435–1727.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892. (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892. (301) 435–1152. *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 22, 2002.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892. (301) 435–1779. *riverse@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5503 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center.

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: Board of Governors of the Warren Grant Magnuson Clinical Center.

Date: March 22, 2002.

Time: 9 a.m. to 1 p.m.

Agenda: For discussion of planning and operational issues.

Place: National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Warren Grant Magnuson Clinical Center, National Institutes of Health, Building 10, Room 2C146, Bethesda, MD 20892. 301/496–2897.

Information is also available on the Institute's/Center's home page: *www.cc.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

Dated: February 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–5495 Filed 3–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of the Special Trustee for American Indians

Office of Trust Transition

Office of the Secretary; Tribal Consultation of Indian Trust Asset Management

AGENCY: Office of the Secretary, Bureau of Indian Affairs, Office of the Special Trustee for American Indians, Office of Trust Transition, Interior.

ACTION: Notice of tribal consultation meetings; reopening of comment period.

SUMMARY: The Office of the Secretary, the Bureau of Indian Affairs, the Office of the Special Trustee for American Indians, and the Office of Indian Trust Transition have been conducting consultation meetings with the public as noticed in the **Federal Register** publications of December 5, 2001, December 11, 2001, and January 31, 2002. In the **Federal Register** notice of December 5, 2001 (66 FR 234), the Department noted that all written comments must be received by February 15, 2002. In a subsequent **Federal Register** notice (67 FR 28), the Department extended this comment period to February 28, 2002. This notice reopens the comment period to April 30, 2002.

DATES: All written comments must be received by April 30, 2002.

ADDRESSES: Office of the Assistant Secretary—Indian Affairs, 1849 C Street, NW., MS 4040 MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Wayne R. Smith, Deputy Assistant Secretary—Indian Affairs, 1849 C Street, NW., MS 4140 MIB, Washington, DC 20240 (202/208–7163).

SUPPLEMENTARY INFORMATION: The purpose of the consultation meetings was to involve affected and interested parties in the process of organizing the Department's trust asset management responsibility functions. The Department has determined that there is a need for dramatic change in the management of Indian trust assets. An independent consultant has analyzed important components of the Department's trust reform activities and made several recommendations, including the recommendation that the Department consolidate trust functions under a single entity. The Department has held eight (8) consultation meetings across the country to discuss the merits of this reorganization. Because of the overwhelming public response to this effort, the Department believes it prudent to reopen the comment period further to April 30, 2002. This reopening of the comment period will facilitate the maximum direct participation of all interested parties in this important Departmental process.

Dated: March 1, 2002.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–5383 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

[Permit No. TE–050508]

Applicant: Melanie Pavlas, Dripping Springs, Texas. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Golden-cheeked warbler (*Dendroica chrysoparia*) and Black-capped vireo (*Vireo atricapillus*) within Texas.

[Permit No. TE–819471]

Applicant: SWCA Environmental Consultants, Salt Lake City, Utah. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Black-footed ferret (*Mustela nigripes*) within Utah, Colorado, Wyoming, Montana, and Arizona; Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona, California, and Nevada; Kanab ambersnail (*Oxyloma haydeni kanabensis*) within Utah and Arizona; and Utah valvata snail (*Valvata utahensis*) within Utah.

[Permit No. TE–051581]

Applicant: David Baggett, Huntsville, Texas. Applicant requests a permit for recovery purposes to allow nest monitoring, banding, installation of artificial cavities and cavity restrictors, capture and translocation to and from donor populations of Red-cockaded woodpeckers (*Picoides borealis*) within Texas.

[Permit No. TE–051143]

Applicant: Donald J. Melton, Georgetown, Texas. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Houston toad (*Bufo houstonensis*), Black-capped vireo (*Vireo atricapillus*) and Golden-cheeked warbler (*Dendroica chrysoparia*) within Texas.

[Permit No. TE–019805]

Applicant: Angela Barclay, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the Southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

[Permit No. TE–050490]

Applicant: Rion Bowers, Phoenix, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), Lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), Gila topminnow (*Poeciliopsis occidentalis*), Razorback sucker (*Xyrauchen texanus*) within Maricopa, Pinal and Santa Cruz counties of Arizona.

[Permit No. TE–051195]

Applicant: USDA National Resource Conservation Service, Parker, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Southwestern willow flycatcher (*Empidonax traillii extimus*) and Yuma clapper rail (*Rallus longirostris yumanensis*) within Arizona and California.

[Permit No. TE–051150]

Applicant: Amy Gibbons, Tempe, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*), Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), Lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*) and Black-footed ferret (*Mustela nigripes*) within Arizona.

[Permit No. TE–051189]

Applicant: Bureau of Land Management-Yuma Field Office, Yuma, Arizona. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: Southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*) and Cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*) within Arizona.

[Permit No. TE–833868]

Applicant: URS Corporation, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the Yuma clapper rail *(Rallus longirostris yumanensis)* within Arizona.

[Permit No. TE–828640]

Applicant: Harris Environmental Group, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Interior least tern *(Sterna antillarum)* and Northern aplomado falcon *(Falco femoralis septentrionalis)* within Arizona and Texas.

[Permit No. TE–051372]

Applicant: Wildlife Plus Consulting, Alto, New Mexico. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Black-footed ferret *(Mustela nigripes)* and Northern aplomado falcon *(Falco femoralis septentrionalis)* within Lea County, New Mexico.

[Permit No. TE–052289]

Applicant: Darling Environmental & Surveying, Ltd., Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Southwestern willow flycatcher *(Empidonax traillii extimus),* Sonoran tiger salamander *(Ambystoma tigrinum stebbinsi)* and Gila topminnow *(Poeciliopsis occidentalis)* within Arizona.

[Permit No. TE–010472]

Applicant: Geo-Marine, Inc., Newport News, Virginia. Applicant requests an amendment to an existing permit to allow presence/absence surveys and monitoring of breeding, nesting, and feeding for the Interior least tern *(Sterna antillarum)* within Arizona, New Mexico and Texas.

[Permit No. TE–051716]

Applicant: Gretchen VanReyper, Austin, Colorado. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the Southwestern willow flycatcher *(Empidonax traillii extimus)* within the Four Corners area of New Mexico, Arizona, Utah and Colorado.

[Permit No. TE–025197]

Applicant: Lockheed Martin Environmental Services, Las Vegas, Nevada. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Virgin river chub *(Gila robusta semidnuda)* and Woundfin *(Plagopterus argentissimus)* within Utah.

[Permit No. TE–028605]

Applicant: SWCA, Inc., Environmental Consultants-Flagstaff, Flagstaff, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Gila topminnow *(Poeciliopsis occidentalis),* Gila trout *(Oncorhynchus gilae),* Desert pupfish *(Cyprinodon elegans),* Rio Grande silvery minnow *(Hybognathus amarus)* and Yaqui chub *(Gila purpurea)* within Arizona, New Mexico, and Texas.

[Permit No. TE–039468]

Applicant: Cecelia M. Smith, Tucson, Arizona. Applicant requests an amendment to an existing permit to allow presence/absence surveys for the following species: Black-footed ferret *(Mustela nigripes),* Lesser long-nosed bat *(Leptonycteris curasoae yerbabuenae),* Sonoran pronghorn *(Antilocapra americana sonoriensis),* Hualapai Mexican vole *(Microtus mexicanus hualpaiensis),* Jaguar *(Panthera onca),* Sinaloan jaguarundi *(Herpailurus yagouaroundi tolteca)*, Ocelot *(Leopardus pardalis)*, Mexican gray wolf *(Canis lupus)*, Sonoran tiger salamander *(Ambystoma tigrinum stebbinsi)*, Southwestern willow flycatcher *(Empidonax traillii extimus)*, Masked bobwhite *(Colinus virginianus ridgwayi)*, California condor *(Gymnogyps californianus)*, Yuma clapper rail *(Rallus longirostris yumanensis)*, Gila trout *(Oncorhynchus gilae)* Bonytail chub *(Gila elegans)*, Humpback chub *(Gila cypha)*, Virgin River chub *(Gila robusta seminuda)*, Colorado pikeminnow *(Ptychocheilus lucius)*, Yaqui chub *(Gila purpurea)*, Desert pupfish *(Cyprinodon macularius)*, Razorback sucker *(Xyrauchen texanus)*, Gila topminnow *(Poeciliopsis occidentalis)*, Woundfin *(Plagopterus argentissimus)* and Kanab ambersnail *(Oxyloma haydeni kanabensis)* within Arizona.

[Permit No. TE–824573]

Applicant: Texas Department of Transportation , Austin, Texas. Applicant requests a permit for recovery purposes to conduct presence/absence surveys for the following species: jaguarundi *(Herpailurus (=Felis) yagouaroundi)*, ocelot *(Leopardus (=Felis) pardalis)*, northern aplomado falcon *(Falco femoralis septentrionalis)*, Attwater's greater prairie-chicken *(Tympanuchus cupido attwateri)*, and Texas wild-rice *(Zizania texana).*

Written comments on these permit applications must be received within 30 days of the date of publication.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Albuquerque, New Mexico, at the above address. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Steven C. Helfert,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 02–5400 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit; Endangered and Threatened Species

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director

(address below) and must be received within 30 days of the date of this notice.

Applicant: Los Angeles Zoo, California, PRT–052638.

The applicant requests a permit to import 1.3 captive bred yellow-footed rock wallabies (*Petrogale xanthopus xanthopus*) from Monarto Zoological Park in Australia for the purpose of enhancement of the survival of the species.

Applicant: James Edward Thompson, Dallas, TX, PRT–052734.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Samuel L. Maxwell, Bellevue, WA, PRT–052709.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR part 18).

Written data, comments, or requests for copies of these complete applications or requests for a public hearing on these applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Wayne Webber, Houston, TX, PRT–052890.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Western Hudson Bay polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: February 11, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–5417 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit; Endangered Species

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Barbara & Yaro Hoffmann, Gibsonton, FL, PRT–053061.

The applicant requests a permit to re-export and re-import captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: February 15, 2002.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–5418 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability; Draft Environmental Impact Statement on Resident Canada Goose Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability for public comment.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared a Draft Environmental Impact Statement (DEIS) which is available for public review. The DEIS analyzes the potential environmental impacts of alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce goose-related damages. The analysis provided in the DEIS is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comment received during the scoping period; and disclose the direct, indirect, and cumulative environmental effects of the proposed actions and each of the alternatives. The Service invites the public to comment on the DEIS.

DATES: Written comments on the DEIS must be received by May 30, 2002.

ADDRESSES: Requests for copies of the DEIS should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street NW., Washington, DC 20240. Comments on the DEIS should be sent to the above address.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Division of Migratory Bird Management, or Ron Kokel (703) 358–1714.

SUPPLEMENTARY INFORMATION: On August 19, 1999, a notice was published in the **Federal Register** (64 FR 45269) announcing that the Service intended to prepare an Environmental Impact Statement for resident Canada goose management. Comments were received and considered and are reflected in the

DEIS made available for comment through this notice. This notice is provided pursuant to Fish and Wildlife Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6).

Several public hearings will be held throughout the country during the comment period to solicit oral comments from the public. The dates and locations of these hearings are yet to be determined. A notice of public meetings with the locations, dates, and times will be published in the **Federal Register**.

We will not consider anonymous comments. All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations (40 CFR 1506.6(f)). Our practice is to make comments available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

The DEIS evaluates alternative strategies to reduce, manage, and control resident Canada goose populations in the continental United States and to reduce goose-related damages. The objective of the DEIS is to provide a regulatory mechanism that would allow State and local agencies, other Federal agencies, and groups and individuals to respond to damage complaints or damages by resident Canada geese. The DEIS is a comprehensive programmatic plan intended to guide and direct resident Canada goose population growth and management activities in the conterminous United States. The DEIS analyzes seven management alternatives: (1) No Action (Alternative A); (2) Increase Use of Nonlethal Control and Management (excludes all permitted activities) (Alternative B); (3) Increase Use of Nonlethal Control and Management (continued permitting of those activities generally considered nonlethal) (Alternative C); (4) New Regulatory Options to Expand Hunting Methods and Opportunities (Alternative D); (5) Integrated Depredation Order Management (consisting of an Airport Depredation Order, a Nest and Egg Depredation Order, a Agricultural Depredation Order, and a Public Health Depredation Order) (Alternative E); (6) State Empowerment (PROPOSED ACTION) (Alternative F); and (7) General Depredation Order (Alternative G). Alternatives were analyzed with regard to their potential impacts on resident Canada geese, other wildlife species, natural resources, special status species, socioeconomics, historical resources, and cultural resources.

Our proposed action (Alternative F) would establish a regulation authorizing State wildlife agencies (or their authorized agents) to conduct (or allow) management activities, including the take of birds, on resident Canada goose populations. Alternative F would authorize indirect and/or direct population control strategies such as aggressive harassment, nest and egg destruction, gosling and adult trapping and culling programs, expanded methods of take to increase hunter harvest, or other general population reduction strategies. The intent of Alternative F is to allow State wildlife management agencies sufficient flexibility, within predefined guidelines, to deal with problems caused by resident Canada geese within their respective States. Other guidelines under Alternative F would include criteria for such activities as special expanded harvest opportunities during the portion of the Migratory Bird Treaty closed period (August 1–31), airport, agricultural, and public health control, and the non-permitted take of nests and eggs.

Dated: February 14, 2002.

Steve Williams,

Director.

[FR Doc. 02–5420 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council (Council) Meeting Announcement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Council will meet to select North American Wetlands Conservation Act (NAWCA) proposals for recommendation to the Migratory Bird Conservation Commission. The meeting is open to the public.

DATES: March 6, 2002, 9 a.m.–12 noon.

ADDRESSES: The meeting will be held at the Aspen Wye River Conference Center, 201 Wye Woods Way, Queenstown, MD 21658. The Council Coordinator is located at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 110, Arlington, Virginia, 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Council Coordinator, (703) 358–1784 or *dbhc@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to, and final funding approval by, the Migratory Bird Conservation Commission. Proposals require a minimum of 50 percent non-Federal matching funds.

Dated: February 7, 2002.

Paul R. Schmidt,

Acting Assistant Director, Migratory Birds and State Programs, Fish and Wildlife Service.

[FR Doc. 02–5416 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Approval

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for approval.

SUMMARY: The public is invited to comment on the following application for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

DATES: Written data, comments, or requests for a copy of this complete application must be received by April 8, 2002.

ADDRESSES: Written data, comments, or requests for a copy of this complete application should be sent to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Andrea Gaski, Chief, Branch of CITES Operations, Division of Management Authority, at 703–358–2095.

SUPPLEMENTARY INFORMATION:

Applicant: Mr. William Sanders of Norco, California.

The applicant wishes to establish a cooperative breeding program for black goshawk (*Accipiter melanoleucus*), red-necked falcon (*Falco chicquera*), orange-breasted falcon (*Falco deiroleucus*), red-napped shaheen (*Falco peregrinus babylonicus*), African peregrine (*Falco peregrinus minor*), black shaheen (*Falco peregrinus peregrinator*), Bonelli's eagle (*Hieraaetus fasciatus*), Blyth's hawk-eagle (*Spizaetus alboniger*), changeable hawk-eagle (*Spizaetus cirrhatus*), and ornate hawk-eagle (*Spizaetus ornatus*). The applicant wishes to be an active participant in this program along with three other individuals. The California Raptor Breeder's Association has agreed to assume oversight responsibility of this program if it is approved.

Documents and other information submitted with this application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice.

Dated: February 8, 2002.

Andrea Gaski,

Chief, Branch of CITES Operations, Division of Management Authority.

[FR Doc. 02–5419 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–933–1430–ET; A–023002]

Public Land Order No. 7514; Extension of Public Land Order No. 6244; AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends Public Land Order No. 6244 for an additional 20 years. This extension is necessary to continue the protection of the Department of the Army's Fort Richardson Military Reservation known as the Davis Range Tract M.

EFFECTIVE DATE: May 13, 2002.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 6244, which withdrew public lands to protect the Fort Richardson Military Reservation known as the Davis Range Tract M, is hereby extended for an additional 20-year period following its date of expiration.

2. This withdrawal will expire May 12, 2022, unless as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: February 15, 2002.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02–5435 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Work Group (AMWG), Notice of Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meetings and conference call.

SUMMARY: The Adaptive Management Program (AMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The AMP provides an organization and process to ensure the use of scientific information in decision making concerning Glen Canyon Dam operations and protection of the affected resources consistent with the Grand Canyon Protection Act. The AMP has been organized and includes a federal advisory committee (the AMWG), a technical work group (the TWG), a monitoring and research center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and information for the AMWG to act upon.

Date and Location: The Glen Canyon Dam Adaptive Management Work Group will conduct the following public meeting:

Phoenix, Arizona—April 24–25, 2002. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. on the first day and will begin at 8 a.m. and conclude at 3 p.m. on the second day. The meeting will be held at the Bureau of Indian Affairs, —Western Regional Office, 2 Arizona Center, Conference Rooms A and B (12th Floor), 400 North 5th Street, Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss experimental flows, non-native fish control, the Strategic Plan, Information Needs, FY 2004 AMP Budget, public outreach, environmental compliance, and other administrative and resource issues pertaining to the AMP.

Date and Location: The Glen Canyon Dam Technical Work Group will conduct the following:

Conference Call: March 20, 2002, from 9 a.m to 2 p.m. (MST) to discuss a proposed experimental flow design. Members and the public may register for the call by contacting Linda Whetton at (801) 524–3880.

Phoenix, Arizona—May 16–17, 2002. The meeting will begin at 9:30 a.m. and conclude at 5 p.m. on the first day and will begin at 8 a.m. and conclude at 3 p.m. on the second day. The meeting will be held at the Bureau of Indian Affairs, —Western Regional Office, 2 Arizona Center, Conference Rooms A and B (12th Floor), 400 North 5th Street, Phoenix, Arizona.

Agenda: The purpose of the meeting will be to discuss the management objectives and information needs as contained in the Draft Strategic Plan, experimental flows, non-native fish control, 2001 monitoring results, Aquatic and Cultural Resources Protocol Evaluation Panel (PEP) results, FY 2004 AMP budget, environmental compliance, and other administrative and resource issues pertaining to the AMP.

Agenda items may be revised prior to any of the meetings. Final agendas will be posted 15 days in advance of each meeting and can be found on the Bureau of Reclamation website under Environmental Programs at: *http://www.uc.usbr.gov.* (providing the Reclamation web site is available). If not, they may request a faxed copy of the proposed agenda by calling (801) 524–3880. Time will be allowed on each agenda for any individual or organization wishing to make formal oral comments (limited to 10 minutes) at the meetings.

To allow full consideration of information by the AMWG or TWG members, written notice must be provided to Randall Peterson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1147; telephone (801) 524–3758; faxogram (801) 524–3858; E-mail at *rpeterson@uc.usbr.gov* at least FIVE (5) days prior to the meeting. Any written comments received will be provided to

the AMWG and TWG members at their respective meetings.

FOR FURTHER INFORMATION CONTACT: Randall Peterson, telephone (801) 524–3758; faxogram (801) 524–3858; *rpeterson@uc.usbr.gov.*

Dated: March 1, 2002.

Randall V. Peterson,

Manager, Adaptive Management and, Environmental Resources Division.

[FR Doc. 02–5397 Filed 3–6–02; 8:45 am]

BILLING CODE 4310–MN–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–925 (Final)]

Greenhouse Tomatoes From Canada

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: February 27, 2002.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: On October 5, 2001, the Commission established a schedule for the conduct of the final phase of the subject investigation (66 FR 57112, November 14, 2001). The applicable stature directs that the Commission make its final injury determination within 45 days after the final determination by the U.S. Department of Commerce, which was on February 26, 2002 (67 FR 8781). The Commission, therefore, is revising its schedule.

The Commission's new schedule for the investigation is as follows: party posthearing briefs are due on March 4, 2002; the Commission will make its final release of information on March 25, 2002; and final party comments are due on March 27, 2002.

For further information concerning this investigation see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 1, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–5356 Filed 3–6–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 60-Day notice of information collection under review; Application for Permission to Reapply for Admission into the United States after Deportation or Removal; Form I–212.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 6, 2002.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Permission to Reapply for Admission into the United States after Deportation or Removal.

(3) *Agency from number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–212. Information Services Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The information furnished on Form I–212 will be used by the Immigration and Naturalization Service to adjudicate applications filed by aliens requesting the Attorney General's consent to reapply for admission to the United States after deportation, removal, or departure, as provided under section 212.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,200 responses at hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,400 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: March 1, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–5407 Filed 3–6–02; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 28, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (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 OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Standard on the Control of Hazardous Energy Sources (Lockout/Tagout)—29 CFR 1910.147.

OMB Number: 1218–0150.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government; and Federal Government.

Frequency: On occasion; Initially, and Annually.

Type of Response: Recordkeeping and Third-party disclosure.

Number of Respondents: 2,351,014.

Number of Responses: 93,801,974.

Average Time per Response: Varies from five seconds to notify an employer after removing a lockout or tagout device to two and one-half hours to develop and document an energy-control procedure.

Annual Burden Hours: 1,109,040.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The collections of information contained in 29 CFR 1910.147 are needed to reduce injuries and deaths in the workplace that occur when employees are engaged in maintenance, repair, and other service-related activities requiring the control of potentially hazardous energy.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–5412 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 27, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E–Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Title 29 CFR part 29—Labor Standards for the Registration of Apprenticeship Programs.

OMB Number: 1205–0223.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Frequency: On occasion.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 238,929.

Number of Annual Responses: 238,929.

Estimated Time Per Response: Varies from 15 minutes to complete the Apprenticeship Agreement Form (ETA–671) to 2 hours to develop a written apprenticeship plan.

Total Burden Hours: 47,520.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Title 29 part 29 sets forth labor standards to safeguard the welfare of apprentices and to extend the application of such standards by prescribing policies and procedures concerning registration of apprenticeship programs.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–5413 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 28, 2002.

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: OMB Desk Officer MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Examinations and Tests of Electrical Equipment.

OMB Number: 1219–0067.

Affected Public: Business or other for-profit.

Frequency: On occasion; Weekly; Monthly; and Annually.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 2,407.

Annual Responses: 1,591,866.

Average Time per Response: Varies from 15 minutes to record examination results to 1 hour to conduct an examination of facilities.

Annual Burden Hours: $1,055,542.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 75.512, 75.703–3(d)(11), 77.502, 75.800–1 thru 4, 75.900, and 75.1001–1(b) require coal mine operators to frequently examine, test, and properly maintain all electrical equipment and to keep records of the results of the examinations and tests. These information collection requirements are needed to ensure that electrical equipment is properly maintained to avoid electrical accidents that could seriously injure coal miners.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Applications for Approval of Sanitary Toilet Facilities.

OMB Number: 1219–0101.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Type of Reporting: Recordkeeping and Reporting.

Number of Respondents: 2.

Number of Annual Responses: 2.

Average Time per Response: 8.

Annual Burden Hours: 16.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 71.500 and 75.1712–6 requires manufactures of sanitary toilet facilities to obtain MSHA approval of units prior to use at coal mine operations. This approval process is necessary to ensure healthy an environment for miners.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Records of All Certified and Qualified Persons and Man Hoist Operators' Physical Fitness.

OMB Number: 1219–0127.

Affected Public: Business or other for-profit.

Frequency: On occasion and Quarterly.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 2,365.

Number of Annual Responses: 11,875.

Estimated Time Per Response: 8 hours to develop a training plan and 5 minutes to update the list of certified and qualified man hoist operators.

Total Burden Hours: 20,888.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 75–155, 75–159, 75–160, 75–161, 77–105, 77–107, 77–107–1, and 77–106 requires mine operators to maintain a list of persons who are certified and qualified as hoisting engineers, and to provide a training program to train and retain both certified and qualified persons.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–5414 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 26, 2002.

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 Marlene Howze at ((202) 219–8904 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those

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

Type of Review: Revision of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Certification of Funeral Expenses.

OMB: 1215–0027.

Affected Public: Business or other for-profit.

Frequency: On Occasion.

Number of Annual Respondents: 195.

Number of Annual Responses: 195.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 49.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operation/maintaining systems or purchasing services): $0.

Description: Section 9(a) of the Longshore and Harbor Workers' Compensation Act provides that reasonable funeral expenses not to exceed not to exceed $3,000 shall be paid in all compensable death cases. Form LS–265 has been provided for use in submitting the funeral expenses for payment. The information collected by this form is incorporated into a compensation order at the time death benefits are ordered paid in a case. It it also used to certify the amount of funeral expenses incurred in the case. if the information were not collected, payable funeral expenses could not be determined.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Comparability of Current Work to Coal Mine Employment; (2) Coal Mine Employment Affidavit; (3) Affidavit of Deceased Miner's Condition.

OMB Number: 1215–0056.

Affected Public: Individuals or households.

Frequency: On Occasion.

Responses and Estimated Burdens:

Form	Annual responses	Per response (min.)	Total burden hours
CM–913	1,500	30	750
CM–918	6,000	10	17
CM–1093	5,000	20	33
Total	26,000		800

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $1,200.96.

Description: The Black Lung Benefits Act of 1977, as amended, 30 U.S.C. 901 *et seq.*, provides for the payment of benefits to coal miners who have contracted black lung disease as a result of coal mine employment, and their dependents and survivors. Once a miner has been identified as having performed non-coal mine work subsequent to coal mine employment, the miner or the miner's survivor is asked to complete Form CM–913 to compare coal mine work to non-coal mine work. This employment, along with medical information, is used to establish whether the miner is totally disabled due to black lung disease caused by coal mine employment. Form CM–918 is an affidavit used to gather coal mine employment evidence only when primary evidence, such as pay stubs, W–2 forms, employer and union records, and Social Security records are unavailable or incomplete. Form CM–1093 is an affidavit form for recording lay medical evidence, used in survivor's claims in which evidence of the miner's medical condition is insufficient. For each of these forms (CM–913, CM–918, and CM–1093), the information is collected only if needed at the time the claim is received. If the information were not collected on these forms, the determination as to eligibility for benefits under the Black Lung Benefits Act would be severely limited.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–5415 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–CF–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act: Indian and Native American Employment and Training Programs; Solicitation for Grant Applications: Final Grantee Designation Procedures for Program Years 2002 and 2003

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of final designation procedures for grantees.

SUMMARY: This document contains the procedures by which the Department of Labor (DOL) will select and designate service providers for Program Years 2002 and 2003 for Indian and Native American Employment and Training Programs under section 166 of the Workforce Investment Act (WIA). Grantees or potential eligible providers participating in Public Law 102–477 Demonstration Projects must apply for designation if they wish to receive or continue to receive WIA funds for Program Years 2002 and 2003. Public Law 102–477 allows Federally-recognized tribes to consolidate their formula-funded employment and training and related dollars under a single service plan administered by the Bureau of Indian Affairs. This notice provides the information that applicants need to submit appropriate requests for designation.

DATES: Notices of Intent must be received in the Department March 22, 2002. All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to the recent concerns involving anthrax contamination. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission; that is, if because of these mail problems, the Department does not receive an application or receives it too late to give it proper consideration, even if it was timely mailed, the Department is not required to consider the application.

ADDRESSES: Send a signed original and two copies of the Notice of Intent to Mr. James C. DeLuca, Chief, Division of Indian and Native American Programs, Room N–4641 FPB ATTN: MIS Desk, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION: We recommend that you confirm receipt of this submission by contacting Ms. Andrea T. B. Brown, U.S. Department of Labor, Division of Indian and Native American Programs, telephone number (202) 693–3736 [this is not a toll-free number].

SUPPLEMENTARY INFORMATION:

Workforce Investment Act; Indian and Native American Programs; Final Designation Procedures for Program Years 2002 and 2003

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Introduction: Scope and Purpose of This Notice

Section 166 of the Workforce Investment Act (WIA) authorizes programs to serve the employment and training needs of Indians and Native Americans.

Requirements for these programs are set forth in WIA section 166 and its regulations, codified at 20 CFR part 668, published at 65 FR 49294, 49435 (August 11, 2000). The specific eligibility and application requirements for designation are set forth at 20 CFR Part 668, Subpart B. It should be noted that community and faith-based organizations are eligible to apply for these grants, but only if they are Native-American controlled as defined in this announcement. Under these requirements, the Department of Labor (DOL) selects entities for funding for a two-year period. Designated service providers will be funded annually during the designation period, contingent upon all other grant award requirements being met and the continuing availability of Federal funds.

The Notice of Intent (*see* Part III, below) must be submitted by all applicants. Any organization interested in being designated as a Native American section 166 grantee should be aware of and comply with the procedures in all parts of this SGA.

The amount of WIA section 166 funds to be awarded to designated Native American organizations is determined under the procedures set by 20 CFR 668.296.

I. General Designation Principles

The following general principles reflect the WIA and regulatory language which underpin the designation process. These principles do not, in any way, constitute evaluation criteria for review of applications. Those criteria appear exclusively in Part IV below:

(1) *All applicants* for designation must comply with the requirements found at 20 CFR part 668, subpart B, which contains the basic eligibility, application, and designation requirements. Potential applicants should be aware that a non-incumbent entity must have a population within the designated geographic service area which would provide formula funding under 20 CFR 668.296(b) [and 20 CFR 668.440(a) if the entity is eligible to receive Supplemental Youth Services funding] in the amount of at least $100,000 per program year. *See* 20 CFR 668.200(a)(3). Federally-recognized tribes wishing to participate in the demonstration under Public Law 102–477 must have a service area and population which generates at least $20,000 per year in total section 166 formula funds. For those tribes wishing to participate in the ''477'' demonstration, exceptions may be made to this $20,000 WIA designation threshold if: (1) The total resources to be included in the ''477 plan'' exceed $100,000; (2) the amount of section 166 formula funding is close to the $20,000 limit; and (3) the plan is otherwise approvable. Determinations of this exception (and resultant WIA designation or non-designation) will be made on a case-by-case basis.

(2) High unemployment, lack of training, lack of employment opportunity, societal and other barriers exist within predominantly INA communities and among INA groups residing in other communities. The underlying philosophy of this program is that Indians and Native Americans are best served by a responsible Indian and Native American organization directly representing them, with the demonstrated knowledge and ability to coordinate resources within the respective communities. The WIA and the implementing regulations (20 CFR 668.210) establish priorities for Indian and Native American organizations. Those priorities are the basis for the steps which will be followed in designating grantees.

(3) *A Federally-recognized tribe, band or group on its reservation (including former reservation areas in Oklahoma), and Alaska Native entities defined in the Alaska Native Claims Settlement Act (ANCSA) (or consortia that include a tribe or an ANCSA entity)* are given highest priority over any other organization if they have the capability to administer the program and meet all eligibility and regulatory requirements. This priority applies only to the areas over which the organizations have legal jurisdiction. See 20 CFR 668.210(a). Consistent with the holding in *Narragansett Indian Tribe* v. *U.S. Department of Labor,* [ALJ Case No. 2000-WIA–6 (12/20/2000) and ARB Case No. 01–027 (07/20/2001)], we interpret 20 CFR 668.210(a) as requiring that we give priority only to a Federally-recognized tribe on its reservation, to a Federally-recognized Oklahoma tribe over its members on its former reservation, and to an Alaska Native Corporation (or its designated entity) within its corporation area as defined under ANCSA.

In the event that such a tribe, band or group (including an Oklahoma and/or Alaska Native entity) is not designated to serve its reservation or geographic service area, the DOL will consult with the governing body of such entities when designating alternative service deliverers. Such consultation may be accomplished in writing, in person, or by telephone, as time and circumstances permit. When it is necessary to select alternative service deliverers, the Grant Officer will, in accordance with 20 CFR 668.280, whenever possible, accommodate the views and recommendations of the INA community leaders and the Division of Indian and Native American Programs (DINAP). Whenever possible, the Grant Officer will attempt to select an experienced alternative service provider(s) from a contiguous area. However, if necessary, the Grant Officer may divide the service area between two or more entities and/or, if necessary, select an alternative service provider from a non-contiguous area. If time permits, the Grant Officer will solicit the views of other Federally-recognized tribal entities within the service area, if any. See 20 CFR 668.210(b).

(4) In designating Native American section 166 grantees for areas not covered by the highest priority in accordance with (3) above, DOL will designate Indian and Native American-controlled organizations as service providers. This would include the group referred to in (3) applying for off-reservation areas. As noted in (3) above, when vacancies occur, the Grant Officer will select alternates in accordance with 20 CFR 668.280.

(5) Incumbent and non-incumbent applicants seeking additional areas are expected to clearly demonstrate a working knowledge of the community that they plan to serve, including available resources, resource utilization and acceptance by the service population.

(6) Special employment and training services for Indian and Native American people have been provided through an established service delivery network for the past year under the Workforce Investment Act, and for 25 years under the authority of JTPA section 401 and its predecessor, section 302 of the Comprehensive Employment and Training Act (CETA). The DOL intends to exercise its designation authority to both preserve the continuity of services to the INA population and to preserve the viability of existing geographic service areas by rejecting applications for service areas which would not satisfy 20 CFR 668.200(a)(3).

(7) The Grant Officer will accord some preference for those Native American organizations which have demonstrated their capability to deliver employment and training services within an established geographic service area. However, this preference does not

preclude the selection of a new grantee that clearly demonstrates a significant superiority in providing services in another service area. Such preference will be determined through input and recommendations from the Chief of DOL's Division of Indian and Native American Programs (DINAP) and DOL's Division of Federal Assistance (DFA). This preference is reflected in the language of Part IV which provides that an incumbent will be required to compete for continuation as a grantee only where the Grant Officer determines that a competitor has demonstrated the potential for superiority over the incumbent.

(8) In preparing applications for designation, applicants should bear in mind that the purpose of section 166 of WIA is ''to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.''

It should be noted that these ''General Designation Principles'' are not intended as ''hard and fast rules'' which must be followed to the letter in any and all designation activities. In particular, they do not supplement or supersede the criteria set by Part IV, below. In cases of competition between or among Native American groups, the Grant Officer's primary consideration is the protection of Federal funds, followed closely by the mandate to select the entity best able to provide the required services to the individuals residing in the given service delivery area. These principles in no way expand the rights of incumbent and potential grantees under the existing statute and regulations.

II. Waiver Provisions

WIA section 166(c)(2) states:

> The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirement for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

Because a ''full competition'' for the first designation under WIA was held two years ago, the Department is exercising this waiver option for this two-year designation period. All incumbent grantees that have performed ''satisfactorily,'' both programmatically and administratively, under their present grant may receive a waiver from competition for the PY 2002–2003 designation period. The responsibility review criteria at 20 CFR 667.170 will serve as the baseline criteria for determining ''satisfactory performance,'' although the seriousness of the factors supporting a finding of unsatisfactory performance will be less than that required to support a finding of non-responsibility, and other factors such as program performance may be involved. As in previous designation cycles under the Job Training Partnership Act where a waiver option has been utilized by the Department, the minimum performance period needed to qualify a grantee for a waiver of competition is two consecutive program years.

Incumbent grantees will not have to request this waiver. Based on the standards described above, the Department has determined which grantees qualify for a waiver, and has included the list of those grantees in Part VIII of this announcement. Incumbent grantees, including Federally-recognized tribes serving areas outside their reservations, which are not granted waivers will be subject to the competitive process published in this solicitation.

Incumbent grantees receiving a waiver will be required to submit only a properly completed SF–424 for their currently-designated service area(s), postmarked by February 1, 2002, or fifteen days from the date of publication of this solicitation, whichever is later, and a certification that their applicant organization's status has not changed from its original designation (*see* Part III.2.A).

Non-incumbent entities that qualify for priority designation (*see* Part I.(3) above) may apply for and be designated to serve their priority service area (*i.e.,* reservation), providing these applicants are otherwise eligible under the regulations at 20 CFR 668.200(a)(3). For those Federally-recognized tribes (or consortia thereof) wishing to participate in the demonstration under Public Law 102–477 and unable to qualify under the $100,000 funding ceiling, a ''477 plan'' must have been received by the Bureau of Indian Affairs before the March 1, 2002 designation determination date set forth at 20 CFR 668.260(a).

Incumbent tribes and organizations that have been participating in the demonstration under Public Law 102–477 will be granted waivers from competition, unless they have outstanding and serious unresolved issues with the Department(s) providing their ''477 funding'' which would affect their continued WIA designation. Otherwise, ''477 tribes'' whose legal status has not changed need only submit a properly completed SF–424 to be designated for the PY 2002–2003 funding period.

III. Notice of Intent

1. Dates and Address for Submittal

Send a signed original and two copies of the completed Notice of Intent (NOI) to Mr. James C. DeLuca, Chief, Division of Indian and Native American Programs, Room N–4641 FPB, ATTN: MIS Desk, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

Notices of Intent that comply with the requirements of this solicitation must be received by or postmarked by February 1, 2002, or 15 days from date of publication of this solicitation in the **Federal Register**, whichever is later. NOI's not received by the deadline will be accepted only with an official, U.S. Postal Service postmark indicating timely submission. Dates indicating submission by private express delivery service or by metered mail are unacceptable as proof of submission. All applicants are advised that U.S. mail delivery in the Washington, DC area has been erratic due to the recent concerns involving anthrax contamination. All applicants must take this into consideration when preparing to meet the application deadline, as you assume the risk for ensuring a timely submission; that is, if because of these mail problems, the Department does not receive an application or receives it too late to give it proper consideration, even if it was timely mailed, the Department is not required to consider the application.

When more than one eligible organization applies to provide services in the same area, a review of the applicants will be conducted and, when necessary, a competitive selection will be made. Competing applicants will be notified of such competition as soon as possible, and may submit revised Notices of Intent to be received by the Department or postmarked no later than February 15, 2002, or a date 15 days after the applicant is notified of the competition. At a minimum, revised Notices of Intent should include the information required in Part A as applicable and Part B. All Notices of Intent must be submitted to the Chief of DINAP at the above address.

2. Submission of Notice of Intent Via E-Mail

Due to the erratic mail delivery in the Washington, DC area, the applicant has the option of submitting its Notice of Intent *via* e-mail, *sboyd@doleta.gov.* However, due to the high volume of applications, the return receipt option must be utilized in order to verify receipt of the application. Should the applicant choose to e-mail the Notice of Intent, an originally-signed signature sheet, along with a copy of the applicant's e-mail/written verification of receipt, must follow *via* overnight mail. E-mailed Notices of Intent will be accepted in Microsoft WORD or WordPerfect only.

3. Instructions for Obtaining Return Receipt

Before sending the e-mail, click on ''file,'' go to ''properties, return notification,'' and finally click on ''mail receipt.'' The sender will automatically receive an e-mail notification when the e-mail is opened. Please note that faxed applications will not be accepted.

4. Notice of Intent Content and Procedure

The information required in *Part A* must be provided by *all applicants,* except for those incumbent Federally-recognized tribes participating in the demonstration under Public Law 102–477 whose status has not changed. Additionally, *competing organizations* will be required, if notified by the Grant Officer, to provide the information in *Part B.*

Part A

1. A completed SF–424, ''Application for Federal Assistance,'' signed by the authorized signatory official. For those current grantees receiving a waiver under WIA section 166(c)(2), the SF–424, accompanied by a statement that the designated organization remains intact, is all that must be submitted. Consortium grantees, even if receiving a waiver, must also submit either an updated consortium agreement or a statement signed by all members indicating that the consortium remains intact. Applicants receiving a waiver and *not* applying for additional service area(s) need not complete items 2 through 6;

2. An identification of the applicant's legal status, including articles of incorporation or consortium agreement as appropriate;

3. A specific description of the territory being applied for, by State(s), counties, reservation(s) or similar area, or service population;

4. A very brief summary, including the funding source, contact person and phone number of the employment and training or human resource development programs serving Native Americans that the entity currently operates or has operated within the previous two-year period;

5. A brief description of the planning process used by the entity, including involvement of the governing body and local employers;

6. Evidence to establish an entity's ability to administer funds under 20 CFR 668.220 and 668.230 which should at a minimum include:

(a) A statement that the organization is in compliance with the Department's debt management procedures; and

(b) A statement that fraud or criminal activity has not been found in the organization, or a brief description of the circumstance where it has been found and a description of resolution, corrective action and current status; and

(c) A narrative demonstrating that an entity has or can acquire the necessary program and management personnel to safeguard federal funds and effectively deliver program services that support the purposes of the Workforce Investment Act; and

(d) If not otherwise provided, a narrative demonstrating that an entity has successfully carried out or has the ability to successfully carry out activities that will strengthen the ability of the individuals served to obtain or retain unsubsidized employment, including the past two-year history of publicly funded grants/contracts administered including identification of the fund source and a contact person.

In addition, grantees not receiving a waiver as the result of failure to perform satisfactorily (as opposed to not having been in operation for two full, consecutive years) must specifically enumerate and explain actions taken to correct deficiencies identified by the Department, including specific time frames for completion. The Grant Officer may require additional or clarifying information or action, including a site visit, before designating those applicants.

Part B

If the Grant Officer determines that there is competition for all or part of a given service area, the following information will be required of the competing entities:

(1) Evidence that the entity represents the community proposed for services such as: Demonstration of support from Native American-controlled organizations, State agencies, or other entities with specific knowledge of the applicant's operational capability; and

(2) Submission of a service plan and other information expanding on the information required at Part A which the applicant feels can strengthen its case, including information on any unresolved or outstanding administrative problems.

Exclusive of charts or graphs and letters of support, the additional information submitted to augment the Notice of Intent in a situation involving competition should not exceed *75* pages of double-spaced, unreduced type.

Incumbent and non-incumbent Federally-recognized tribes, and Hawaiian and Alaska Native entities, need not submit evidence of support regarding their own reservations or areas of legal jurisdiction. However, such entities are required to provide such evidence for any area which they wish to serve beyond their reservation boundaries, or their Congressionally-mandated or Federally-established service areas.

All applicants for non-contiguous geographic service areas must prepare a separate, complete Notice of Intent (including the above-referenced supplementary information if applicable) for each such area.

An applicant whose Notice of Intent contains all of the information otherwise required in Part B need not supplement the NOI.

IV. Use of Panel Review Prodecure

An initial review of all applicants, conducted by DINAP and with the concurrence of the Grant Officer, will identify priority applicants and recommend those areas requiring further competition. In areas under competition, a formal panel review process will be utilized under the following circumstances:

(1) When one or more new applicants, none qualifying for the highest priority for the requested area, can demonstrate the potential for superiority over the non-priority incumbent organization; or

(2) When two or more applicants, none qualifying for the highest priority, request an area and the incumbent organization fails to apply for designation, or is required to compete.

When further competition occurs, the Grant Officer will convene a review panel to score the information submitted with the Notice of Intent (Part A *and* B). This panel will include individuals with knowledge of or expertise in programs dealing with Indians and Native Americans. The purpose of the panel is to review and evaluate an organization's potential, *based on its application (including the*

supplemental information required in Part B), to provide services to a specific Native American community, to rate the proposals in accordance with the rating criteria described below and to make recommendations to the Grant Officer. The panel will be provided the information described in the Notice of Intent.

It is DOL's policy that no information affecting the panel review process will be solicited or accepted after the deadlines for receipt of applications set in this Notice. All information provided before these deadlines must be in writing.

This policy does not preclude the Grant Officer from requesting additional information independent of the panel review process.

During the review, the panel will not give weight to undocumented assertions. Any information must be supported by adequate and verifiable documentation, e.g., supporting references must contain the name of the contact person, an address, and telephone number. Panel recommendations are advisory to the Grant Officer.

The factors listed below will be considered in evaluating the applicants approach to providing services.

Established Native American-controlled organizations	Maximum allowable points
1. (a) Previous experience or demonstrated capabilities in successfully operating an employment and training program established for and serving Indians and Native Americans.	30 points.
(b) Previous experience in operating or coordinating with other human resources development programs serving Indians or Native Americans.	10 points.
(c) Approach to providing services, including identification of the training and employment problems and needs in the requested area, and approach to addressing such needs.	10 points.
2. Demonstration of the ability to maintain continuity of services to Indian or Native American participants consistent with those previously provided in the community.	10 points.
3. (a) Description of the entity's planning process and demonstration of involvement with the INA community	5 points.
(b) Demonstration of involvement with local employers within the service area, and with local Workforce Investment Boards and Youth Councils, etc.	5 points.
4. Demonstration of coordination and linkages with Indian and non-Indian employment and training resources within the community, including, but not limited to, community and faith-based organizations and One-Stop systems (as applicable), to eliminate duplication of effort.	15 points.
5. Demonstration of support and recognition by the Native American community and service population, including local tribes and adjacent Indian organizations and the client population to be served.	15 points.
Total	100 points.

V. Notification of Designation/ Nondesignation

The Grant Officer will make the final designation decision giving consideration to the following factors: the review panel's recommendation, in those instances where a panel is convened; input from DINAP, other offices within the Employment and Training Administration, and the DOL Office of the Inspector General; and any other available information regarding the organization's financial and operational capability, and responsibility. The Grant Officer will select the entity that demonstrates the ability to produce the best outcomes for its customers. If at all possible, designation decisions will be made by the March 1, 2002 deadline, and will be provided to applicants as follows:

(1) *Designation Letter.* The designation letter signed by the Grant Officer will serve as official notice of an organization's designation. The letter will include the geographic service area for which the designation is made. It should be noted that the Grant Officer is not required to adhere to the geographical service area requested in the Notice of Intent. The Grant Officer may make the designation applicable to all of the area requested, a portion of the area requested, or if acceptable to the designee, more than the area requested.

(2) *Conditional Designation Letter.* Conditional designations will include the nature of the conditions, the actions required to be finally designated and the time frame for such actions to be accomplished. Failure to satisfy such conditions may result in a withdrawal of designation. Organizations with no prior grant history with the Department may be conditionally designated pending an on-site review and/or a six-month assessment of program progress.

(3) *Non-Designation Letter.* Any organization not designated, in whole or in part, for a geographic service area requested will be notified formally of the Non-Designation and given the basic reasons for the determination. An applicant for designation which is refused such designation, in whole or in part, will be afforded the opportunity to appeal its Non-Designation as provided at 20 CFR 668.270.

VI. Special Designation Situations

(1) *Alaska Native Entities.* DOL has established geographic service areas for Alaska Native employment and training grantees based on the following: (a) the boundaries of the regions defined in the Alaska Native Claims Settlement Act (ANCSA); (b) the boundaries of major sub-regional areas where the primary provider of human resource development-related services is an Indian Reorganization Act (IRA)-recognized tribal council; and (c) the boundaries of the one Federal reservation in the State. Within these established geographic service areas, DOL will designate the primary Alaska Native-controlled human resource development services provider or an entity formally selected by such provider. In the past, these entities have been regional nonprofit corporations, IRA-recognized tribal councils, and the tribal government of the Metlakatla Indian Community. DOL intends to follow these principles in designating Native American grantees in Alaska for Program Years 2002 and 2003.

(2) *Oklahoma Indians.* DOL has established a service delivery system for Indian employment and training programs in Oklahoma based on a preference for Oklahoma Indian tribes and organizations to serve portions of the State. Generally, service areas have been designated geographically as countywide areas. In cases in which a significant portion of the land area of an individual county lies within the traditional jurisdiction(s) of more than one tribal government, the service area has been subdivided to a certain extent on the basis of tribal identification information contained in the most recent Federal Decennial Census of Population. Wherever possible,

arrangements mutually satisfactory to grantees in adjoining or overlapping geographic service areas will be honored by DOL. Where mutually satisfactory arrangements cannot be made, DOL will designate and assign service area to Native American grantees in a manner which is consistent with WIA and that will preserve the continuity of services and prevent unnecessary fragmentation of the programs.

VII. Designation Process Glossary

In order to ensure that all interested parties have the same understanding of the process, the following definitions are provided:

(1) *Indian or Native American-Controlled Organization.* This is defined as any organization with a governing board, more than 50 percent of whose members are Indians or Native Americans. Such an organization can be a tribal government, Native Alaska or Native Hawaiian entity, consortium, or public or private nonprofit agency. For the purpose of designation determinations, the governing board must have decision-making authority for the WIA section 166 program. It should be noted that, under WIA section 166(d)(2)(B), individuals who were eligible to participate under section 401 of JTPA on August 6, 1998, will be eligible to participate under WIA. Organizations serving such individuals will be considered ''Indian controlled'' for WIA section 166 purposes if they meet the criteria of this paragraph.

(2) *Service Area.* This is defined as the geographic area described as States, counties, and/or reservations for which a designation is made. In some cases, it will also be defined in terms of the specific population to be served. The service area is identified by the Grant Officer in the formal designation letter. Grantees must ensure that all eligible population members have equitable access to employment and training services within the service area.

(3) *Incumbent Organizations.* Organizations which are current grantees under WIA section 166, during PY 2001, are considered incumbent grantees for the existing service area, for the purposes of WIA.

VIII. Waivers of Competition

Alabama

Inter-Tribal Council of Alabama
Poarch Band of Creek Indians

Alaska

Aleutian-Pribilof Islands Association
Association of Village Council Presidents
Bristol Bay Native Association
Central Council of Tlingit and Haida Indian Tribes of Alaska
Chugachmiut
Cook Inlet Tribal Council, Inc.
Kawerak, Incorporated
Kenaitze Indian Tribe
Kodiak Area Native Association
Maniilaq Manpower, Inc.
Metlakatla Indian Community
Orutsararmuit Native Council
Tanana Chiefs Conference, Inc.

Arizona

Affiliation of Arizona Indian Centers, Inc.
American Indian Association of Tucson
Colorado River Indian Tribes
Gila River Indian Community
Hualapai Reservation and Trust Land
Hopi Tribal Council
Native Americans for Community Action, Inc.
The Navajo Nation
Phoenix Indian Center, Inc.
Quechan Indian Tribe
Salt River/Pima-Maricopa Indian Community
San Carlos Apache Tribe
Tohono O'Odham Nation
White Mountain Apache Tribe

Arkansas

American Indian Center of Arkansas, Inc.

California

California Indian Manpower Consortium
Candelaria American Indian Council
Indian Human Resources Center, Inc.
Northern California Indian Development Council, Inc.
Southern California Indian Center, Inc.
United Indian Nations, Inc.
Ya-Ka-Ama Indian Education & Development

Colorado

Denver Indian Center, Inc.
Southern Ute Indian Tribe
Ute Mountain Ute Tribe

Delaware

Nanticoke Indian Association, Inc.

Florida

Florida Governor's Council on Indian Affairs
Miccosukee Corporation
Seminole Tribe of Florida

Hawaii

Alu Like, Inc.

Idaho

Nez Perce Tribe
Shoshone-Bannock Tribes

Kansas

Mid-American All Indian Center, Inc.
United Tribes of Kansas and Southeast Nebraska, Inc.

Louisiana

Inter-Tribal Council of Louisiana, Inc.

Maine

Penobscot Nation

Massachusetts

Mashpee-Wampanoag Indian Tribal Council, Inc.
North American Indian Center of Boston, Inc.

Michigan

Grand Traverse Band of Ottawa and Chippewa
Inter-Tribal Council of Michigan, Inc.
Michigan Indian Employment and Training Services, Inc.
The Pokagon Band of Potawatomi Indians
Sault Ste. Marie Tribe of Chippewa Indians
Southeastern Michigan Indians, Inc.

Minnesota

American Indian Opportunities Industrialization Center
Fond Du Lac Reservation Business Council
Leech Lake Reservation Tribal Council
Mille Lacs Band of Chippewa Indians
Minneapolis American Indian Center
Red Lake Tribal Council
White Earth Reservation Business Council

Mississippi

Mississippi Band of Choctaw Indians

Missouri

American Indian Council, Inc.

Montana

Assiniboine & Sioux Tribes
Blackfeet Tribal Business Council
Confederated Salish & Kootenai Tribes
Crow Tribe of Indians
Fort Belknap Indian Community
Northern Cheyenne Tribe

Nebraska

Indian Center, Inc.
Omaha Tribe of Nebraska
Winnebago Tribe of Nebraska

Nevada

Inter-Tribal Council of Nevada, Inc.
Las Vegas Indian Center, Inc.
Shoshone-Paiute Tribes

New Jersey

Powhatan Renape Nation

New Mexico

Alamo Navajo School Board, Inc.
All Indian Pueblo Council, Inc.
Eight Northern Indian Pueblos Council

Five Sandoval Indian Pueblos
Jicarilla Apache Tribe
Mescalero Apache Tribe
National Indian Youth Council
Pueblo of Acoma
Pueblo of Laguna
Pueblo of Taos
Pueblo of Zuni
Ramah Navajo School Board, Inc.
Santa Clara Indian Pueblo
Santo Domingo Tribe

New York

American Indian Community House, Inc.
Native American Community Services of Erie & Niagara Counties
Native American Cultural Center, Inc.
St. Regis Mohawk Tribe

North Carolina

Cumberland County Association for Indian People
Eastern Band of Cherokee Indians
Guilford Native American Association
Haliwa-Saponi Indian Tribe, Inc.
Lumbee Regional Development Association, Inc.
Metrolina Native American Association
North Carolina Commission of Indian Affairs

North Dakota

Spirit Lake Sioux Tribe
Standing Rock Sioux Tribe
Turtle Mountain Band of Chippewa Indians
United Tribes Technical College

Ohio

North American Indian Cultural Center, Inc.

Oklahoma

Absentee Shawnee Tribe of Oklahoma
American Indian Education, Training & Employment Center, Inc.
Cherokee Nation of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Chickasaw Nation
Choctaw Nation of Oklahoma
Citizen Potawatomi Nation
Comanche Indian Tribe
Delaware Tribe of Oklahoma
Four Tribes Consortium of Oklahoma
Inter-Tribal Council of N.E. Oklahoma
Kiowa Tribe of Oklahoma
Muscogee (Creek) Nation of Oklahoma
Osage Nation
Pawnee Tribe of Oklahoma
Ponca Tribe of Oklahoma
Seminole Nation of Oklahoma

Oregon

Confederated Tribes of Siletz Indians
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of Warm Springs
Organization of Forgotten Americans, Inc.

Pennsylvania

Council of Three Rivers, Inc.

Rhode Island

Rhode Island Indian Council, Inc.

South Carolina

South Carolina Indian Development Council, Inc.

South Dakota

Cheyenne River Sioux Tribe
Oglala Sioux Tribe
Rosebud Sioux Tribe
Sisseton-Wahpeton Sioux Tribe
United Sioux Tribes Development Corporation

Texas

Alabama-Coushatta Indian Tribal Council
Dallas Inter-Tribal Center
Ysleta Del Sur Pueblo/Tigua Indian Tribe

Utah

Indian Center Employment Services, Inc.
Ute Indian Tribe

Vermont

Abenaki Self-Help Association/New Hampshire Indian Council

Virginia

Mattaponi-Pamunkey-Monacan Consortium

Washington

American Indian Community Center
Colville Confederated Tribes
Lummi Indian Business Council
Makah Tribal Council
Seattle Indian Center, Inc.
The Tulalip Tribes
Western Washington Indian Employment and Training Program

Wisconsin

Ho-Chunk Nation
Lac Courte Oreilles Tribal Governing Board
Lac Du Flambeau Band of Lake Superior Chippewa
Menominee Indian Tribe of Wisconsin
Milwaukee Area American Indian Manpower Council, Inc.
Oneida Tribe of Indians of Wisconsin
Wisconsin Indian Consortium

Wyoming

Eastern Shoshone Tribe
Northern Arapaho Tribe

BILLING CODE 4510–30–P

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School District.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required face sheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable).
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: -- "New" means a new assistance award. -- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. -- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item:	Entry:
12.	List only the largest political entities affected (e.g., State, counties, cities).
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans, and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

SF 424 (REV 4-88) Back

Signed at Washington, DC, this 1st day of March, 2002.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 02–5487 Filed 3–6–02; 8:45 am]

BILLING CODE 4510–30–C

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Replacement of the Old American Canal, Located in El Paso, TX; Notice of Final Finding of No Significant Impact; Notice of Availability

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of availability of a final finding of no significant impact and a final environmental assessment.

SUMMARY: Based on the Draft Environmental Assessment (EA) and the public comments received, the United States Section, International Boundary and Water Commission (USIBWC), finds that the proposed action of replacement of the existing American Canal is not a major federal action that would have a significant adverse effect on the quality of the human environment. An Environmental Impact Statement will not be prepared for the project. The Final Finding of No Significant Impact (FONSI) and Final EA have been forwarded to the United States Environmental Protection Agency and various Federal, State and local agencies and interested parties for information only. No comments are requested. The final FONSI and EA are also available on the USIBWC Home Page at *http://www.ibwc.state.gov* under ''What's New,'' and at the reference desk at The University of Texas at El Paso Library and the El Paso Main Library. A limited number of copies of these documents are available upon request from Mr. Fox at USIBWC, 4171 North Mesa Street #C–310, El Paso, TX 79902; Telephone: (915) 832–4736; E-mail: *stevefox@ibwc.state.gov.*

The proposed replacement and enlargement of the 1.98-mile-long American Canal involves demolishing the deteriorating concrete open channel segments of the canal and replacing them with reinforced concrete-lined canal segments. The USIBWC is authorized under the Rio Grande American Canal Extension Act of 1990 (''RGACE'' or the Act of 1990), Public Law 101–438, dated October 15, 1990, to construct, operate, and maintain an extension of the existing American Canal in El Paso, Texas; which would provide for a more equitable distribution of waters between the United States and Mexico, reduce water losses, and minimize many hazards to public safety.

Water for both irrigation and domestic use in El Paso County is diverted into the American Canal at the American Dam located on the Rio Grande approximately 3 miles upstream from downtown El Paso. The American Dam and American Canal were constructed from 1937 to 1938, within United States territory to divert United States waters away from the Rio Grande, and to allow into the international reach of the Rio Grande only those waters assigned to the Republic of Mexico under the Convention of 1906. This ensured that United States waters diverted at the American Dam would be completely retained within the United States.

In the Act of 1990, the United States Congress also authorized the negotiation of international agreements for the RGACE to convey Mexican waters authorized under the 1906 Convention. In view of the conveyance water losses and the safety issues inherent in Mexico's existing canal system, the RGACE was designed to accommodate Mexico's annual 60,000 acre-foot allotment of water at 335 cubic feet per second (cfs), should Mexico request its allotment delivered at this location.

Alternatives Considered

Five alternatives were considered during the preparation of the environmental assessment, including the Open Channel Alternative (the Proposed Action Alternative) and the No Action Alternative. All four action alternatives include (1) increasing the canal capacity to 1535 cfs, (2) demolition of existing canal structures and open channel concrete lining, (3) reconstructing and enlarging the 400-foot open channel segment immediately downstream from the headgates and the 100-foot open channel segment upstream from the gaging station, (4) not repairing or replacing the two closed conduit segments under West Paisano Drive, (5) installing fences to minimize entrance into the canal, (6) installing safety equipment to reduce canal drownings, (7) removing the Smelter Bridge and the abutments of Harts Mill Bridge, and (8) providing mitigation for the loss of the Smelter Bridge by preparing Historic American Engineering Record (HAER) Level III documentation of the structure (including existing and original construction drawings, captioned photographs, and written data). The alternatives are summarized below:

Alternative 1—Closed Conduit Alternative: All existing open channel segments (Upper, Middle, and Lower) between the American Dam and International Dam would be replaced with closed conduits, with the two excepted open reaches in the Upper Open Channel segment. This Alternative would be the most expensive to construct and would lose the historic predominantly open visual character of the canal.

Alternative 2—Closed Conduit/Open Channel Alternative A: The Middle Open Channel segment would be replaced with a closed conduit. The Upper and Lower Open Channel segments would be reconstructed and enlarged. This alternative would accomplish all the stated objectives, but would lose some of the historic predominantly open visual character of the canal. Choosing this alternative would likely both reduce the number of drownings in the canal, but increase the number of pedestrian traffic fatalities on nearby highways. If final engineering design studies determine the necessity of a closed conduit for the middle canal segment, this alternative would become the preferred alternative.

Alternative 3—Closed Conduit/Open Channel Alternative B: The Middle and Lower Open Channel segments would be replaced with closed conduits. The Upper Open Channel segment would be reconstructed and enlarged. This alternative would accomplish all the objectives, but at a cost second highest among the action alternatives. It would also likely triple the number of pedestrian traffic deaths on nearby highways.

Alternative 4—Open Channel Alternative (the Proposed Action Alternative): The Upper, Middle, and Lower Open Channel segments would be reconstructed and enlarged. This Alternative would accomplish all the necessary objectives at the lowest construction cost. It would result in the lowest number of pedestrian traffic fatalities on nearby highways. Though the original canal lining would be replaced, this Alternative would preserve the historic predominantly open visual character of the canal. (It should be noted that if final engineering design studies for the replacement of the old American Canal determine the necessity of a closed conduit for the middle canal segment, the proposed action alternative would become Alternative 2.)

Alternative 5—No Action Alternative: The three open channel segments would be left untouched, with no replacements, enlargements, or repairs of any canal segments. While this alternative preserves intact the historic Smelter Bridge, it does not accomplish any of the stated objectives. The annual number of drownings in the Canal would not be reduced. Without reconstruction or major repair of the canal, a serious canal failure is likely within the next five years, especially during the peak irrigation period with

the highest canal flow. Such a canal failure would likely close the American Canal for at least one month during costly emergency repairs. If the canal flow was disrupted for just one month due to repairs, the El Paso Water Utilities production of potable water would be reduced by 80 to 120 million gallons per day, and over a thousand El Paso County farmers could lose their crops, likely resulting in up to 500 bankruptcies. The No Action Alternative is not considered to be a viable alternative.

The preliminary engineering design studies for the replacement of the old American Canal indicate that a closed design may become the preferred alternative for the middle canal segment. Limited right-of-way constraints and existing infrastructure restrictions will dictate the proper design and construction methods to minimize the adverse effects to the public and adjacent landowners along the project. The reported project conditions will remain the same, but the aesthetics of the predominantly open canal will change. The USIBWC will consult with the Texas State Historic Preservation Officer should the preliminary canal design study recommend that the subject portion of the open canal be replaced with pre-cast box culvert.

The Draft FONSI and Draft EA were distributed November 21, 2000. The Notice of Draft FONSI for the Draft EA was published in the **Federal Register** on November 29, 2000. The Legal Notice of the Draft FONSI and Draft EA was published in the El Paso Times on December 2, 2000. The Public Comment period extended from November 21, 2000 through January 2, 2001. Public comments received were compiled into the Final EA, dated October 31, 2001. The Final EA finds that the proposed action does not constitute a major federal action that would cause a significant local, regional, or national adverse impact on the environment, because the Proposed Action Alternative would:

1. Improve structural stability of the American Canal, providing a reliable conveyance structure to transport flows of allocated water from the Rio Grande to El Paso County farms and to existing and planned El Paso Water Utilities water treatment facilities. The Rio Grande will be unchanged from existing conditions under USIBWC jurisdiction;

2. Minimize seepage loss through the cracks in the canal lining;

3. Provide the full design capacity (1535 cfs) influent into the RGACE;

4. Improve safety and reduce the risk of accidental drownings in the American Canal by installing fences and safety equipment;

5. Preserve the historic predominantly open channel character of the Canal; and

6. Preserve historical and photographic documentation of the historic Smelter Bridge per HAER Level III Standard.

Based on the Final Environmental Assessment and the implementation of the proposed historical mitigation, it has been determined that the proposed action will not have a significant adverse effect on the environment, and an Environmental Impact Statement is not warranted.

Dated: March 1, 2002.

Mario Lewis,

General Counsel.

[FR Doc. 02–5395 Filed 3–6–02; 8:45 am]

BILLING CODE 4710–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–031)]

Debt Collection Improvement Act of 1966: Administrative Wage Garnishment

AGENCY: National Aeronautics And Space Administration (NASA).

ACTION: NASA's adoption of the Department of Treasury's regulation as described in 31 CFR 285.11, Administrative Wage Garnishment.

SUMMARY: The National Aeronautics and Space Administration hereby gives notice that the Agency has adopted the provisions contained in the Debt Collection Improvement Act Of 1996 (DCIA). Wage Garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditors in satisfaction of a withholding order. The DCIA authorizes Federal agencies administratively to garnish the disposable pay of an individual to collect delinquent non-tax debts owned to the United States.

DATES: Effective: March 7, 2002.

ADDRESSES: NASA Headquarters, Code BFZ, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Melvin Denwiddie, (202) 358–0983.

Stephen J. Varholy,

Deputy Chief Financial Officer.

[FR Doc. 02–5402 Filed 3–6–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–030)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that EnviroMetal Technologies Inc. of Waterloo, Ontario, Canada, has applied for an exclusive patent license for the Use of Ultrasound to Improve the Effectiveness of a Permeable Treatment Wall, U.S. Patent No. 6,013,232, which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Randall M. Heald, Assistant Chief Counsel/Patent Counsel, and John F. Kennedy Space Center.

DATES: Responses to this Notice must be received by March 22, 2002.

FOR FURTHER INFORMATION CONTACT: Randall M. Heald, Assistant Chief Counsel/Patent Counsel, John F. Kennedy Space Center, Mail Code: CC–A, Kennedy Space Center, FL 32899, telephone (321) 867–7214.

Dated: March 1, 2002.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 02–5401 Filed 3–6–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL COUNCIL ON THE HUMANITIES

Meeting

March 1, 2002.

Pursuant to the provisions of the Federal Advisory Committee Act (Public L. 92–463, as amended), notice is hereby given the National Council on the Humanities will meet in Washington, DC on March 21–22, 2002.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A

portion of the morning and afternoon sessions on March 21–22, 2002, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on March 21, 2002 will be as follows:

Committee Meetings

(Open to the Public) Policy Discussion

9:00—10:30 a.m.
- Education Programs—Room M–07
- Preservation and Access/Challenge Grants—Room 415
- Public Programs—Room 426
- Research Programs—Room 315

(Closed to the Public) Discussion of specific grant applications and programs before the Council

10:30 a.m. until Adjourned
- Education Programs
- Preservation and Access/Challenge Grants
- Public Programs
- Research Programs

1:30 p.m. until Adjourned
- Federal/State Partnership

The morning session on March 22, 2002 will convene at 9:00 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Staff Report
C. Congressional Report
D. Reports on Policy and General Matters
1. Overview
2. Research Programs
3. Education Programs
4. preservation and Access/Challenge Grants
5. Public Programs

The remainder of the proposed meeting will be given to the consideration of specific applications and programs before the Council and closed to the public for the reasons stated above. Further information about this meeting can be obtained from Ms. Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Laura S. Nelson,

Advisory Committee, Management Officer.

[FR Doc. 02–5394 Filed 3–6–02; 8:45 am]

BILLING CODE 7536–01–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* March 18, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2002 deadline.

2. *Date:* March 25, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 1, 2002 deadline.

3. *Date:* March 26, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Special Projects, submitted to the Division of Public Programs at the February 1, 2002 deadline.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 02–5393 Filed 3–6–02; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Atomic Safety and Licensing Board

[Docket No. 72–22–ISFSI, ASLBP No. 97–732–02–ISFSI]

Private Fuel Storage, LLC, (Independent Spent Fuel Storage Installation); Notice of Evidentiary Hearing and of Opportunity To Make Limited Appearance Statements

March 1, 2002.

This Atomic Safety and Licensing Board hereby gives notice that, beginning on Monday, April 8, 2002, it will convene an evidentiary hearing in Salt Lake City, Utah, to receive testimony and exhibits and to allow the cross-examination of witnesses relating to certain matters at issue in this proceeding. The hearing involves the June 1997 application of Private Fuel Storage, L.L.C. (PFS) for a license under 10 CFR part 72 to construct and operate an independent spent fuel storage installation (ISFSI) on the reservation of the Skull Valley Band of Goshute Indians in Skull Valley, Utah.

The State of Utah and three organizations—Ohngo Gaudadeh Devia (OGD), Confederated Tribes of the Goshute Reservation, and the Southwest Utah Wilderness Alliance (SUWA)—are among those who intervened in the proceeding to oppose the plans of PFS (which is a consortium of electric utility companies) to construct within the State's borders a temporary storage facility for spent fuel generated from various nuclear power plants in the United States. At the hearing, the Board will receive evidence on their challenges to the PFS license application concerning several contentions, or issue statements, involving geotechnical/seismic stability, ''credible accident'' scenarios,

hydrological impact, species affected by the facility, placement of the connecting railroad to the facility, and environmental justice.

In addition, the Board gives notice that, in accordance with 10 CFR 2.715(a), it will also entertain oral limited appearance statements from members of the public in connection with this proceeding. Information about these statements appears in Section B below.

A. Nature, Timing and Location of Evidentiary Hearing

The evidentiary hearing is currently scheduled to cover six issues. Two of these are safety related. The first, embodied in Contention Utah K/ Confederated Tribes B, ''Inadequate Consideration of Credible Accidents,'' involves the possible hazards created from aircraft and ordnance originating from sources nearby to the facility. The second, embodied in Contention Utah L, ''Geotechnical,'' and Contention Utah QQ, ''Seismic Stability,'' questions the ability of the PFS facility to withstand possible earthquakes.

In addition to the safety matters, the Board will hear evidence concerning the adequacy of the analysis of certain environmental issues in the Environmental Impact Statement mandated by the National Environmental Policy Act. Three of these address the natural environment. Contention Utah O, ''Hydrology,'' focuses on potential contamination of groundwater from non-radiological waste sources at the facility. Contention Utah DD, ''Ecology and Species,'' concerns whether the facility will disrupt the nesting habits of a pair of peregrine falcons located near the facility. Contention SUWA B, ''Low Rail Line Alternatives,'' questions whether the Environmental Impact Statement adequately addresses alternatives to the placement of the proposed connecting railway to the facility. The fourth environmental contention, OGD O, ''Environmental Justice Issues Are Not Addressed,'' concerns claims of that nature made by certain members of the Skull Valley Band who oppose the project.

To accommodate the State's request that the entire hearing take place in Utah rather than at the Licensing Board's Hearing Room in Rockville, Maryland, and because of the difficulty encountered in reserving suitable hearing space for lengthy periods, the hearing will take place at several different locations in Salt Lake City. The hearing schedule set out below accommodates other planned activities, the availability of witnesses, and the availability of space. The specific dates, times, and locations of the hearing, along with the subject matter now scheduled to be addressed each day, are as follows (all times are Mountain Daylight Time):

1. *Date: Monday, April 8, 2002.*
Location: Salt Palace Convention Center, Room 251, 100 South West Temple, Salt Lake City, Utah 84101.
Time: 9 a.m. to Noon*.
Topic: Opening Statements.
* Afternoon and evening sessions will be devoted to limited appearance statements (see Section B below).

2. *Date: Tuesday, April 9, 2002.*
Location: Little America Hotel, Ballroom C, 500 South Main Street, Salt Lake City, Utah 84101.
Time: 3:30 p.m. to 7:30 p.m.
Topic: Safety Contention Utah K/ Confederated Tribes B (''Credible Accidents'').

3. *Dates: Wednesday, April 10, through Saturday, April 13, 2002.*
Location: Utah State Capitol, Room 129, 350 North Main, Salt Lake City, Utah 84114.
Times: 10:30 a.m. to 5:30 p.m. on Wednesday, 9 a.m. to 5:30 p.m. Thursday through Saturday.
Topic: Continuation of Utah K/ Confederated Tribes B.

4. *Dates: Monday, April 22 through Thursday, April 25, 2002.*
Location: Sheraton City Centre Hotel, Wasatch Room, 150 West 500 South, Salt Lake City, Utah 84101.
Time: 9 a.m. to 5:30 p.m.
Topics: Environmental Contentions (see above).

5. *Dates: Monday, April 29 through Friday, May 3, 2002, (and Saturday, May 4, 2002 if needed).*
Monday, May 6 through Friday, May 10, 2002, (and Saturday, May 11, 2002 if needed).
Location: Sheraton City Centre, Wasatch Room, 150 West 500 South, Salt Lake City, Utah 84101.
Time: 9 a.m. to 5:30 p.m.
Topics: Safety Contentions Utah L and Utah QQ, (Geotechnical and Seismic Stability).

6. *Dates: Monday, May 13 through Friday, May 17, 2002.*
Location: Sheraton City Centre Hotel, Wasatch Room, 150 West 500 South, Salt Lake City, Utah 84101.
Time: 9 a.m. to 5:30 p.m.
Topic: If needed to complete other issues.

The hearing on these issues shall continue from day-to-day until concluded. As the hearing proceeds, the Board may make changes in the proposed schedule, lengthening or shortening each day's session or canceling a session, as deemed appropriate to allow for witnesses' availability and other matters arising during the course of the proceeding. The Board will attempt to make these day-to-day scheduling adjustments accessible on the NRC website at *http://www.nrc.gov*, which is being rebuilt because of security concerns; in any event, news media covering the hearing will be alerted to any schedule changes.

Members of the public are encouraged to attend any and all of the sessions listed above, but should note that those sessions are adjudicatory proceedings open to the public for observation only. (Those who wish to participate are invited to offer limited appearance statements as provided in Section B, below.) Conduct of members of the public at NRC adjudicatory proceedings is governed by 66 FR 31719 (June 12, 2001), an excerpt from which follows this notice.

Attendees are strongly advised to arrive sufficiently early to allow time to pass through a security screening checkpoint. Further, in the interest of permitting prompt access to the hearing room, attendees are requested to refrain from bringing any unnecessary hand carried items (such as packages, briefcases, backpacks, and other items that might need to be examined individually). There will be no facilities available for storing any items outside the hearing room, and attendees with items requiring inspection may be delayed in obtaining entry. Items that could readily be used as weapons will not be permitted in the hearing room.

B. Oral Limited Appearance Statement Sessions

1. Date, Time, and Location

The Board will conduct sessions to provide members of the public with an opportunity to make oral limited appearance statements on the following dates at the specified locations and times:

a. *Date: Monday, April 8, 2002.*

Location: Salt Palace Convention Center, Room 251, 100 South West Temple, Salt Lake City, Utah 84101.

Times: Afternoon Session—2 p.m. to 5 p.m., Evening Session—7 p.m. to 9:30 p.m.

b. *Date: Friday, April 26, 2002.*

Location: Tooele High School Auditorium, 240 West 100 South, Tooele, Utah 84074.

Times: Afternoon Session—3:30 p.m. to 5:30 p.m., Evening Session—7 p.m. to 9:30 p.m.

2. Participation Guidelines for Oral Limited Appearance Statements

Any person not party to the proceeding has the opportunity, as specified below, to make an oral statement setting forth his or her position on matters of concern relating to this proceeding. Although these statements will be transcribed, and will become part of the record of the proceeding for future reference, they do not constitute evidence upon which a decision may be based.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as may be sufficient to accommodate the speakers who are present (if all scheduled and unscheduled speakers present at a session have made a presentation, the Licensing Board reserves the right to terminate the session before the ending times listed above). The Licensing Board also reserves the right to cancel any session scheduled above if there has not been a sufficient showing of public interest as reflected by the number of preregistered speakers.

In order to accommodate as many speakers as feasible, the time allotted for each statement normally will be no more than three minutes. That time limit may be altered, depending on the number of written requests that are submitted in accordance with subsection 3 below, and/or the number of persons present at the designated times. The same security guidelines applicable to the hearing will be applicable to the limited appearance sessions as well, although the limited appearance sessions are not deemed to be ''adjudicatory proceedings'' within the meaning of those guidelines.

3. Submitting a Request To Make an Oral Limited Appearance Statement

Persons wishing to make an oral statement who have submitted a timely written request to do so will be given priority over those who have not filed such a request. In order to be considered timely, a written request to make an oral statement must be mailed, faxed, or sent by e-mail so as to be received at NRC Headquarters by 4:30 p.m. EST on *Monday, April 1, 2002.* In light of possible mail delivery delays, persons able to do so may wish to use fax or e-mail to assure that their requests are timely received.

The request must specify the day and time of the session at which the oral statement is to be made (specify Monday, April 8 or Friday, April 26, 2002, and specify afternoon or evening). Based on its review of the requests received at NRC headquarters by April 1, 2002, the Licensing Board may, as noted above, decide to cancel one or more sessions due to lack of interest. Any such cancellation will be communicated to local news media and, if possible, posted on the NRC website.

Written requests to make an oral statement are to be submitted to:

Mail: Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–1101 (verification (301) 415–1966).

E-mail: hearingdocket@nrc.gov.

In addition, using the same method of service, *a copy of the request must be sent to the Licensing Board as follows:*

Mail: PFS Limited Appearance Box, Atomic Safety and Licensing Board Panel, Mail Stop T–3F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Fax: (301) 415–5599 (verification (301) 415–7550).

E-mail: mrm@nrc.gov.

Phone requests to make limited appearance statements will not be accepted.

4. Submitting Written Limited Appearance Statements

A written limited appearance statement may be submitted at any time. Such statements should be sent to the Office of the Secretary using the methods prescribed above, with a copy to the Licensing Board as noted above.

* * * * *

Documents relating to the PFS license application at issue in this proceeding are now on file at the Commission's Public Document Room, 11545 Rockville Pike, Rockville, Maryland, 20850, and at the University of Utah, Marriott Library, Documents Division, 295 S. 1500 East, Salt Lake City, Utah 84112–0860, and may also be obtained through ADAMS, the electronic Agencywide Documents Access and Management System, accessible through the NRC website.

Dated: Rockville, Maryland, March 1, 2002.

For the Atomic Ssfety and Licensing Board.

Michael C. Farrar,

Administrative Judge.

Excerpt from **Federal Register** notice published on June 12, 2001 (66 FR 31719):

In order to balance the orderly conduct of government business with the right of free speech, the following procedures regarding attendance at NRC public meetings and hearings have been established:

Visitors (other than properly identified Congressional, press, and government personnel) may be subject to personnel screening, such as passing through metal detectors and inspecting visitors' briefcases, packages, etc.

Signs, banners, posters and displays will be prohibited from all NRC adjudicatory proceedings (Commission and Atomic Safety and Licensing Board Panel hearings) because they are disruptive to the conduct of the adjudicatory process. Signs, banners, posters and displays not larger than 18″ × 18″ will be permitted at all other NRC proceedings, but cannot be waved, held over one's head or generally moved about while in the meeting room. Signs, banners, posters and displays larger than 18′ × 18′ will not be permitted in the meeting room because they are disruptive both to the participants and the audience. Additionally, signs, banners, posters, and displays affixed to any sticks, poles or other similar devices will not be permitted in the meeting room.

The presiding official will note, on the record, any disruptive behavior and warn the person to cease the behavior. If the person does not cease the behavior, the presiding official may call a brief recess to restore order and/or ask one of the security personnel on hand to remove the person.

Copies of this notice were sent this date by Internet e-mail transmission to counsel for (1) Applicant PFS; (2) intervenors Skull Valley Band, Ohngo Gaudadeh Devia, Confederated Tribes of the Goshute Reservation, Southern Utah Wilderness Alliance, and the State of Utah; and (3) the NRC Staff.

[FR Doc. 02–5458 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–311]

PSEG Nuclear LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–75 issued to PSEG Nuclear LLC (the licensee) for operation of the Salem Nuclear Generating Station, Unit No. 2, located in Salem County, New Jersey.

The proposed amendment would revise Technical Specification (TS) Section 6.8.4.f, ''Primary Containment Leakage Rate Testing Program.'' The proposed change would allow a one-time test interval extension for the Salem Nuclear Generating Station, Unit No. 2, Type A Integrated Leakage Rate Test (ILRT) from a maximum 10-year interval to a maximum 15-year interval.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), § 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

The proposed change to TS Section 6.8.4.f would not involve a significant increase in the probability or consequences of an accident previously evaluated. The current containment ILRT test interval of 10 years would be extended, on a one-time basis, to 15 years from the most recent ILRT. Because the ILRT test extension does not involve a modification to plant systems or result in a change to plant operations that could initiate an accident, there would be no increase in the probability of an accident previously evaluated. Furthermore, the proposed extension to Type A testing does not involve a significant increase in the consequences of an accident. NRC staff research documented in NUREG–1493, ''Performance-Based Containment Leak-Test Program,'' found that very few potential containment leakage paths fail to be identified by Type B and C tests. The study concluded that changing ILRT testing frequency to once every 20 years would lead to an imperceptible increase in the consequences of an accident. As a result, the proposed one-time extension to the ILRT test interval does not involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed.

The proposed revision to Section 6.8.4.f does not create the possibility of a new or different kind of accident from any accident previously analyzed. Because there are no physical changes, or changes in operation of the plant involved, the proposed TS amendment could not introduce a new failure mode or create a new or different kind of accident. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from that previously analyzed.

The proposed TS change does not involve a significant reduction in the margin of safety. The NRC staff's study on the effects of extending containment leakage testing found that a reduction in the ILRT frequency would lead to an imperceptible decrease in the margin of safety. The estimated increase in risk is very small because ILRTs identify only a few potential leakage paths that cannot be identified through local leakage rate testing (Type B and C tests). At Salem, Type B and C testing will continue to be performed at a frequency currently required by the TS. Therefore, the proposed changes do not involve a significant reduction in margin of safety.

Based on the NRC staff's analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 8, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the

subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, PO Box 236, Hancocks Bridge, NJ 08038, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated [date], which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.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 e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 1st day of March, 2002.

For the Nuclear Regulatory Commission.

Robert Fretz,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–5461 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Florida Power and Light Co.; Saint Lucie Plant, Units 1 and 2

Notice of Intent to Prepare An Environmental Impact Statement And Conduct Scoping Process; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on February 28, 2002 (67 FR 9333), that informs the public that the NRC will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process. This action is necessary to correct an incomplete electronic address.

FOR FURTHER INFORMATION CONTACT: Dr. Michael T. Masnik, Office of Nuclear Reactor Regulation, telephone (800) 368–5642, extension 1191.

SUPPLEMENTARY INFORMATION: On page 9334, in the third column, second paragraph, in the third sentence, the e-mail address is corrected to read: " *St Lucie EIS@nrc.gov.*"

Dated at Rockville, Maryland, this 1st day of March, 2002.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 02–5460 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request to Amend a License to Export Highly-Enriched Uranium

Pursuant to 10 CFR 110.70(b)(2) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following request to amend an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or

petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the request to amend a license to export special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this amendment request follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application number, docket number	Description of material		End use	Country of destination
	Material type	Total qty		
Transnuclear, Inc., February 26, 2002, February 26, 2002, XSNM03171/02, 11005236.	Highly-Enriched Uranium (93.30%).	Additional 10.0 kg Uranium (9.33 kg U–235).	To fabricate targets for irradiationin the NRU Reactor to produce medical radioisotopes and to extend expiration date to 4/30/03.	Canada.

For the Nuclear Regulatory Commission,

Dated this 28th day of February 2002 at Rockville, Maryland.

Donna C. Chaney,

Acting Deputy Director, Office of International Programs.

[FR Doc. 02–5457 Filed 3–6–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension: Form N–14, SEC File No. 270–297, OMB Control No. 3235–0336.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') request for extension of the previously approved collection of information discussed below.

Form N–14—Registration Statement Under the Securities Act of 1933 for Securities Issued in Business Combination Transactions by Investment Companies and Business Development Companies. Form N–14 is used by investment companies registered under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''Investment Company Act'') and business development companies as defined by section 2(a)(48) of the Investment Company Act to register securities under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] to be issued in business combination transactions specified in Rule 145(a) (17 CFR 230.145(a)) and exchange offers. The securities are registered under the Securities Act to ensure that investors receive the material information necessary to evaluate securities issued in business combination transactions. The Commission staff reviews registration statements on Form N–14 for the adequacy and accuracy of the disclosure contained therein. Without Form N–14, the Commission would be unable to verify compliance with securities law requirements. The respondents to the collection of information are investment companies or business development companies issuing securities in business combination transactions. The estimated number of responses is 485 and the collection occurs only when a merger or other business combination is planned. The estimated total annual reporting burden of the collection of information is approximately 620 hours per response for a new registration statement, and approximately 350 hours per response for an amended Form N–14, for a total of 257,770 annual burden hours. Providing the information on Form N–14 is mandatory. Responses will not be kept confidential. Estimates of the burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms. The Commission 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.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 28, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5387 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Pacific Exchange, Inc. (BellSouth Corporation, Common Stock, $1.00 Par Value) File No. 1–8607

March 1, 2002.

BellSouth Corporation, a Georgia 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, $1.00 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Issuer stated in its application that it has complied with the Rules of the PCX that governs the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the PCX, the Issuer considered the direct and indirect cost associated with maintaining multiple listing. The Issuer stated in its application that the Security has been listed on the New York Stock Exchange

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

(''NYSE'') since the company began operations in 1983. The Issuer represented that it will maintain its listing on the NYSE.

The Issuer's application relates solely to the Security's withdrawal from listing on the PCX 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]

Any interested person may, on or before March 20, 2002 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 PCX 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. 02–5427 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–U

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Boston Stock Exchange, Inc. (BellSouth Corporation, Common Stock, $1.00 Par Value) File No. 1–8607

March 1, 2002.

BellSouth, Georgia 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, $1.00 par value (''Security''), from listing and registration on the Boston Exchange, Inc. (''BSE'' or ''Exchange'').

The Issuer stated in its application that it has complied with the Rules of the BSE that governs the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the BSE, the Issuer considered the direct and indirect cost associated with maintaining multiple listing. The Issuer stated in its application that the Security has been listed on the New York Stock Exchange (''NYSE'') since the company began operations in 1983. The Issuer represented that it will maintain its listing on the NYSE.

The Issuer's application relates solely to the Security's withdrawal from listing on the BSE 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]

Any interested person may, on or before March 20, 2002 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 BSE 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. 02–5429 Filed 3–6–02; 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 *1*(b).

[4] 15 U.S.C. 78*1*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25449; 812–12780]

American Century Companies, Inc. et al.; Notice of Application March 1, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under sections 6(c), 10(f), 17(b), and rule 17d–1 of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 10(f), 12(d)(3), and 17(a), and an order pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

Summary of Application: Applicants request an order that would permit certain registered investment companies to engage in securities transactions involving a broker-dealer or bank that is an affiliated person of an affiliated person of the investment companies (''Securities Transactions'').

Applicants: American Century Mutual Funds, Inc.; American Century Capital Portfolios, Inc.; American Century Premium Reserves, Inc.; American Century Strategic Asset Allocations, Inc.; American Century World Mutual Funds, Inc.; American Century California Tax-Free and Municipal Funds; American Century Quantitative Equity Funds; American Century Government Income Trust; American Century International Bond Funds; American Century Investment Trust; American Century Municipal Trust; American Century Target Maturities Trust; American Century Variable Portfolios, Inc.; American Century Variable Portfolios II, Inc.; Mainstay VP Series Fund, Inc.; and any registered investment company in the future advised by the Adviser or by a person controlling, controlled by or under common control with the Adviser (collectively, the ''Funds''); American Century Investment Management, Inc. (''Adviser''); American Century Companies, Inc. (''ACC''); and J.P. Morgan Chase & Co. (''JPM''); JPMorgan Chase Bank; J.P. Morgan Securities Inc. and J.P. Morgan Securities Ltd.[1]

Filing Dates: The application was filed on February 15, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 26, 2002, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants: ACC, 4500 Main Street, Kansas City, MO 64111, Attn: Charles A. Etherington, Esq.; and JPM, 522 Fifth Avenue, New York, NY 10036, Attn: Paul Scibetta, Esq.

[1] The term ''JPM'' includes all entities now or in the future controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with J.P. Morgan Chase & Co., Any existing entity or future entity that in the future intends to rely on the requested order will do so only in accordance with the terms and conditions of the application.

FOR FURTHER INFORMATION CONTACT: Janet M. Grossnickle, Branch Chief, or Nadya B. Roytblat, Assistant Director, 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).

Applicants' Representations

1. ACC, a Delaware corporation, is the holding company of the Adviser. ACC is controlled by its founder, James E. Stowers, Jr., and certain of his family members and related entities (collectively, the ''Stowers Family''), and its stock is not publicly traded. The Adviser, a Delaware corporation, is a wholly-owned subsidiary of ACC that is registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Adviser serves as investment adviser to each of the Funds. Each existing Fund is an open-end management investment company registered under the Act and is organized as a Maryland corporation, a California corporation or a Delaware business trust.

2. JPM, a Delaware corporation, is one of the largest bank holding companies in the United States. JPM conducts most of its broker-dealer business through J.P. Morgan Securities, Inc., a broker-dealer registered under the Securities Exchange Act of 1934, and J.P. Morgan Securities, Ltd., a broker-dealer regulated by the Financial Services Authority in the United Kingdom. JPMorgan Chase Bank, a New York state-chartered bank regulated by the New York State Banking Department and the Board of Governors of the Federal Reserve System, issues letters of credit and money market instruments and trades in corporate and government debt securities.[2]

3. On January 15, 1998, JPM purchased approximately 45% of ACC's outstanding common stock (the ''Purchase''). Because ACC has two classes of voting stock and JPM purchased the shares of the lower voting class, JPM is entitled to 8.71% of the voting power of ACC. Under a stockholders agreement, JPM has certain minority stockholder contractual rights, including the right to designate one member of ACC's board of directors (which currently consists of eleven persons) and the right to replace certain members of ACC's management upon the occurrence of certain extraordinary events. ACC also agreed not to take certain actions without JPM's prior consent.

4. Applicants state that the Stowers Family continues to own the largest block of shares of common stock of ACC, representing 49.35% of the outstanding equity interest and at least 70.75% of the voting power of ACC. Applicants represent that JPM has no current plan to purchase additional voting securities of ACC.

5. Applicants state that since the Purchase, ACC and JPM have continued and will continue to operate independently (other than in certain areas, including marketing, distribution, and certain sub-advisory and joint advisory agreements).[3] Applicants further represent that while JPM and ACC are developing certain aspects of their businesses jointly, ACC's management of investments for the Funds and other clients is entirely separate from the management of investments for clients of JPM. Applicants state that a ''firewall'' separates the broker-dealer entities within JPM from the investment management operations of both ACC and other entities that are within JPM. Applicants state that all decisions by the Funds to enter into securities transactions are determined solely by the Adviser in accordance with the investment objectives of the relevant Fund. Applicants further represent that the personnel responsible for Fund investments will be employed solely by the Adviser and their compensation would in no instance be affected by the amount of business done by the Funds they manage with JPM.

6. Applicants represent that JPM will not be in a position to cause any Securities Transactions between the Funds and JPM and will not act in concert with the Adviser in connection with any Securities Transactions. Applicants state that there is not, and will not be, any express or implied understanding between JPM and ACC or the Adviser that the Adviser will cause a Fund to enter into Securities Transactions or give preference to JPM in effecting such transactions between the Fund and JPM.

Applicants' Legal Analysis

1. Section 10(f), in relevant part, prohibits a registered investment company from purchasing securities from an underwriting syndicate in which an affiliated person of the investment company's investment adviser acts as a principal underwriter. Section 10(f) also authorizes the Commission to exempt any transaction or class of transactions from the prohibitions of section 10(f) if the exemption is consistent with the protection of investors.

2. Section 12(d)(3) of the Act generally prohibits a registered investment company from acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting. Rule 12d3–1 under the Act provides an exemption from the provisions of section 12(d)(3), but not with respect to a purchase of a security issued by an affiliated person of the investment adviser or principal underwriter of the registered investment company.

3. Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such person (''second-tier affiliate''), acting as principal, from knowingly selling to or purchasing from the company any security or other property. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if evidence establishes that: (i) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person; (ii) the proposed transaction is consistent with the policy of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the Act.

4. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any second-tier affiliate, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by order. Rule 17d–1 provides that, in passing upon an application for such an order, the Commission will consider whether the participation of a registered investment

[2] In December 2000, J.P. Morgan & Co. Incorporated consummated a merger (the ''Merger'') with and into The Chase Manhattan Corporation (''Chase''). Chase and entities it controlled prior to the Merger are referred to as the ''Chase Entities.''

[3] JPM and the Adviser have entered into, and may enter into additional, sub-advisory agreements with each other. JPM and the Adviser also may enter into agreements to manage jointly one or more registered investment companies. The relief requested in the application would not apply to any registered investment company for which JPM acts as sub-advisory. Further, JPM and ACC will consider the existence and nature of such sub-adviser or joint advisory arrangements when designing the Firewall Procedures (as defined below) and when making the certifications required by condition 6 below.

company in a joint transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other applicants.

5. Section 6(c) of the Act permits the Commission to exempt any person or transaction or any class or classes of persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (i) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (ii) any person 5% or more of whose outstanding voting securities are directly or indirectly owned; and (iii) any person directly or indirectly controlling, controlled by, or under common control with, the other person.

7. Applicants state that the Adviser is a wholly-owned subsidiary of ACC, and JPM owns more than 5% of the outstanding voting securities of ACC. Applicants state that JPM is an affiliated person of ACC, and thus could be deemed to be a second-tier affiliate of each Fund. In such event, applicants state that Securities Transactions by the Funds involving JPM would be subject to sections 10(f), 12(d)(3), 17(a) and/or 17(d) of the Act.

8. Applicants request relief under sections 6(c), 10(f) and 17(b) of the Act and pursuant to rule 17d–1 under the Act to permit Securities Transactions, entered into in the ordinary course of business, by a Fund involving JPM under the circumstances described in the application. Applicants state that the requested exemption would apply only where JPM is deemed to be a second-tier affiliate of a Fund solely because of the JPM's ownership interest in ACC.

9. Applicants submit that, among other reasons, section 10(f) of the Act was enacted to prevent an underwriter from ''dumping'' unmarketable securities on a registered investment company by causing the company to purchase the securities from the affiliated underwriter itself, or by causing or encouraging the company to purchase securities from another member of the underwriting syndicate. Applicants further submit that section 12(d)(3) and rule 12d3–1 were designed to prevent conflicts of interest that may arise when a registered investment company purchases securities of an issuer engaged in a securities-related business. Rule 12d3–1(c) specifically addresses the conflicts that arise when the issuer is an investment adviser, promoter or principal underwriter (or affiliated person thereof) of the registered investment company. Applicants submit that the primary purpose of section 17(a) is to prevent persons with the power to control an investment company from using that power to such persons' own pecuniary advantage (*i.e.,* to prevent self-dealing). Similarly, applicants submit that section 17(d) was designed to protect investment companies from self-dealing and overreaching by insiders by permitting the Commission to set standards for all transactions in which an investment company and an affiliate are involved that are susceptible to self-dealing by the affiliate to the detriment of the investment company.

10. Applicants submit that the policies which sections 10(f), 17(a) and 17(d), and rule 12d3–1(c) of the Act were meant to further are not implicated in the requested relief because JPM is not in a position to cause the Fund to enter into a Securities Transaction. As a result, applicants submit that JPM is not in a position to dump unmarketable securities, engage in self-dealing or otherwise cause the Funds to enter into transactions that are not in the best interests of their shareholders. Applicants submit that the Adviser would not share any benefit that might inure to JPM from the Securities Transactions and the compensation of the Adviser's personnel will not be affected in any way by the profitability of JPM. Applicants also submit that they will comply with all the conditions of rule 12d3–1, except for rule 12d3–1(c), which bars a registered investment company from purchasing securities of an affiliated person of its investment adviser.[4]

11. Applicants state that, as a condition to the requested relief, JPM will not control (within the meaning of section 2(a)(9) of the Act), directly or indirectly, ACC or the Adviser and the requested order will remain in effect only so long as the Stowers Family primarily controls ACC. Applicants maintain that a ''firewall'' has separated the broker-dealer entities within JPM from the investment management operations of ACC, facilitated by the fact that JPM and the Adviser have and will have separate officers and employees, are separately capitalized, maintain separate books and records, and have physically separate offices. Further, JPM will not directly or indirectly consult with ACC, the Adviser or any portfolio manager concerning the selection of portfolio managers or allocation of principal or brokerage transactions for any Fund, or otherwise seek to influence the choice of broker or dealer for any Fund.

12. Applicants state that, as a condition to the requested relief, the boards of directors/trustees of the Funds (''Boards''), including a majority of disinterested directors/trustees, will approve procedures governing transactions in which the Adviser knows that both the Fund and JPM have an interest. Applicants further submit that procedures will be maintained that identify transactions in which the Adviser knows that both the Fund and JPM have a Joint Interest[5] and assure that these transactions are conducted on an arms-length basis.

13. Applicants represent that before any principal transaction is entered into between a Fund and JPM, the Adviser will obtain competitive quotations for the same securities (or in the case of Eligible Debt Securities for which quotations for the same securities are not available, competitive quotations for Comparable Debt Securities)[6] from at least two other dealers that are in a position to quote favorable prices. For each such transaction, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that the price

[4] With respect to secondary market purchases, the Funds may purchase common stock and other securities issued by JPM. With respect to primary market purchases, such securities shall be limited to (i) bankers acceptances or other money market instruments that are Eligible Securities as defined in rule 2a–7 under the Act; and (ii) letters of credit or other forms of credit or liquidity support issued by JPMorgan Chase Bank with respect to municipal or other securities.

[5] For purposes of this application, JPM and a Fund will be considered to have a ''Joint Interest'' in any transaction (including, without limitation, the acquisition, disposition or restructuring of any interest) in which they both have an interest other than (i) a transaction in a security in which the interest of one is exclusively as a buyer of the security and the interest of the other is exclusively as a seller of the security; (ii) a transaction in a security in which the interest of JPM is exclusively as a member of an underwriting syndicate in respect of the security; (iii) a transaction in which the interest of JPM is exclusively as a broker; (iv) a transaction in a security in which the interest(s) of JPM is exclusively as the issuer (and seller) of the security; or (v) any other transaction involving JPM and a Fund that would not be subject to section 17(d) of the Act or rule 17d–1 thereunder.

[6] The term ''Eligible Debt Securities'' refer to (i) First Tier Securities as defined in rule 2a–7 under the Act; or (ii) long-term debt securities that are rated within the three highest rating categories by an NRSRO, as defined in rule 2a–7 under the Act. The term ''Comparable Debt Securities'' refers to Eligible Debt Securities with substantially identical maturities, credit ratings and repayment terms as the Eligible Debt Securities to be purchased or sold.

available from JPM is at least as favorable as that available from other sources.

14. Applicants further represent that with respect to Securities Transactions that would be subject to section 10(f) of the Act, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that (i) the securities were purchased at a price that is not more than the price paid by each other purchaser of securities in that offering or in any concurrent offering of the securities (except in the case of an offering conducted under the laws of a country other than the United States, for any rights to purchase that are required by law to be granted to existing securities holders of the issuer) and (ii) the commission, spread or profit received or to be received by the principal underwriters is reasonable and fair compared to the commission, spread or profit received by other such persons in connection with the underwriting of similar securities being sold during a comparable period of time.

15. Applicants submit that the procedures set forth with respect to Securities Transactions are structured in a way designed to ensure that such transactions will be, in all instances, reasonable and fair, and will not involve overreaching on the part of any person concerned, that the Securities Transactions will be consistent with the policies of the Funds as recited in their registration statements and reports filed under the Act, and that such exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

General

1. JPM will not control ACC, the Adviser or the Funds, directly or indirectly, within the meaning of section 2(a)(9) of the Act. The requested order will remain in effect only so long as the Stowers Family primarily controls ACC.

2. JPM will not directly or indirectly consult with ACC, the Adviser or any portfolio manager of the Adviser concerning the selection of portfolio managers, securities purchases or sales, the allocation of principal or brokerage transactions for any Fund, or otherwise seek to influence the choice of broker or dealer for any securities transaction by a Fund other than in the normal course of sales activities of the same nature that are being carried out during the same time period with respect to unaffiliated institutional clients of JPM.

3. The Adviser and JPM will operate as separate entities and independent profit centers, with separate capitalization, separate books and records, separate officers and employees, and physically separate offices. The broker/dealer and investment management entities within JPM and the investment management operations of ACC will operate on different sides of appropriate ''firewalls'' created pursuant to policies, procedures and controls implemented by JPM and ACC (''Firewall Procedures''). The Firewall Procedures will include such measures as may be considered reasonable and appropriate by JPM and ACC to facilitate the factual independence of the broker/dealer and investment management operations of JPM from the investment management operations of ACC.

4. Each Fund will comply with rule 12d3–1 under the Act, except paragraph (c) of that rule with respect to Securities Transactions involving securities issued by JPM.

5. The legal departments of the Adviser and JPM will prepare guidelines for personnel of the Adviser and JPM to make certain that transactions effected pursuant to the order comply with its conditions, and that the Adviser and JPM generally maintain an arms-length relationship. The legal departments of the Adviser and JPM will periodically monitor the activities of the Adviser and JPM to make certain that the conditions to the order are met.

Principal Transactions and Joint Interest Transactions

6. Prior to relying on the requested order, each Fund's Board, including a majority of its disinterested directors/trustees, shall determine that the Firewall Procedures are designed reasonably to (i) identify principal transactions or transactions in which the Adviser knows that both the Fund and JPM have a Joint Interest; and (ii) assure that these transactions are conducted on an arms-length basis. Additionally, JPM and ACC shall certify annually to the Board that the Firewall Procedures continue to be effective to assure that any principal transactions or transactions in which the Adviser knows that both the Fund and JPM have a Joint Interest are conducted on an arms-length basis, or recommend such modifications as JPM and/or ACC deem necessary.

7. Each Fund's Board, including a majority of its disinterested directors/trustees, shall approve procedures governing transactions in which the Adviser knows that both the Funds and JPM have an interest and shall no less frequently than quarterly review all such transactions. With respect to principal transactions with JPM and Securities Transactions that would be subject to Section 10(f) of the Act, this review shall include, among other things, the terms of each transaction, and a comparison of the volume of transactions effected with JPM with the volume of similar transactions effected with JPM prior to the Purchase (or with respect to Chase Entities, prior to the Merger).

8. For each transaction by a Fund in which the Adviser knows that JPM has a direct or indirect interest, the Adviser will consider only the interests of the Fund and will not take into account the impact of the Fund's investment decision on JPM. Before entering into any such transaction, the Adviser will make a determination that the transaction is consistent with the investment objectives and policies of the Fund and is in the best interests of the Fund and its shareholders. This determination and the basis for the determination will be documented in written reports as soon as practicable and furnished to the Fund's Board in connection with the quarterly reviews required by condition 7 above.

9. The Funds will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and any modifications thereto) that are described herein, and (ii) shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction in which the Adviser knows that both JPM and a Fund directly or indirectly have an interest occurs, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security or other property purchased or sold, a description of JPM's interest in the transaction, the terms of the transaction, and the information or materials upon which the determination was made that each such transaction was made in accordance with the procedures set forth above and conditions in this application.

Principal Transactions

10. Before any principal transaction is entered into between a Fund and JPM (other than Securities Transactions that would be subject to section 10(f)), the Adviser must obtain competitive

quotations for the same securities (or in the case of Eligible Debt Securities for which quotations for the same securities are not available, competitive quotations for Comparable Debt Securities) from at least two other dealers that are in a position to quote favorable prices. For each such transaction, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that the price available from JPM is at least as favorable as that available from other sources. With respect to Securities Transactions that would be subject to section 10(f) of the Act, the Adviser will make a determination, based upon the information reasonably available to the Fund and the Adviser, that (i) the securities were purchased at a price that is no more than the price paid by each other purchaser of securities in that offering or in any concurrent offering of the securities (except in the case of an offering conducted under the laws of a country other than the United States, for any rights to purchase that are required by law to be granted to existing securities holders of the issuer) and (ii) the commission, spread or profit received or to be received by the principal underwriters is reasonable and fair compared to the commission, spread or profit received by other such persons in connection with the underwriting of similar securities being sold during a comparable period of time.

Joint Interest Transactions

11. Before entering into any transaction in which the Adviser knows that both JPM and a Fund have a Joint Interest and that requires, or that, in the judgment of the Adviser, can reasonably be expected to require, material negotiations or other discussions involving both JPM and the Adviser, a majority of the Fund's disinterested directors/trustees who have no direct or indirect financial interest in the transaction (''Required Majority'') will determine that it is in the Fund's best interests to participate and the extent of the Fund's participation in such transaction. Before making this decision, the Required Majority will review the documentation required by condition 8 above and such additional information from the Adviser or advice from experts as they deem necessary.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5388 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25450; File No. 812–12785]

Franklin Strategic Series, et al.; Notice of Application

March 1, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of registered open-end management investment companies to acquire all of the assets, net of liabilities, of certain corresponding series of another registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 of the Act.

APPLICANTS: Franklin Strategic Series, Franklin Federal Tax-Free Income Fund (''Franklin Federal Tax-Free Fund''), Franklin Investors Securities Trust, Franklin Advisers, Inc. (''FAI''), Templeton Funds, Inc. (''Templeton Funds''), Templeton Global Advisers Limited (''TGAL'', together with FAI, the ''Franklin Advisers''), FTI Funds, and Fiduciary International, Inc (''FII'').

FILING DATE: The application was filed on February 28, 2002.

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 March 25, 2002 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 may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549–0609. Applicants, c/o David P. Goss, Esq., Franklin Templeton Investments, One Franklin Parkway, San Mateo, California 94403–1906.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Mary Kay Frech, 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 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. FTI Funds, a Massachusetts business trust, is an open-end management investment company registered under the Act. FTI Funds consists of seven series, four of which are the ''Acquired Funds''. Franklin Strategic Series, a Delaware business trust, is an open-end management investment company registered under the Act, and currently offers 13 series, one of which is the Franklin Strategic Series: Large Cap Growth Fund (''Franklin Large Cap Growth Fund''). Franklin Federal Tax-Free Fund, a California corporation, is an open-end management investment company registered under the Act. Franklin Investors Securities Trust, a Massachusetts business trust, is an open-end management investment company registered under the Act, and currently offers six series, one of which is the Franklin Investors Securities Trust: Total Return Fund (''Franklin Total Return Fund''). Templeton Funds, a Maryland corporation, is an open-end management investment company registered under the Act, and currently offers two series, one of which is Templeton Funds: Foreign Fund (''Templeton Foreign Fund''). The Franklin Large Cap Growth Fund, Franklin Federal Tax-Free Fund, Franklin Total Return Fund, and Templeton Foreign Fund are the ''Acquiring Funds''.[1]

2. The Franklin Advisers are each registered under the Investment Advisers Act of 1940 (''Advisers Act'') and serve as investment advisers to the Acquiring Funds.[2] Each Franklin Adviser is a wholly owned subsidiary of Franklin Resources, Inc. (''Resources''). FII is registered under the Advisers Act and serves as investment adviser to each

[1] The Acquired Funds and the corresponding Acquiring Funds are: (a) FTI Funds: Large Cap Growth Fund and Franklin Large Cap Growth Fund; (b) FTI Funds: Municipal Bond Fund and Franklin Federal Tax-Free Fund; (c) FTI Funds: Bond Fund and Franklin Total Return Fund; and (d) FTI Funds: International Equity Fund (''FTI International Equity Fund'') and Templeton Foreign Fund (each, a ''Fund'' and together, the ''Funds'').

[2] FAI serves as investment adviser to Franklin Large Cap Growth Fund, Franklin Federal Tax-Free Fund, and Franklin Total Return Fund. TGAL serves as investment adviser to Templeton Foreign Fund.

of the Acquired Funds. FII is an indirect, wholly owned subsidiary of Fiduciary Trust Company International (''FTCI''), which, on behalf of certain fiduciary accounts, owns of record, beneficially, or both, 5% or more of the outstanding shares of each Acquired Fund. FTCI is also an indirect wholly owned subsidiary of Resources.

3. On January 16, 2002, the board of trustees of FTI Funds (''FTI Board''), including all the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Disinterested Trustees''), unanimously approved the respective Agreements and Plans of Reorganization entered into between the Acquired Funds and the Acquiring Funds (each a ''Plan'' and together, the ''Plans''). On November 20, 2001 (and on December 4, 2001, in the case of Templeton Funds), the respective boards of trustees of the Acquiring Funds each a ''Franklin Board'' and collectively, the ''Franklin Boards''), including the Disinterested Trustees, unanimously approved each Plan. Under each Plan, an Acquiring Fund will acquire substantially all of the assets of the corresponding Acquired Fund in exchange for Advisor Class shares of the Acquiring Fund, which will be distributed pro rata by the Acquired Fund to its shareholders as soon as reasonably practicable after the close of the applicable reorganization (each, a ''Reorganization''). The shares of each Acquiring Fund exchanged will have a total net asset value equal to the total net asset value of the corresponding Acquired Fund's shares determined as of 4:00 p.m. Eastern time on the closing date of each Reorganization (each, a ''Closing Date''). The net asset value of the Acquiring Fund shares and the value of the corresponding Acquired Fund's net assets will be determined according to each Fund's then-current prospectus and statement of additional information. On the Closing Date, which is currently anticipated to occur on or about March 27, 2002, the Advisor Class shares of each Acquiring Fund will be distributed to the corresponding Acquired Fund's shareholders, and each Acquired Fund will satisfy its liabilities, liquidate and be dissolved as a separate series of FTI Funds.

4. Applicants state that the investment objectives and strategies of each Acquired Fund are similar to those of each respective Acquiring Fund. Shares of the Acquired Funds and the Advisor Class shares of the Acquiring Funds are not subject to a front-end sales load, contingent deferred sales charge or exchange fee. The Acquiring Funds do not have a rule 12b–1 distribution fee for their Advisor Class shares. No sales charges or other fees will be imposed in connection with the Reorganizations. The expenses of each Reorganization will be paid one-quarter by the applicable Acquiring Fund, the corresponding Acquired Fund, the applicable Franklin Adviser, and FII.

5. Each Franklin Board and the FTI Board (together, the ''Boards''), including all of the Disinterested Trustees, determined that each Reorganization was in the best interest of each of their respective Funds and their shareholders, and that the interests of each Fund's existing shareholders will not be diluted as a result of its Reorganization. In approving the Reorganizations, the Boards considered various factors, including, among other things: (a) The investment objectives, management policies and investment restrictions of the Funds; (b) the terms and conditions of the Reorganizations including any changes in services to be provided to shareholders of each Fund; (c) the respective expense ratios of the Funds; (d) the tax-free nature of the Reorganizations; and (e) the potential economies of scale that are likely to result from the larger asset base of the combined Funds.

6. The Reorganizations are subject to a number of conditions, including: (a) Each Acquired Fund's shareholders will have approved the Plan; (b) an N–14 registration statement relating to each Reorganization will have become effective with the Commission; (c) each Fund will have received an opinion of counsel concerning the tax-free nature of its respective Reorganization; (d) each Acquired Fund will have declared and paid dividends and other distributions on or before the Closing Date; and (e) applicants will have received from the Commission the exemptive relief requested by the application. A Plan may be terminated and the Reorganization abandoned at any time prior to the Closing Date by mutual written consent of the parties or by either Fund in the case of a breach of the Plan. Applicants agree not to make any material changes to any Plan without prior approval of the Commission staff.

7. A registration statement on Form N–14 with respect to the Reorganization of each Acquired Fund, containing a proxy statement/prospectus, was filed with the Commission on January 22, 2002 (January 18, 2002 for FTI International Equity Fund). A combined prospectus/proxy statement will be mailed to each Acquired Fund's shareholders at least 20 business days before the date of the meeting of shareholders of each Acquired Fund (scheduled for March 22, 2002).

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganizations because the Funds may be deemed to be affiliated by reasons other than having a common investment adviser, common directors, and/or common officers. Applicants state that FTCI, on behalf of certain fiduciary accounts, owns of record, beneficially, or both, 5% or more of the total outstanding voting securities of each Acquired Fund. FTCI is also an affiliated person of each Franklin Adviser because each such company is under the common control of Resources, which directly or indirectly owns 100% of each company's outstanding voting securities. Consequently, each Acquired Fund may be deemed to be an affiliated person of an affiliated person of the corresponding Acquiring Fund for reasons other than those set forth in rule 17a–8.

4. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person

concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganizations. Applicants submit that each Reorganization satisfies the standards of section 17(b) of the Act. Applicants state that the terms of the Reorganizations are reasonable and fair and do not involve overreaching. Applicants state that the investment objectives, policies and restrictions of the Acquired Funds are similar to those of the corresponding Acquiring Funds. Applicants also state that each Franklin Board and the FTI Board, including all of the Disinterested Trustees, found that the participation of the Acquired and the Acquiring Funds in the Reorganizations is in the best interests of each Fund and its shareholders and that such participation will not dilute the interests 4 of the existing shareholders of each Fund. In addition, applicants state that the Reorganizations will be on the basis of the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5432 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45488; File No. SR–AMEX–2001–107]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating the Allocation to Specialists of Securities Admitted to Dealings on an Unlisted Trading Privileges Basis

February 28, 2002.

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 December 17, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 to its proposal on February 1, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. *Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change*

The Amex proposes to adopt Amex Rule 28 to establish allocation procedures for securities admitted to dealings on a UTP basis. The text of the proposed rule change is below. Proposed new language is in *italics.*

* * * * *

Allocation of Securities Admitted to Dealings on an Unlisted Trading Privileges (''UTP'') Basis Rule 28. (a) The UTP Allocations Committee shall allocate securities admitted to dealings on an unlisted basis. The UTP Allocations Committee shall consist of the Chief Executive Officer of the Exchange who shall serve as the Chairman of the Committee, three members (selected from among Exchange Officials, Senior Floor Officials and Floor Governors), and three members of the Exchange's senior management as designated by the Chief Executive Officer of the Exchange. The Committee shall make its decisions by majority vote. The Chairman of the Committee may only vote to create or break a tie.

(b) The UTP Allocations Committee shall select the specialist that appears best able in the professional judgment of the members of the Committee to perform the functions of a specialist in the security to be allocated. Factors to be considered in the allocation may include, but are not limited to: (1) quality of markets made by the specialist, (2) experience with trading the security or similar securities, (3) willingness to promote the Exchange as a marketplace, (4) operational capacity including number and quality of professional staff, (5) number and quality of support personnel, (6) record of disciplinary, Committee on Floor Member Performance (''Performance Committee'') and cautionary actions including significant pending enforcement matters, (7) Performance Committee evaluations, (8) Specialist Floor Broker Questionnaire ratings and data, (9) the degree of interest expressed by a specialist in receiving the allocation in question, (10) undertakings by specialist applicants with respect to market quality, (11) order flow statistics, (12) the existence of a common ownership or similar economic interest among one or more specialists and market makers, (13) trading expertise in the primary market for the securities to be traded on an unlisted basis, and (14) ability and willingness to trade with other markets where the securities to be allocated trade.

(c) The UTP Allocations Committee may meet with potential specialists to obtain information regarding their qualifications. The Committee also may require specialists to submit information regarding their qualifications in writing.

(d) Willingness to promote the Exchange as a market place includes providing financial and other support for the Exchange's program to trade securities on an unlisted basis, contributing to the Exchange's marketing effort, consistently applying for allocations, assisting in meeting and educating market participants (and taking time for travel related thereto), maintaining communications with member firms in order to be responsive to suggestions and complaints, responding to competition by offering competitive markets and competitively priced services, and other like activities.

(e) The Exchange may allocate Nasdaq securities eligible for inclusion in the Exchange's Integrated Market Making Pilot Program (''Pilot Program'') prior to the commencement of the Pilot Program. If such securities are so allocated, upon the commencement of the Pilot Program, the UTP Allocations Committee shall conduct a reallocation proceeding in order to implement the Pilot Program at which proceeding the Committee may reallocate such Nasdaq securities. The UTP Allocations Committee shall follow the procedures described in this Rule 28 when it reallocates Nasdaq securities pursuant to this paragraph (e).

* * * * *

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated January 30, 2002 (''Amendment No. 1''). In Amendment No. 1, the Exchange clarified its proposal to consider potential integrated market making arrangements as a factor in determining the specialist allocation of equity securities traded on the Exchange pursuant to unlisted trading privileges (''UTP''), if the Amex's integrated market making proposal (SR–Amex-2001–75) is approved by the Commission.

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

Presently, the Exchange allocates securities to specialists that are able to fulfill the responsibilities of a specialist with respect to the securities. Recently, the Exchange determined to admit equity securities to dealings on a UTP basis. Since the Exchange would not be the primary listing market for these securities, the Exchange's ''issuer choice'' program (which gives issuers a role in the selection of their specialist) would be inapplicable to UTP securities. In addition, a specialist competing for order flow in securities admitted to dealings on a UTP basis against an established primary market would require a different set of qualifications than a specialist in securities that are listed on the Exchange. The Exchange, accordingly, believes that it is desirable to adopt new equity allocation procedures for UTP securities.

The proposal would establish a UTP Allocations Committee and procedures by which it would allocate securities admitted to dealings on a UTP basis. Three members selected from among Exchange Officials, Senior Floor Officials and Floor Governors would serve on the UTP Allocations Committee. The Chief Executive Officer of the Exchange and three other senior members of the Amex staff also would serve on the Committee.[4]

The Exchange's UTP Allocations Committee would receive the same information that customarily is provided to the Exchange's Allocations Committee and would generally consider factors that are the same as the Allocations Committee. In addition to the criteria that is generally considered by the Allocations Committee, the UTP Allocations Committee would also consider the following special criteria in making allocation determinations: (a) trading expertise in the primary market for the securities to be traded on an unlisted basis; (b) ability and willingness to trade with other markets where the securities to be allocated trade; and (c) financial support of the Exchange's UTP technology and marketing initiatives. The UTP Allocations Committee also could solicit information from potential specialists. As previously noted, issuer choice would not be a factor in allocating securities admitted to dealings on a UTP basis.

The Exchange recently filed a proposal with the Commission to institute a six-month pilot program to permit integrated market making and side-by-side trading[5] with respect to Nasdaq stocks that meet specified characteristics.[6] The Exchange wants to implement the Nasdaq UTP program as soon as possible, and believes that integrated market making would add substantial value to the Nasdaq UTP program. The Exchange notes, however, that Commission action on the Integrated Market Making Pilot Proposal may not occur until after Commission action on the Exchange's proposal to adopt general rules relating to trading Nasdaq stocks on a UTP basis.[7] Thus, the Exchange proposes to allocate the securities that may be eligible for the Integrated Market Making Pilot Proposal on a temporary basis, and that these securities would then be subject to reallocation if the Commission approves the Integrated Market Making Pilot Proposal.[8] In particular, the UTP Allocations Committee would reallocate such securities considering the availability of an integrated market making arrangement for Nasdaq securities admitted to dealing on a UTP basis.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. More specifically, the Exchange believes that trading securities on a UTP basis will provide investors with increased flexibility in satisfying their investment needs by providing additional choice and increased competition in markets to effect transactions in the securities subject to UTP.

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 filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All

[4] This Committee structure is similar to the NYSE's UTP Allocations Committee. *See* Exchange Act Release Nos. 44272 (May 7, 2001), 66 FR 26898 (May 15, 2001), and 44306 (May 15, 2001), 66 FR 28008 (May 21, 2001).

[5] According to the Exchange, ''integrated market making'' refers to the trading of options and their underlying stocks by the same specialist and/or specialist firm, while ''side-by-side trading'' refers to the trading of options and the underlying stocks in the same vicinity, though not necessarily by the same specialist or firm.

[6] *See* SR-Amex-2001–75 (''Integrated Market Making Pilot Proposal'').

[7] *See* Exchange Act Release No. 45365 (January 30, 2002), 67 FR 5626 (February 6, 2002).

[8] *See* Amendment No. 1, note 3, *supra*.

[9] *Id.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

submissions should refer to File No. SR-AMEX–2001–107 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–5430 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45492; File No. SR–NASD–2002–20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Use of Share Caps To Comply With the Shareholder Approval Rules of The Nasdaq Stock Market

March 1, 2002.

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 February 6, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') 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 Nasdaq. On February 27, 2002, the NASD—through Nasdaq—submitted Amendment No. 1 to the proposal.[3] Nasdaq has asserted that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule and, therefore, is immediately effective pursuant to Rule 19b–4(f)(1) under the Act.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Sara Nelson Bloom, Associate General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated February 26, 2002 (''Amendment No. 1''). In Amendment No. 1, Nasdaq clarified the consequences for Nasdaq issuers of engaging in transactions that employ defective share caps.

[4] 17 CFR 240.19b–4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is adopting interpretive material on the use of share caps to comply with the 20% limitations under NASD Rule 4350(i) and to make conforming changes to NASD IM–4300, NASD IM–4310–2, and NASD Rule 4350(i). Text of the proposed rule change, as amended, appears below. New language is italicized; deletions are bracketed.

* * * * *

IM–4300, Interpretive Material Regarding Future Priced Securities, is renumbered as IM–4350–1 and footnote 2 is amended as follows:

2. [In order to obviate the need for shareholder approval through such an arrangement, those shares already issued in connection with the Future Priced Security must not be entitled to vote on the proposal to approve the issuance of additional shares upon conversion of the Future Priced Security.] *See IM–4350–2, Interpretative Material Regarding the Use of Share Caps to Comply with Rule 4350(i).*

New Rule, IM–4350–2, Interpretative Material Regarding the Use of Share Caps to Comply with Rule 4350(i), is added as follows:

IM–4350–2—Interpretative Material Regarding the Use of Share Caps to Comply with Rule 4350(i)

Rule 4350(i) limits the number of shares or voting power that can be issued or granted without shareholder approval prior to the issuance of certain securities.[1] Generally, this limitation applies to issuances of 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance.[2]

Issuers sometimes comply with the 20% limitation in this rule by placing a ''cap'' on the number of shares that can be issued in the transaction, such that there cannot, under any circumstances, be an issuance of 20% or more of the common stock or voting power previously outstanding without prior shareholder approval. If an issuer determines to defer a shareholder vote in this manner, shares that are issuable under the cap (in the first part of the transaction) must not be entitled to vote to approve the remainder of the transaction. In addition, a cap must apply for the life of the transaction, unless shareholder approval is obtained. For example, caps that no longer apply if a company is not listed on Nasdaq are not permissible under the Rule. Of course, if shareholder approval is not obtained, then the investor will not be able to acquire 20% or more of the common stock or voting power outstanding before the transaction and would continue to hold the balance of the original security in its unconverted form.

Nasdaq has observed situations where issuers have attempted to cap the issuance of shares at below 20% but have also provided an alternative outcome based upon whether shareholder approval is obtained, such as a ''penalty'' or a ''sweetener.'' For example, a company issues a convertible preferred stock or debt instrument that provides for conversions of up to 20% of the total shares outstanding with any further conversions subject to shareholder approval. However, the terms of the instrument provide that if shareholders reject the transaction, the coupon or conversion ratio will increase or the issuer will be penalized by a specified monetary payment. Likewise, a transaction may provide for improved terms if shareholder approval is obtained. Nasdaq believes that in such situations the cap is defective because the related penalty or sweetener has a coercive effect on the shareholder vote, and thus may deprive shareholders of their ability to freely exercise their vote. Accordingly, Nasdaq will not accept a cap that defers the need for shareholder approval in such situations. Instead, if the terms of a transaction can change based upon the outcome of the shareholder vote, no shares may be issued prior to the approval of the shareholders. Issuers that engage in transactions with defective caps will be in violation of Nasdaq rules and will be subject to delisting.

Issuers having questions regarding this policy are encouraged to contact The Nasdaq Stock Market, Listing Qualifications Department at (877) 536–2737, which will provide a written interpretation of the application of Nasdaq Rules to a specific transaction, upon prior written request of the issuer.

IM–4310–2, Definition of a Public Offering, is renumbered as IM–4350–3 and the first paragraph is amended as follows:

[1] *An exception to this rule is available to issuers when the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise. Rule 4350(i)(2). However, a share cap is not permissible in conjunction with the financial viability exception provided in Rule 4350(i)(2), because the application to Nasdaq and the notice to shareholders required in the rule must occur prior to the issuance of any common stock or securities convertible into or exercisable for common stock.*

[2] *While Nasdaq's experience is that this issue is generally implicated with respect to these situations, it may also arise with respect to the 5% threshold set forth in Rule 4350(i)(1)(C)(i).*

[Marketplace] Rule[s 4310(c)(25)(G)(i)(d), 4320(e)(21)(G)(i)(d), and 4460(i)(1)(D) provide] *4350(i)(1)(D) provides* that shareholder approval is required for the issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20 percent or more of the common stock or 20 percent or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock. Under [these] *this* rule[s], however, shareholder approval is not required for a ''public offering.''

The existing cross-reference section following Rule 4350(i), Shareholder Approval, is amended to reflect the renumbering of existing IM–4300 and additional cross-references are added as follows:

IM–[4300]*4350–1,* Future Priced Securities

IM–4350–2, Interpretative Material Regarding the use of Share Caps to Comply with Rule 4350(i)

IM–4350–3, Definition of Public Offering

* * * * *

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 NASD 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 NASD 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

NASD Rule 4350(i) limits the number of shares or voting power that can be issued or granted without shareholder approval prior to the issuance of certain securities. Generally, this limitation applies to issuances of 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance. Nasdaq has observed situations where issuers have attempted to cap the issuance of shares at below 20% but have also provided an alternative outcome based upon whether shareholder approval is obtained, such as a ''penalty'' or a ''sweetener.'' Nasdaq believes that in such situations the cap is defective because it has a coercive effect on the shareholder vote and, thus, may deprive shareholders of their ability to freely exercise their vote. Accordingly, Nasdaq will not accept a cap that defers the need for shareholder approval in such situations. Instead, if the terms of a transaction can change based upon the outcome of the shareholder vote, no shares may be issued prior to the approval of the shareholders. Issuers that engage in transactions with defective caps will be in violation of Nasdaq rules and will be subject to delisting. Accordingly, Nasdaq is proposing the adoption of interpretive material to clarify for issuers, their counsel, and investors Nasdaq's requirements pertaining to the use of share caps to comply with its shareholder approval rules.

Nasdaq is also proposing changes to conform existing rules and correct certain cross-references.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[5] in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. As previously noted, Nasdaq is proposing to adopt this interpretative material to provide greater clarity and transparency for issuers, their counsel, and investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change would result in 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Nasdaq has asserted that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule and, therefore, is immediately effective pursuant to Rule 19b–4(f)(1) under the Act.[6] At any time within 60 days of the filing of this proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–20 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–5431 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78o–3(b)(6).

[6] 17 CFR 240.19b–4(f)(1).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45487; File No. SR–NYSE–2002–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Adopt NYSE Rule 445, Anti-Money Laundering Compliance Program

February 28, 2002.

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 February 27, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new NYSE Rule 445, Anti-Money Laundering Compliance Program. The proposed Rule requires each member and member organization to develop and implement an anti-money laundering compliance program consistent with applicable provisions of the Bank Secrecy Act and the regulations thereunder. The text of the proposed rule change is below. Proposed new language is in italics.

Anti-Money Laundering Compliance Program

Rule 445. Each member organization and each member not associated with a member organization shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management.

The anti-money laundering programs required by this Rule shall, at a minimum:

(1) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(2) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(3) Provide for independent testing for compliance to be conducted by member or member organization personnel or by a qualified outside party;

(4) Designate, and identify to the Exchange (by name, title, mailing address, e-mail address, telephone number, and facsimile number) a person or persons responsible for implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification to the Exchange regarding any change in such designation(s); and

(5) Provide ongoing training for appropriate persons.

* * * * *

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

Background

On October 26, 2001, President Bush signed into law the USA PATRIOT Act (the ''PATRIOT Act''), which amends among other laws the Bank Secrecy Act as set forth in Title 31 of the United States Code (the ''Code''). The PATRIOT Act expands government powers to fight the war on terrorism and requires that financial institutions,[3] including broker-dealers, implement policies and procedures to that end.

Title III of the PATRIOT Act, separately known as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (''MLAA''), focuses on the requirement that financial institutions establish anti-money laundering monitoring and supervisory systems. Specifically, MLAA Section 352, which amends Section 5318(h) of the Code, requires each financial institution to establish Anti-Money Laundering Programs *by April 24, 2002* that include, at minimum: (1) the development of internal policies, procedures, and controls; (2) the designation of a compliance officer; (3) an ongoing employee training program; and (4) an independent audit function to test programs.

Proposed New NYSE Rule 445

Anti-Money Laundering Compliance Program: Procedural Requirements

Proposed new NYSE Rule 445, Anti-Money Laundering Compliance Program (''Program''), which was developed in collaboration with NASD Regulation, in discussion with the Department of the Treasury, and the Commission, incorporates MLAA Section 352 requirements and also requires: (1) that the Program be in writing and approved, in writing, by member organizations' senior management; (2) that a designated ''contact person'' or persons, primarily responsible for each member's or member organization's Program, be identified to the Exchange; and (3) that the Program's policies, procedures, and internal controls be reasonably designed to achieve compliance with applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder, as they become effective.

Department of the Treasury Requirements: Filing of Suspicious Activity Reports

Further, proposed NYSE Rule 445 addresses members' and member organizations' obligation to establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) (''Reporting of Suspicious Transactions'') and the implementing regulations thereunder. This reflects the MLAA Section 356 directive that the Department of the Treasury (''Treasury'') publish such implementing regulations, specifically applicable to registered broker-dealers, in the **Federal Register** by specified dates.

Accordingly, the Financial Crimes Enforcement Network (''FinCEN''), through authority granted by the Secretary of the Treasury, filed proposed amendments[4] to the Bank Secrecy Act regulations on December 28, 2001. MLAA Section 356 requires publication of these regulations in final form not later than July 2, 2002.

Generally, FinCEN's proposed regulations require the filing of Suspicious Activity Reports (''SARs'') in a central location, to be determined by FinCEN, within a specified timeframe initiated by the detection of facts constituting a basis for the filing. Proposed reporting criteria stress the development of a sound risk-based program.

Ongoing Compliance

Proposed NYSE Rule 445 also highlights members' and member organizations' existing and ongoing

[3] As defined in 31 U.S.C. 5312(a)(2).

[4] ''Financial Crimes Enforcement Network; Proposed Amendments to the Bank Secrecy Act Regulations—Requirement of Brokers or Dealers in Securities to Report Suspicious Transactions;''—66 FR 67670 (December 31, 2001).

obligation to comply with applicable provisions of the Bank Secrecy Act and the implementing regulations thereunder, as they become effective.

Accordingly, and particularly in light of the PATRIOT Act amendments, members and member organizations should be cognizant of all existing and pending Bank Secrecy Act requirements. These include, but are not limited to:

(1) MLAA Section 313 (''Prohibition on United States Correspondent Accounts with Foreign Shell Banks'')—Effective 12/25/01, covered financial institutions operating in the United States must sever correspondent banking relationships with foreign ''shell banks'', *i.e.*, banks without a physical presence in any country, that are not affiliated with a bank that both has a physical presence in a country and is subject to supervision by a banking authority that regulates the affiliated bank.

(2) MLAA Section 312 (''Special Due Diligence for Correspondent Accounts and Private Banking Accounts'')—Effective 7/23/02, financial institutions must be prepared to apply ''* * * appropriate, specific, and, where necessary, enhanced, due diligence'' with respect to foreign private banking customers and international correspondent accounts.

(3) MLAA Section 326 (''Verification of Customer Identity'')—Effective 10/26/02, financial institutions must comply with a regulation issued by the Secretary of the Treasury requiring the implementation of ''reasonable procedures'' with respect to the verification of customer identification upon opening an account, maintaining records of information used for such verification, and the consultation of a government-provided list of known or suspected terrorists.

The Exchange will publish notifications to members and member organizations regarding the adoption and implementation of new regulations and address their responsibilities thereunder.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6(b)(5) of the Act.[5] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest.

The NYSE also believes the proposed rule change is consistent with Section 6(c)(3)(B) of the Act.[6] Under that Section, it is the Exchange's responsibility to prescribe standards for training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to the statutory obligation, the Exchange has proposed this rule change in order to establish an additional mechanism for the administration of the Regulatory Element of the Continuing Education Program, which will enable registered persons to satisfy their continuing education obligations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not impose any burden on competition 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such 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–2002–10 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5389 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(c)(3)(B).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45484; File No. SR–Phlx–2001–40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Broker-Dealer Access to AUTOM

February 27, 2002.

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 May 2, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Phlx. On July 26, 2001, the Exchange filed Amendment No. 1 [3] with the Commission; on November 28, 2001, the Exchange filed Amendment No. 2 [4] with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division of Market Regulation (''Division''), SEC, from Richard S. Rudolph, Counsel, Phlx, dated July 25, 2001 (''Amendment No. 1''). In Amendment No. 1, the Phlx deleted unapproved rule language in Rule 1080(b)(i)(A)–(B) and reserved such sections for future use.

[4] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division, SEC, from Richard S. Rudolph, Counsel, Phlx, dated November 28, 2001

Continued

Commission; on February 1, 2002, the Exchange filed Amendment No. 3 [5] with the Commission; and on February 20, 2002, the Exchange filed Amendment No. 4 with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automated Execution System (AUTO-X), to permit access to AUTOM, the Exchange's options order routing, delivery, execution and reporting system, to off-floor broker-dealers on a six-month pilot basis. The proposal would add new section (b)(i)(C) and new Commentary .05 to Phlx Rule 1080. The text of the proposed rule change, as amended, is set forth below.

New text is in *italics*; deletions are [bracketed].

Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

(a) General—AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of Exchange-listed equity options and index options orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO–X, in accordance with the provisions of this Rule. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange member organizations into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

This Rule shall govern the orders, execution reports and administrative messages (''order messages'') transmitted between the offices of member organizations and the trading floors of the Exchange through AUTOM.

(b) Eligible Orders—The following types of orders are eligible for entry into AUTOM:

(i) Generally, only agency orders may be entered. [With respect to U.S. Top 100 Index options (''TPX''), broker-dealer orders may be entered into AUTOM, and are eligible for AUTO-X up to a maximum of 50 contracts.]

(A)–(B) Reserved.

(C) Off-floor broker-dealer limit orders, up to the maximum number of contracts permitted by the Exchange, subject to the restrictions on order entry set forth in Commentary .05 of this Rule. Generally, orders up to 200 contracts, depending on the option, are eligible for AUTOM order delivery on an issue-by-issue basis, subject to the approval of the Options Committee. The Options Committee may determine to increase the eligible order delivery size to an amount greater than 200 contracts, on an issue-by-issue basis. The following types of broker-dealer limit orders are eligible for AUTOM: day, GTC, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order.

(ii) *Agency o*[O]rders up to the maximum number of contracts permitted by the Exchange may be entered. *Agency o*[O]rders up to 1000 contracts, depending on the option, are eligible for AUTOM order delivery, subject to the approval of the Options Committee. The following types of *agency* orders are eligible for AUTOM: day, GTC, market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible duplicate orders.

(iii) The Exchange's Options Committee may determine to accept additional types of orders as well as to discontinue accepting certain types of orders.

(iv) Orders may not be unbundled for the purposes of eligibility for AUTOM and AUTO–X, nor may a firm solicit a customer to unbundle an order for this purpose.

(c)–(j) No change.

Commentary:

.01–.03 No change.

.04 Reserved.

.05 Off-floor broker-dealer limit orders delivered through AUTOM must be represented on the Exchange Floor by a floor member. Off-floor broker-dealer orders delivered via AUTOM shall be for a minimum size of one (1) contract. Off-floor broker-dealer limit orders are subject to the following other provisions:

(i) the restrictions and prohibitions concerning electronically generated orders and off-floor market makers set forth in Rules 1080(i) and (j).

(ii) Off-floor broker-dealer limit orders entered via AUTOM establishing a bid or offer may establish priority, and the specialist and crowd may match such a bid or offer and be at parity, subject to the yield provisions set forth in Exchange Rule 1014.

(iii) Off-floor broker-dealer limit orders that are eligible for execution via AUTO–X entered via AUTOM for the account(s) of the same beneficial owner may not be entered in options on the same underlying security more frequently than every 15 seconds.

(iv) Off-floor broker-dealer limit orders may be eligible for automatic execution via AUTO–X on an issue-by-issue basis, subject to the approval of the Options Committee. The AUTO–X guarantee for off-floor broker-dealer limit orders may be for a different number of contracts, on an issue-by-issue basis, than the AUTO–X guarantee for public customer orders, subject to the approval of the Options Committee.

(''Amendment No. 2''). In Amendment No. 2, the Exchange proposes to change its previously filed rule amendments as follows: (i) off-floor broker-dealer orders would be eligible for automatic execution via the Automatic Execution System (''AUTO–X'') on an issue-by-issue basis and the size of the AUTO–X guarantee for broker-dealer orders also would be decided on an issue-by-issue basis, and may differ from the AUTO-X guarantee for customer orders; (ii) the maximum order delivery size for off-floor broker-dealer orders would be 200 contracts, unless increased by the Options Committee. Broker-dealer orders must be for a minimum volume of 1 contract; (iii) Good Till Cancelled (''GTC'') orders for the accounts of off-floor broker-dealers would be accepted; (iv) broker-dealer orders entered for the same beneficial owner may not be entered in options on the same underlying issue more frequently than every 15 seconds; and (v) the provision that specialists may elect to discontinue accepting off-floor broker-dealer orders with proper approval and notice to AUTOM users is deleted.

[5] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division, SEC, from Richard S. Rudolph, Counsel, Phlx, dated February 1, 2002 (''Amendment No. 3''). In Amendment No. 3, the Phlx proposes to change its previously filed rule amendments as follows: (i) the Options Committee may determine to increase the eligible order delivery size to an amount greater than 200 contracts; (ii) to clarify that Phlx Rule 1080(b)(ii) applies solely to agency orders; and (iii) the restriction on broker-dealer limit orders entered for the same beneficial owner in options on the same underlying issue to no more frequently than every 15 seconds applies only to AUTO-X eligible limit orders.

[6] *See* letter to Nancy J. Sanow, Senior Special Counsel, Division, SEC, from Richard S. Rudolph, Counsel, Phlx, dated February 19, 2002 (''Amendment No. 4''). In Amendment No. 4, the Phlx clarified that the term ''off-floor broker-dealer'' would include both broker-dealers that deliver orders from ''upstairs'' for the proprietary account of such broker-dealer and market makers located on an exchange or trading floor other than Phlx that elect to deliver orders via AUTOM for the proprietary accounts of such broker-dealer. The Exchange stated that orders of market makers from other markets could elect either to deliver orders via AUTOM or via the proposed Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage''). The Exchange also noted that off-floor broker-dealer orders would be eligible for automatic execution via the Exchange's National Best Bid or Offer (''NBBO'') step-up feature, provided that the order is for an ''NBBO Step-Up Option'' as described in Phlx Rule 1080(c)(i) and provided that the NBBO does not differ from the Exchange's best bid or offer by more than the step-up parameter.

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. Phlx 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

Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automated Execution System (AUTO–X), governs the operation of AUTOM, the Exchange's automated order routing, delivery, execution and reporting system for options. The purpose of the proposed rule change is to permit off-floor broker-dealers, on a six-month pilot basis and subject to certain restrictions designed to ensure the maintenance of a fair and orderly market, to have electronic access to the specialist's limit order book [7] through AUTOM.

Incoming broker-dealer orders delivered via AUTOM are ineligible for delivery to the specialist, such that they are rejected by the system and routed either to the appropriate Floor Broker booth or to the point of origin of the order. Such orders may be represented by the appropriate Floor Broker on the Exchange or rerouted to the originating broker or dealer.

The amended proposed rule change would allow orders for the account(s) of broker-dealers to be delivered electronically via AUTOM, and also would permit such orders to be executed automatically, on an issue-by-issue basis subject to the approval of the Exchange's Options Committee, via AUTO–X, the automatic execution feature of AUTOM.

The Exchange is proposing this rule change to remain competitive, and to improve the efficiency with which orders for the account(s) of broker-dealers are currently executed.[8] The Exchange believes that providing broker-dealers with access to the specialist's limit order book and automatic executions would promote more efficient and expeditious execution of broker-dealer orders than under the current Exchange practice of re-routing to a Floor Broker booth. Under the current Exchange practice, such orders are represented in the crowd by a Floor Broker after such Floor Broker's receipt thereof.

The Exchange also believes that the proposed rule change is consistent with the purposes underlying the Commission mandate to adopt new, or amend existing, rules that substantially enhance incentives to quote competitively and substantially reduce disincentives for market participants to act competitively.[9] The Exchange believes that providing broker-dealers with access to the specialist's limit order book should eliminate any actual or perceived technological advantage the specialist may have respecting access to the limit order book.[10]

The proposal would permit certain off-floor broker-dealer limit orders for up to 200 contracts, depending on the option, to be eligible for AUTOM order delivery subject to the approval of the Options Committee. Specifically, the proposed rule provides that the following types of broker-dealer limit orders are eligible for AUTOM order delivery: day, GTC, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, and cancel with replacement order. The purpose of this provision is to ensure that off-floor broker-dealers do not have an actual or perceived disadvantage respecting on-floor specialists and ROTs.

Proposed Commentary .05 establishes certain conditions and restrictions on the new use of AUTOM. First, the proposed rule states that orders for the account(s) of broker-dealers must be represented on the Exchange floor by a floor member. The proposed rule contemplates that such a floor member may be a floor broker or the specialist. The Exchange believes that the proposed rule change should create more orders that are handled electronically (as opposed to the current practice of causing broker-dealer orders to be handled manually), thereby enhancing the audit trail for broker-dealer orders. Second, the proposal provides that off-floor broker-dealer orders delivered via AUTOM shall be for a minimum size of one (1) contract.

Third, proposed Commentary .05 states that the restrictions and prohibitions concerning electronically generated orders and off-floor market makers set forth in Exchange Rules 1080(i) and (j) would apply to orders entered for the account(s) of off-floor broker-dealers. Exchange Rule 1080(i) prohibits members from entering, permitting, or facilitating the entry of orders into AUTOM if those orders are created and communicated electronically without manual input (*i.e.,* order entry by public customers or associated persons of members must involve manual input such as entering the terms of an order into an order-entry screen or manually selecting a displayed order against which an off-setting order should be sent).[11]

Exchange Rule 1080(j) prohibits members from entering, or facilitating the entry into AUTOM, as principal or agent, limit orders in the same options series from off the floor of the Exchange, for the account or accounts of the same or related beneficial owners, in such a manner that the off-floor member or the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such options contract on a regular or continuous basis.[12]

Fourth, proposed Commentary .05 provides that off-floor broker-dealer limit orders entered via AUTOM establishing a bid or offer may establish

[7] The electronic ''limit order book'' is the Exchange's automated specialist limit order book, which automatically routes all unexecuted AUTOM orders to the book and displays orders real-time in order of price-time priority. Orders not delivered through AUTOM may also be entered onto the limit order book. *See* Exchange Rule 1080, Commentary .02.

[8] In Amendment No. 3, the Exchange clarified that the proposed rule change applies only to off-floor broker-dealer limit orders. The Exchange noted that on-floor broker-dealer limit orders (such as those entered via electronic interface with AUTOM by registered options traders (''ROTs'') and specialists) would be governed by a separate proposed rule that the Exchange has filed with the Commission. *See* File No. SR–Phlx–2002–04.

[9] The Exchange notes that on September 11, 2000, the Commission issued an order (the ''Order''), which requires the Exchange (as well as the other respondent options exchanges, American Stock Exchange LLC, Chicago Board Options Exchange, Inc., and Pacific Exchange, Inc.) to implement certain undertakings. *See* Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3–10282.

[10] When an off-floor broker-dealer limit order is delivered via AUTOM, such an order would be automatically executed via AUTO–X if the Exchange's disseminated market is the ''crowd'' quote determined by Auto-Quote or Specialized Quote Feed. When the Exchange's disseminated bid or offer is a limit order on the limit order book, contra-side inbound off-floor broker-dealer limit orders that are eligible for execution would be executed manually by the specialist. *See* Amendment No. 3.

[11] *See* Securities Exchange Act Release No. 43376 (September 28, 2000), 65 FR 59488 (October 5, 2000) (SR–Phlx–00–79).

[12] *See* Securities Exchange Act Release No. 43939 (February 7, 2001), 66 FR 10547 (February 15, 2001) (SR–Phlx–01–05).

priority, and the specialist and crowd may match such a bid or offer and be at parity. The proposed rule provides that the specialist and any other ROTs then in the trading crowd may match an off-floor broker-dealer's bid or offer. The Exchange believes that allowing the specialist and ROTs to match an off-floor broker-dealer's order, and thus be on parity, would preserve the important affirmative market-making obligations of specialists and ROTs. In Amendment No. 3, the Exchange clarifies that off-floor broker-dealer orders are subject to the priority yielding provisions set forth in Exchange Rule 1014.[13]

Fifth, the proposal provides that off-floor broker-dealer limit orders that are eligible for execution via AUTO–X entered via AUTOM for the account(s) of the same beneficial owner may not be entered in options on the same underlying security more frequently than every 15 seconds. The purpose of this amended provision is to remain consistent with recently adopted Exchange rules that include such a 15-second restriction against orders entered via AUTOM for the account(s) of the same beneficial owner in options on the same underlying security more frequently than every 15 seconds.[14]

Finally, the proposed rule requires specialists to accept off-floor broker-dealer day or GTC orders, and to allow them to be automatically executed via AUTO-X. The Exchange believes that this requirement should enable the Exchange to be competitive with other options exchanges that allow automatic executions for broker-dealer orders by assuring broker-dealers sending their proprietary orders to the Exchange that electronic delivery and execution of such orders would not be interrupted. Additionally, the proposal would allow the AUTO–X guarantee for off-floor broker-dealer limit orders to be for a different number of contracts, on an issue-by-issue basis, than the AUTO–X guarantee for public customer orders, subject to the approval of the Options Committee.[15] The Exchange believes that this provision is consistent with the recently expanded Quote Rule[16] and recently adopted Exchange Rules that allow different firm size guarantees for customers than for broker-dealers.[17]

The Exchange is requesting that the effectiveness of the rule change be contingent upon the completion of systems development and testing required for its implementation and the notification of such completion by the Exchange to its members.

2. Basis

For these reasons, the Exchange believes that proposed rule change is consistent with Section 6 of the Act[18] in general, and with Section 6(b)(5) of the Act[19] specifically, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest and promote just and equitable principles of trade by providing off-floor broker-dealers increased access to the specialist's limit order book, and automatic executions, which should provide incentives for Phlx market participants to quote competitively, and which, in turn, should result in competitive pricing and enhanced liquidity on the Exchange specifically, and in the options markets in general.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx 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.

A. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Phlx has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–40 and should be submitted by March 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–5390 Filed 3–6–02; 8:45 am]

BILLING CODE 8010–01–P

[13] Specifically, the Exchange notes that Phlx Rule 1014(g)(i) provides that orders on controlled accounts must yield priority to customer orders, but are not required to yield priority to other controlled accounts. Thus, under proposed Commentary .05(ii), if an off-floor broker-dealer limit order entered via AUTOM establishes priority, and a customer order is entered into the limit order book at the same price, the off-floor broker-dealer limit order would be required to yield priority to the customer order. Phlx Rule 1014(g)(i) provides that a ''controlled account'' includes any account controlled by or under common control with a broker-dealer. *See* Securities Exchange Act Release No. 45114 (November 28, 2001) 66 FR 63277 (December 5, 2001).

[14] *See* Exchange Rule 1080(c)(ii).

[15] The Exchange believes that this amended provision should result in a larger number of AUTO–X eligible orders delivered electronically to the Exchange.

[16] 17 CFR 240.11Ac1–1.

[17] *See* Exchange Rule 1082(d); *see also,* Exchange Rule 1015(b).

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(5).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Federal Assistance To Provide Financial Counseling and Other Technical Assistance to Women in the State of Vermont

AGENCY: U.S. Small Business Administration.

ACTION: Amendment to Program Announcement No. OWBO–99–012, as amended by OWBO–2000–015.

SUMMARY: This notice amends the U. S. Small Business Administration's notice in the **Federal Register**, issued 2/25/02 (Volume 67, Number 37, page 8572), to correct the term of the project period of

the Women's Business Center (WBC) project that will replace a project in the State of Vermont. Whereas the previous notice stated that the replacement WBC is to carry out a project for the remaining 3 years of a 5-year term, the correct project term for the replacement WBC will be the remaining 2 years of a 5-year term. The applicant must submit a plan for the two-year term of 07/01/02–06/30/03 and 07/01/03–06/30/04.

FOR FURTHER INFORMATION CONTACT: Denise Edmonds at (202) 205–6673 or *denise.edmonds@sba.gov.*

Wilma Goldstein,

Assistant Administrator, SBA/Office of Women's Business Ownership.

[FR Doc. 02–5403 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IX Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Roundtable

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Roundtable on Wednesday, March 13, 2002 at 1:30 p.m. at the Los Angeles Area Chamber of Commerce, 350 South Bixel Street, Los Angeles, CA 90017, phone (213) 580–7500, fax (213) 580–7511, to provide small business owners and representatives of trade associations with an opportunity to share information concerning the federal regulatory enforcement and compliance environment.

Anyone wishing to attend or to make a presentation must contact John Tumpak in writing or by fax, in order to be put on the agenda. John Tumpak, U.S. Small Business Administration, Los Angeles District Office, 330 North Brand Boulevard, Suite 1200, Glendale, CA 91203, phone (818) 552–3203, fax (818) 552–3286, e-mail: *john.tumpak@sba.gov.*

For more information, see our Web site at *www.sba.gov/ombudsman.*

Dated: February 27, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–5404 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IX Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Hearing

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman, will hold a Public Hearing on Monday, March 11, 2002 at 8:30 a.m. at the Balboa Park Club, Santa Fe Room, 2150 Pan American Road West, San Diego, CA 92101, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning the regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Suzanne Ghorpade in writing or by fax, in order to be put on the agenda. Suzanne Ghorpade, U.S. Small Business Administration, San Diego District Office, 550 West ''C'' Street, Suite 550, San Diego, CA 92101, Phone (619) 557–7250, ext.1114, fax (619) 557–3441, e-mail: *suzanne.ghorpade@sba.gov.*

For more information, see our Web site at *www.sba.gov/ombudsman.*

Dated: February 27, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–5405 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IX Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Roundtable

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Roundtable on Friday, March 15, 2002 at 9 a.m. at the U.S. Small Business Administration, Foley Federal Building, 300 Las Vegas Boulevard South, Suite 1100, Las Vegas, NV 89101, phone (702) 388–6684, fax (702) 388–6469, to provide small business owners and representatives of trade associations with an opportunity to share information concerning the federal regulatory enforcement and compliance environment.

Anyone wishing to attend or to make a presentation must contact Donna Hopkins in writing or by fax, in order to be put on the agenda. Donna Hopkins, U.S. Small Business Administration, Nevada District Office, 300 Las Vegas Boulevard South, Suite 1100, Las Vegas, NV 89101, phone (702) 388–6684, fax (702) 388–6469, e-mail: *donna.hopkins@sba.gov.*

For more information, see our Web site at *www.sba.gov/ombudsman.*

Dated: February 27, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–5406 Filed 3–6–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary; Aviation Proceedings, Agreements Filed During the Week Ending February 15, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–11550.

Date Filed: February 12, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC12 NMS–ME 0159 dated 15 February 2002; Mail Vote 201—TC12 Mid Atlantic-Middle East; Special Passenger Amending Resoluton; *Intended effective date:* 15 March 2002.

Docket Number: OST–2002–11581.

Date Filed: February 12, 2002.

Parties: Members of the International Air Transport Association.

Subject: CBPP/9/Meet/004/2001 dated 21 January 2002; Book of Finally Adopted Recommended Practices r1–r2; Minutes—CBPP/09/Meet/003/01; dated 13 September 2001; R1–1600g R2–1600r; **Intended effective date:** 1 April 2002.

Date Filed: February 12, 2002.

Parties: Members of the International Air Transport Association.

Subject: MV/PSC/111 dated 28 November 2001; Mail Vote S076 r1–RP 1720a; *Intended effective date:* 1 February 2002.

Docket Number: OST–2002–11607.

Date Filed: February 15, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC12 NMS–ME 0163 dated 19 February 2002; Mail Vote 202—TC12 South Atlantic-Middle East; Special Passenger Amending Resolution 010e; *Intended effective date:* 15 March 2002.

Cynthia L. Hatten,

Federal Register Liaison.

[FR Doc. 02–5408 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary; Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending February 15, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number OST–1995–477.

Date Filed February 12, 2002.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope

March 5, 2002.

Description

Application of Laker Airways (Bahamas) Limited, pursuant to 49 U.S.C. Section 41302 and Subpart B, requesting an amendment and re-issuance of its foreign air carrier permit to engage in scheduled air transportation of persons, property and mail on the following Bahamas-U.S. scheduled combination routes: terminal point Nassau, Bahamas on the one hand, and the co-terminal points Tampa, FL; and, Jacksonville, FL on the other hand.

Docket Number OST–2002–11601.

Date Filed February 14, 2002.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope

March 7, 2002.

Description

Application of US Airways, Inc., pursuant to 49 U.S.C. Sections 41102, 41108 and Subpart B, requesting a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property, and mail between any point or points in the United States and any point or points in France and its territories, either directly or via intermediate points, and beyond France to any point or points in third countries to the full extent authorized by the new open skies bilateral agreement.

Cynthia L. Hatten,

Federal Register Liaison.

[FR Doc. 02–5409 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11606]

Commercial Fishing Industry Vessel Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC). CFIVAC advises and makes recommendations to the Coast Guard on the safety of the commercial fishing industry.

DATES: Application forms should reach us on or before July 5, 2002.

ADDRESSES: You may request an application form by writing to Commandant (G–MOC–3), U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593–0001; by calling 202–493–7008; or by faxing 202–267–0506; or by emailing thummer@comdt.uscg.mil. Send your application in written form to the above street address. This notice and the application form are available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Captain Jon Sarubbi, Executive Director of CFIVAC, or Thomas Hummer, Assistant to the Executive Director, telephone 202–493–7008, fax 202–267–0506, email: *thummer@comdt.uscg.mil* or http://www.uscg.mil/hq/gm/cfvs/cfivac.htm

SUPPLEMENTARY INFORMATION: The Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) is a Federal advisory committee under 5 U.S.C. App. 2. As required by the Commercial Fishing Industry Vessel Safety Act of 1988, the Coast Guard established CFIVAC to provide advice to the Coast Guard on issues related to the safety of commercial fishing vessels regulated under chapter 45 of Title 46, United States Code, which includes uninspected fishing vessels, fish processing vessels, and fish tender vessels. (*See* section 4508 of title 46 of the U.S. Code, 46 U.S.C. 4508).

CFIVAC consists of 17 members as follows: Ten members from the commercial fishing industry who reflect a regional and representational balance and have experience in the operation of vessels to which chapter 45 of Title 46, United States Code applies, or as a crew member or processing line member on an uninspected fish processing vessel; one member representing naval architects or marine surveyors; one member representing manufacturers of vessel equipment to which chapter 45 applies; one member representing education or training professionals related to fishing vessel, fish processing vessels, or fish tender vessel safety, or personnel qualifications; one member representing underwriters that insure vessels to which chapter 45 applies; and three members representing the general public, including whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing the marine insurance industry.

CFIVAC meets at least once a year in different seaport cities nationwide. It may also meet for extraordinary purposes. Its subcommittees and working groups may meet to consider specific problems as required.

We will consider applications for six positions that expire or become vacant in October 2002 in the following categories: (a) Commercial Fishing Industry (four positions); (b) Equipment Manufacturer (one position); (c) General Public (one position).

Each member serves a 3-year term. A few members may serve consecutive terms. All members serve at their own expense and receive no salary from the Federal Government, although travel reimbursement and per diem are provided.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected as a member representing the general public, you are required to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in it to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: February 25, 2002.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 02–5468 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11687]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) and its subcommittees will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. All meetings will be open to the public.

DATES: CTAC will meet on Wednesday, March 27, 2002, from 9 a.m. to 3:30 p.m. The Subcommittee on Vessel Cargo Tank Overpressurization will meet on Monday, March 25, 2002, from 9 a.m. to 3:30 p.m. The Subcommittee on Hazardous Substance Response Standards will meet on Tuesday, March 26, 2002, from 9 a.m. to 3:30 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 20, 2002. Requests to have a copy of your material distributed to each member of the Subcommittee should reach the Coast Guard on or before March 20, 2002.

ADDRESSES: CTAC will meet at Houston Marriott, West Loop—by the Galleria, 1750 West Loop South, Houston, TX. The Subcommittee on Vessel Cargo Tank Overpressurization will meet at Stolt-Nielsen Transportation Group Ltd., 15635 Jacintoport Blvd., Houston, TX. The Subcommittee on Hazardous Substance Response Standards will meet at Marathon Tower, 5555 San Felipe St., Houston, TX. Send written material and requests to make oral presentations to Commander James M. Michalowski, Executive Director of CTAC, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Commander James M. Michalowski, Executive Director of CTAC, or Ms. Sara Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

Chemical Transportation Advisory Committee:

(1) Introduction of Committee members and attendees.

(2) Progress Reports from the Prevention Through People, Hazardous Substances Response Standards, and Vessel Cargo Tank Overpressurization Subcommittees.

(3) Presentations on issues related to the marine transportation of hazardous materials in bulk including a final report on the COI Pilot Program.

(4) Update of Coast Guard Regulatory Projects and IMO Activities.

Subcommittee on Vessel Cargo Tank Overpressurization:

(1) Introduction of Subcommittee members and attendees.

(2) Brief review of Subcommittee tasking and desired outcome.

(3) Continue work to complete long-term task.

Subcommittee on Hazardous Substances Response Standards:

(1) Introduction of Subcommittee members and attendees.

(2) Brief review of Subcommittee tasking and desired outcome.

(3) Continue work to develop the Response Planning Guidelines for Hazardous Substance Responder Capabilities in the Marine Environment.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the discretion of the Subcommittee Chairs, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director and submit written material on or before March 20, 2002. If you would like a copy of your material distributed to each member of the Committee or a Subcommittee in advance of a meeting, please submit 25 copies to the Executive Director (see addresses) no later than March 20, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, telephone the Executive Director at 202–267–0087 as soon as possible.

Dated: February 26, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 02–5467 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–11426]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice announces FMCSA's receipt of applications from 36 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before April 8, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments as well as see the submissions of other commenters at *http://dms.dot.gov*. Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all the comments online through the Document Management

System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Thirty-six individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemptions will achieve the required level of safety.

Qualifications of Applicants

1. Louis N. Adams

Mr. Adams, age 43, has had poor vision in his left eye since the 1980s due to corneal disease. His uncorrected visual acuity is 20/15 in the right eye and hand motion only in the left eye. An ophthalmologist who examined him in 2001 certified, ''In my professional medical opinion, I believe Mr. Louis Adams has sufficient vision to continue in his profession as a driver of commercial vehicles.'' Mr. Adams reported that he has driven straight trucks for 5 years, accumulating 120,000 miles, tractor-trailer combination vehicles for 18 years, accumulating 864,000 miles, and buses for 4 years, accumulating 48,000 miles. He holds a Class A CDL from North Carolina, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

2. Guy M. Alloway

Mr. Alloway, 53, was born without a right eye. His unaided visual acuity is 20/20 in the left eye. An optometrist who examined him in 2001 certified, ''It is my opinion that Guy Alloway has sufficient vision to perform all driving tasks needed to operate a commercial vehicle.'' Mr. Alloway submitted that he has operated straight trucks for 5 years, accumulating 125,000 miles, and tractor-trailer combinations for 25 years, accumulating 3.1 million miles. He holds a Class A CDL from Oregon, and his driving record shows he has had no accidents or convictions for traffic violations in a CMV for the last 3 years.

3. Lyle H. Banser

Mr. Banser, 44, had a corneal transplant in his left eye in 1975. His visual acuity in the right eye is 20/20 without correction and in the left, 20/400, not correctable. An ophthalmologist examined him in 2001 and stated, ''I do believe that Mr. Banser would have the visual acuity sufficient to perform his driving tasks as required to operate a commercial vehicle.'' Mr. Banser reported he has 28 years' and 560,000 miles' experience driving straight trucks, and 27 years' and 27,000 miles' experience driving tractor-trailer combinations. He holds a Class ABCDM CDL from Wisconsin, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

4. Paul R. Barron

Mr. Barron, 44, has amblyopia in his left eye. His best-corrected vision in the right eye is 20/20 and in the left, finger counting. An optometrist examined him in 2001 and certified, ''In my medical opinion, Paul Ray Barron has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Barron submitted that he has driven tractor-trailer combinations for 6 years, accumulating 270,000 miles. He holds a Class A CDL from Missouri, and has no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

5. Lloyd J. Botsford

Mr. Botsford, 48, has amblyopia in his left eye. His visual acuity in the right eye is 20/15 and in the left 20/200. An optometrist examined him in 2001 and affirmed, ''It is my opinion that Mr. Botsford should be able to adequately and safely drive a commercial vehicle. His condition is such that from early days he has learned to compensate for the reduced visual acuity in his left eye.'' In his application, Mr. Botsford stated that he has 8 years' and 740,000 miles' experience operating tractor-trailer combinations. He holds a Class A CDL from Missouri, and there are no accidents or convictions for moving violations in a CMV on his record for the last 3 years.

6. Joseph E. Buck, Sr.

Mr. Buck, 60, lost his right eye due to trauma in 1974. He has 20/20 uncorrected visual acuity in his left eye. He was examined in 2001 and his optometrist stated, ''It is my medical opinion that Joe has sufficient vision to operate a commercial vehicle.'' Mr. Buck submitted that he has driven straight trucks for 25 years, accumulating 1.5 million miles, and tractor-trailer combinations for 3 years, accumulating 300,000 miles. He holds a North Carolina Class A CDL. During the last 3 years he had one accident and one conviction for a moving violation—Speeding—in a CMV. The accident occurred when the mirror of the vehicle he was driving collided with the mirror of an oncoming vehicle. The investigating police officer was not able to determine fault. The speeding violation occurred on a separate occasion, when he exceeded the speed limit by 9 mph.

7. Ronald M. Calvin

Mr. Calvin, 49, has decreased vision in his left eye due to retinopathy of prematurity. His best-corrected vision is 20/20 in the right eye and 20/600 in the left. His optometrist examined him in 2001 and certified, ''In my opinion, Mr. Calvin has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' In his application, Mr. Calvin indicated he has driven straight trucks for 21 years, accumulating 1.0 million miles, and tractor-trailer combinations for 17 years, accumulating 1.2 million miles. He holds a Class A CDL from California, and his driving record for the past 3 years shows no accidents or convictions for traffic violations in a CMV.

8. Rusbel P. Contreras

Mr. Contreras, 33, has a small central scotoma in his left eye due to congenital toxoplasmosis. His best-corrected vision is 20/20 in the right eye and 20/400 in the left. An ophthalmologist examined him in 2001 and stated, ''My opinion is that he has sufficient vision to perform the driving tasks of a commercial vehicle.'' Mr. Contreras, who holds a Class A CDL from Colorado, reported that he has been driving tractor-trailer combinations for 6 years, accumulating 600,000 miles. His driving record shows he has had no accidents and one conviction for a traffic violation—Violation of Red Light Signal—in a CMV during the last 3 years.

9. Timothy J. Droeger

Mr. Droeger, 33, has amblyopia in his left eye. His best-corrected vision is 20/20 in the right eye and light perception in the left. An optometrist examined him in 2001 and stated, ''Mr. Tim Droeger shows sufficient visual acuity and sufficient peripheral vision to operate in his capacity as a truck driver.'' Mr. Droeger reported he has driven tractor-trailer combinations for 14 years, accumulating 1.6 million miles. He holds a Minnesota Class A CDL. He has had no accidents and one conviction for a moving violation—Speeding—in a CMV for the past 3 years, according to his driving record. He exceeded the speed limit by 13 mph.

10. Robert A. Fogg

Mr. Fogg, 50, has amblyopia of his left eye. His best-corrected vision is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his optometrist stated, ''In my professional medical opinion Mr. Robert A. Fogg can drive commercial vehicles safely.'' Mr. Fogg reported that he has 10 years' experience operating straight trucks, accumulating 650,000 miles, and 7 years' experience operating tractor-trailer combinations, accumulating 770,000 miles. He holds a Class A CDL from North Carolina, and there are no accidents or convictions for moving violations in a CMV on his record for the last 3 years.

11. Paul D. Gaither

Mr. Gaither, 50, has a congenital coloboma of the left eye. His visual acuity is 20/15 in the right eye and 20/400 in the left. An optometrist examined him in 2001 and stated, ''I have no doubt in Paul's ability to drive a commercial vehicle. His developmental visual problems should not interfere with his driving performance.'' In his application, Mr. Gaither indicated he has driven straight trucks for 33 years, accumulating 330,000 miles, and tractor-trailer combinations for 8 years, accumulating 148,000 miles. He holds a Class A CDL from Indiana, and his driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

12. David L. Grajiola

Mr. Grajiola, 53, has a congenital coloboma of the right eye. His best-corrected vision is 20/400 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist affirmed, ''In my professional opinion, David Grajiola has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Grajiola holds a Class A CDL from California and reported that he has driven straight trucks for 8 years, accumulating 480,000 miles, and tractor-trailer combinations for 25 years, accumulating 3.6 million miles. His driving record shows no accidents and two convictions for moving violations—Speeding—in a CMV for the past 3 years. He exceeded the speed limit by 15 mph and 11 mph in two separate instances.

13. David L. Gregory

Mr. Gregory, 38, has a prosthetic right eye due to an injury in 1994. His corrected visual acuity is 20/15 in the left eye. An optometrist examined him in 2001 and stated, ''In my opinion, Mr. Gregory has sufficient vision to perform the driving tasks required to operate a commercial vehicle and should be granted a waiver for outside of Georgia.'' According to Mr. Gregory's application, he has driven straight trucks for 2 years, accumulating 100,000 miles, tractor-trailer combination vehicles for 18 years, accumulating 900,000 miles, and buses for 1 year, accumulating 20,000 miles. He holds a Class A CDL from Georgia. In the last 3 years he has had no accidents and one conviction for a moving violation—Speeding—in a CMV, according to his driving record. He exceeded the speed limit by 22 mph.

14. Walter D. Hague, Jr.

Mr. Hague, 30, is blind in his left eye due to an infection when he was 9 years old. His right eye has best-corrected vision of 20/20. Following an examination in 2001, his ophthalmologist stated, ''In my medical opinion I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hague reported that he has driven straight trucks for 14 years, accumulating 700,000 miles, and tractor-trailer combinations for 9 years, accumulating 540,000 miles. He holds a Class A CDL from Virginia. His driving record shows he has had no accidents and one conviction for a moving violation—Speeding—in a CMV over the last 3 years. He exceeded the speed limit by 9 mph.

15. Sammy K. Hines

Mr. Hines, 54, has amblyopia in his right eye. His best-corrected visual acuity is 20/200 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist certified, ''Based on my examination and the results of Mr. Hines'' Humphrey 120 point screening test, Mr. Hines has sufficient vision in both eyes to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hines submitted that he has driven straight trucks and tractor-trailer combinations for 12 years each, accumulating 60,000 miles in the former and 120,000 miles in the latter. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no accidents or convictions for traffic violations in a CMV.

16. Jeffrey J. Hoffman

Mr. Hoffman, 44, has hand motion vision in his left eye due to congenital glaucoma. The visual acuity in his right eye is 20/25+, best corrected. An ophthalmologist examined him in 2001 and certified, ''I do feel that Jeff should be able to sufficiently operate a commercial vehicle at this time.'' Mr. Hoffman submitted that he has driven straight trucks for 5 years, accumulating 100,000 miles, and tractor-trailer combinations for 16 years, accumulating 1.2 million miles. He holds a Class A3 CDL from South Dakota, and his driving record for the past 3 years shows no accidents or convictions for moving violations in a CMV.

17. Marshall L. Hood

Mr. Hood, 51, has a macular scar in his right eye due to an eye infection in childhood. His uncorrected visual acuity is count fingers in the right eye and 20/20 in the left. His ophthalmologist examined him in 2001 and certified, ''In my medical opinion, Mr. Hood has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Hood reported that he has driven straight trucks for 30 years, accumulating 1.5 million miles, and tractor-trailer combinations 3 years, accumulating 75,000 miles. He holds an Alabama Class DM driver's license, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

18. Edward W. Hosier

Mr. Hosier, 51, has had decreased vision in his left eye due to histoplasmosis since 1991. His best-corrected vision is 20/20 in the right eye and 20/200− in the left. Following an examination in 2001, his optometrist certified, ''In my medical opinion Mr. Hosier has sufficient vision to perform the driving tasks associated with operating a commercial vehicle.'' Mr. Hosier reported that he has driven straight trucks and tractor-trailer combinations for 25 years, accumulating 437,000 miles and 1.0 million miles, respectively. He holds a Class A CDL from Missouri, and his driving record shows he has had no accidents or convictions for traffic violations in a CMV for the last 3 years.

19. Edmond L. Inge, Sr.

Mr. Inge, 65, lost his left eye in 1976 due to trauma. His visual acuity in the right eye is 20/20-. Following an examination in 2001, his optometrist commented, ''Mr. Inge is visually capable of operating a commercial vehicle.'' Mr. Inge indicated he has driven tractor-trailer combinations for 42 years and 3.3 million miles. He holds a Class A CDL from Virginia, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

20. James A. Johnson

Mr. Johnson, 56, has had ocular histoplasmosis with macular scarring in his left eye since 1996. His best-corrected visual acuity is 20/25 in the right eye and finger counting in the left. Following an examination in 2001, his ophthalmologist certified, ''I feel Mr. Johnson is able to safely operate a commercial motor vehicle with this vision, as he has done so for the past several years.'' Mr. Johnson reported he has operated straight trucks for 7 years, accumulating 770,000 miles. He holds a Class A CDL from Ohio, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

21. Charles F. Koble

Mr. Koble, 61, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/60 in the left. His ophthalmologist examined him in 2001 and certified, ''My clinical impression is that Mr. Koble has sufficient vision to operate a commercial vehicle.'' Mr. Koble submitted that he has driven tractor-trailer combinations for 22 years, accumulating 1.1 million miles. He holds a Class A CDL from Indiana, and there are no CMV accidents or convictions for moving violations on his record for the last 3 years.

22. Robert W. Lantis

Mr. Lantis, 30, lost his right eye due to trauma at age 5. The visual acuity of his left eye is 20/15 uncorrected. His ophthalmologist examined him in 2001 and certified, ''If Mr. Lantis has been able to operate a commercial vehicle and perform the driving tasks required for his job from the time when he was hired, there should be no reason why he cannot continue performing the same or similar tasks since his visual acuity on the left is very good and unchanged.'' Mr. Lantis reported that he has driven straight trucks for 8 years, accumulating 240,000 miles. He holds a Class B CDL from Montana, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

23. Lucio Leal

Mr. Leal, 58, has been blind in his left eye since birth due to injury. His corrected visual acuity in the right eye is 20/20-. An optometrist examined him in 2001 and affirmed, ''Again in my opinion he has sufficient vision in glasses to operate a commercial vehicle.'' Mr. Leal stated he has driven straight trucks for 37 years, accumulating 1.1 million miles, tractor-trailer combinations for 12 years, accumulating 600,000 miles, and buses for 14 years, accumulating 84,000 miles. He holds a Nebraska Class A CDL, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

24. Terry W. Lytle

Mr. Lytle, 43, has had a post-traumatic cataract in his left eye since preschool. His right eye has corrected vision of 20/20, and his left eye has light perception only. Following an examination in 2001, his optometrist certified, ''The vision remains sufficient to perform the driving tasks required to operate a commercial vehicle.'' According to his application, Mr. Lytle has operated straight trucks for 23 years and 391,000 miles. He holds a Class A CDL from Pennsylvania, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

25. Earl Ray Mark

Mr. Mark, 44, has amblyopia in his right eye. His best-corrected visual acuity is 20/70 in the right eye and 20/20 in the left. His optometrist examined him in 2001 and noted, ''Patient Earl Mark in my opinion has sufficient vision to perform driving tasks to operate a commercial vehicle.'' Mr. Mark submitted that he has driven straight trucks for 21 years, accumulating 840,000 miles, and tractor-trailer combinations for 20 years, accumulating 1.0 million miles. He holds a Class AM CDL from Illinois, and his driving record shows he has had no accidents or convictions for moving violations in a CMV in the last 3 years.

26. James J. McCabe

Mr. McCabe, 60, has amblyopia in his right eye. His best-corrected vision is 20/200 in the right eye and 20/25 in the left. An ophthalmologist examined him in 2001 and certified, ''To a degree of medical certainty Mr. McCabe has sufficient vision to meet the exemption required to operate a commercial vehicle.'' Mr. McCabe reported that he has operated straight trucks and tractor-trailer combinations for 40 years, accumulating 400,000 miles in the former and 3.6 million miles in the latter. He holds a Class A CDL from Massachusetts, and his driving record for the last 3 years shows he has had no accidents or convictions for moving violations in a CMV.

27. Richard W. Neyens

Mr. Neyens, 44, has been aphakic since 1978 due to removal of a traumatic cataract from his left eye. His uncorrected visual acuity is 20/20 in the right eye and count fingers at 3 feet in the left. His optometrist examined him in 2001 and stated, ''We have attempted several contact lens fittings with Mr. Neyens and though he has the potential to see 20/30 vision with the contact lens, he constantly reports double vision that is uncorrectable with the addition of prism. Mr. Neyens has been aphakic secondary to his trauma in the left eye since 1978 and has functioned quite well during this period of time. In light of these circumstances, it is my opinion that Mr. Neyens is and has been a safer driver without a contact lens or aphakic correction in his left eye than he would have been with an aphakic correction. I would recommend that he maintain his current monocular status with his uncorrected vision of 20/20 in the right eye and be granted a waiver from the Federal Vision Standard.'' Mr. Neyens stated he has driven straight trucks for 3 years, accumulating 150,000 miles, and tractor-trailer combination vehicles for 19 years, accumulating 1.9 million miles. He holds a Washington State Class A CDL. He has no accidents and one conviction for a moving violation—Speeding—on his driving record for the last 3 years. He exceeded the speed limit by 10 mph.

28. Anthony G. Parrish

Mr. Parrish, 50, has a congenital optic nerve defect in his left eye. His best-corrected visual acuities are 20/20 in the right eye and 20/200 in the left. An ophthalmologist examined him in 2001 and certified, ''Under binocular conditions, the patient has essentially normal visual function, since the field defect on the left is able to be 'filled in' by the good eye. Therefore, it is my opinion that this patient is able to safely operate a commercial vehicle.'' Mr. Parrish submitted that he has driven straight trucks 7 years, accumulating 450,000 miles, and tractor-trailer combinations 17 years, accumulating 1.1 million miles. He holds a Class AM CDL from Alabama, and his driving record for the last 3 years shows he has had one accident and no convictions for moving violations in a CMV. According to the police report, Mr. Parrish had pulled his mechanically disabled vehicle into the emergency lane, when another vehicle drifted off the roadway behind him, striking the guardrail, then the vehicle Mr. Parrish was operating. Mr. Parrish was not charged in the accident.

29. Bill L. Pearcy

Mr. Pearcy, 48, has amblyopia of his left eye. His best-corrected visual acuities are 20/20 in the right eye and 20/200 in the left. As the result of an

examination in 2001 his optometrist concluded, ''He has no apparent eye pathology and has no visual field restriction in either eye. His amblyopia should not affect his ability to drive a commercial vehicle.'' Mr. Pearcy reported that he has 8 years and 576,000 miles of experience operating straight trucks, and 3 years and 273,000 miles of experience operating tractor-trailer combinations. He holds a Class A CDL from Oregon, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

30. Robert H. Rogers

Mr. Rogers, 45, has been blind in his left eye since the age of 3 due to trauma. The unaided visual acuity in his right eye is 20/20. Following an examination in 2001, his ophthalmologist stated, ''Mr. Rogers'' vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Rogers reported that he has driven straight trucks for 2 years, accumulating 30,000 miles, and tractor-trailer combinations for 8 years, accumulating 1.0 million miles. He holds a Class A CDL from Mississippi, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

31. Bobby C. Spencer

Mr. Spencer, 60, has had a macular scar in his right eye since 1960. His best-corrected vision is 20/200 in the right eye and 20/20 in the left. His optometrist examined him in 2001 and certified, ''Mr. Spencer has sufficient vision for driving a commercial vehicle.'' Mr. Spencer reported that he has driven tractor-trailer combinations for 15 years, accumulating 342,000 miles. He holds a Tennessee Class A CDL, and in the last 3 years he has had no accidents or convictions for moving violations in a CMV.

32. Mark J. Stevwing

Mr. Stevwing, 38, has amblyopia of the left eye. His uncorrected visual acuity is 20/20 in the right eye and 20/70 in the left. An optometrist examined him in 2001 and stated, ''It is my opinion that Mark has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Stevwing reported that he has 14 years of experience driving straight trucks, totaling 364,000 miles. He holds a Pennsylvania Class B CDL and has had no accidents or moving violations in a CMV for the past 3 years.

33. Clarence C. Trump, Jr.

Mr. Trump, 74, has amblyopia in his left eye. His best-corrected visual acuity is 20/40+3 in his right eye and 20/200–1 in his left. His ophthalmologist examined him in 2001 and stated, ''As the patient has been driving without significant incident over the past 50 years, in my opinion he has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Trump submitted that he has driven straight trucks and tractor-trailer combinations for 56 years, accumulating 448,000 miles in the former and 112,000 miles in the latter. He holds a Class AM CDL from Pennsylvania. His driving record shows no accidents or convictions for moving violations in a CMV for the last 3 years.

34. Dennis R. Ward

Mr. Ward, 54, has amblyopia in his right eye. He has visual acuity of 20/300 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist stated, ''In my professional opinion, Mr. Ward has more than sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to Mr. Ward's application, he has driven straight trucks for 35 years, accumulating 248,000 miles. He holds a Class C driver's license from Nebraska, and his driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

35. Frankie A. Wilborn

Mr. Wilborn, 45, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. His optometrist examined him in 2001 and stated, ''Considering the 120 Point Humphrey Visual Field testing shows good peripheral vision, I believe and certify in my medical opinion that Mr. Wilborn with current 20/20 vision with both eyes is quite capable of continuing his current profession as a commercial truck driver.'' Mr. Wilborn reported that he has driven tractor-trailer combinations for 6 years, accumulating 562,000 miles. He holds a Class AM CDL from Georgia. He has had no accidents and one conviction for a moving violation—Improper Turning—in a CMV during the past 3 years.

36. Jeffrey L. Wuollett

Mr. Wuollett, 51, has amblyopia in his left eye. His best-corrected vision in the right eye is 20/20 and in the left eye 20/200. Following a 2001 examination, his optometrist stated, ''Mr. Wuollett is more than capable of driving and operating a commercial vehicle with his current visual status.'' In his application, Mr. Wuollett reported that he has driven straight trucks for 18 years, accumulating 774,000 miles. He holds a Minnesota Class D driver's license, and has had no accidents or convictions for moving violations in a CMV for the past 3 years.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address.

Issued on: March 1, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–5361 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5578, FMCSA–99–5748 and FMCSA–99–6156 (FHWA–99–5578, OMCS–99–5748 and OMCS–99–6156)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 19 individuals.

DATES: This decision is effective March 7, 2002. Comments from interested persons should be submitted by April 8, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments as well as see the submissions of other commenters at *http://dms.dot.gov*. Please include the docket numbers that appear in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through

Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Nineteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR 391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Herman L. Bailey, Jr., Mark A. Baisden, William A. Bixler, Brad T. Braegger, Richard J. Cummings, Clifford H. Dovel, Donald D. Dunphy, Daniel R. Franks, Victor B. Hawks, Jack L. Henson, Myles E. Lane, Sr., Dennis J. Lessard, Harry R. Littlejohn, Frances C. Ruble, George L. Silvia, James D. Simon, Wayland O. Timberlake, Robert J. Townsley, and Jeffrey G. Wuensch. Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' Accordingly, FMCSA has evaluated the 19 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On January 3, 2000, the agency published a notice of final disposition announcing its decision to exempt 40 individuals, including 13 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (65 FR 159). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 54948 (October 8, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (65 FR 159). On November 30, 1999, the agency published a notice of final disposition announcing its decision to exempt 33 individuals, including 5 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 66962). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 40404 (July 26, 1999). Three comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 66962). On September 23, 1999, the agency published a notice of final disposition announcing its decision to exempt 32 individuals, including 1 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 51568). The qualifications, experience, and medical condition of the applicant were stated and discussed in detail at 64 FR 27027 (May 18, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petition (64 FR 51568). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 19 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 159; 64 FR 54948; 64 FR 66962; 64 FR 40404; 64 FR 51568; 64 FR 27027), and each has requested timely renewal of the exemption. These 19 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Herman L. Bailey, Jr., Mark A. Baisden, William A. Bixler, Brad T. Braegger, Richard J. Cummings, Clifford H. Dovel, Donald D. Dunphy, Daniel R. Franks, Victor B. Hawks, Jack L. Henson, Myles E. Lane, Sr., Dennis J. Lessard, Harry R. Littlejohn, Frances C. Ruble, George L.

Silvia, James D. Simon, Wayland O. Timberlake, Robert J. Townsley, and Jeffrey G. Wuensch, subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

FMCSA has evaluated the qualifications and driving performance of the 19 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by April 8, 2002. All comments will be considered and will be available for examination in the docket room at the above address. FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Issued on: March 1, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 02–5362 Filed 3–6–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Guidance to Federal Financial Assistance Recipients on the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

AGENCY: Department of the Treasury.

ACTION: Policy guidance document.

SUMMARY: The United States Department of the Treasury is republishing for additional public comment policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons.

DATES: This guidance was effective March 7, 2001. Comments must be submitted on or before April 8, 2002. Treasury will review all comments and will determine what modifications to the policy guidance, if any, are necessary.

ADDRESSES: Interested persons should submit written comments to Ms. Marcia H. Coates, Director, Office of Equal Opportunity Program, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 6071 Metropolitan Square, Washington, DC 20220; Comments may also be submitted by e-mail to: *OEOPWEB@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: John Hanberry at the Office of Equal Opportunity Program, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 6071 Metropolitan Square, Washington, DC 20220; (202) 622–1170 voice, (202) 622–0367 fax. Arrangements to receive the policy in an alternative format may be made by contacting Mr. Hanberry.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

The purpose of this policy guidance is to clarify the responsibilities of recipients of Federal financial assistance from the U.S. Department of Treasury (''recipients''), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. The policy guidance reiterates the Federal government's longstanding position that in order to avoid discrimination against LEP persons on the grounds of national origin, recipients must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide, free of charge.

This document was originally published on March 7, 2001. See 66 FR 13829. The document was based on the policy guidance issued by the Department of Justice entitled ''Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency.'' 65 FR 50123 (August 16, 2000).

On October 26, 2001 and January 11, 2002, the Assistant Attorney General for Civil Rights issued to Federal departments and agencies guidance memoranda, which reaffirmed the Department of Justice's commitment to ensuring that Federally assisted programs and activities fulfill their LEP responsibilities and which clarified and answered certain questions raised regarding the August 16th publication. The Department of Treasury is presently reviewing its original March 7, 2001, publication in light of these clarifications, to determine whether there is a need to clarify or modify the March 7th guidance. In furtherance of those memoranda, the Department of Treasury is republishing its guidance for the purpose of obtaining additional public comment.

The text of the complete guidance document appears below.

Dated: February 28, 2002.

Edward R. Kingman, Jr.,

Assistant Secretary for Management and Chief Financial Officer, United States Department of the Treasury.

Policy Guidance

A. Background

On August 11, 2000, President Clinton signed Executive Order 13166, ''Improving Access to Services for Persons with Limited English Proficiency.'' The purpose of this Executive Order is to eliminate to the maximum extent possible limited English proficiency (LEP) as an artificial barrier to full and meaningful participation in all Federally assisted programs and activities.

The EO requires that Federal agencies draft Title VI guidance specifically tailored to their recipients of Federal financial assistance, taking into account the types of services provided, the individuals served, and the programs and activities assisted to ensure that recipients provide meaningful access to their LEP applicants and beneficiaries. To assist Federal agencies in carrying out these responsibilities, the Department of Justice (DOJ) issued a Policy Guidance Document,

''Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency (LEP Guidance)''. DOJ's LEP Guidance sets forth the compliance standards that recipients of Federal financial assistance must follow to ensure that programs and activities normally provided in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI.

This document contains guidance to recipients of financial assistance from the Department and its constituent bureaus. It is consistent with DOJ's policy guidance and provides recipients of Treasury assistance the necessary tools to assure language assistance to LEP persons. It is also consistent with the government-wide Title VI regulation issued by DOJ in 1976, ''Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs,'' 28 CFR part 42, subpart F, that addresses the circumstances in which recipients must provide written language assistance to LEP persons.[1] This guidance will be provided to all recipients of Treasury assistance to ensure compliance with the nondiscrimination provisions of Title VI as it applies to language proficiency.

B. Introduction

English is the predominant language of the United States. According to the 1990 Census, English is spoken by 95% of its residents. Of those U.S. residents who speak languages other than English at home, the 1990 Census reports that 57% above the age of four speak English ''well to very well.''

The United States is also, however, home to millions of national origin minority individuals who are ''limited English proficient'' (LEP). That is, their primary language is not English, and they cannot speak, read, write or understand the English language at a level that permits them to interact effectively. Because of these language differences and their inability to speak or understand English, LEP persons may be excluded from participation, experience delays or denials of services, or receive services based on inaccurate or incomplete information in Treasury assisted programs.

Some recipients have sought to bridge the language gap by encouraging language minority clients to provide their own interpreters as an alternative to the agency's use of qualified bilingual employees or interpreters. Persons of limited English proficiency must sometimes rely on their minor children to interpret for them during visits to a service facility. Alternatively, these clients may be required to call upon neighbors or even strangers they encounter at the provider's office to act as interpreters or translators. These practices have severe drawbacks and may violate Title VI of the Civil Rights Act of 1964. (*See* Section D.6(a) of this notice.)

In each case, the impediments to effective communication and adequate service are formidable. The client's untrained ''interpreter'' is often unable to understand the concepts or official terminology he or she is being asked to interpret or translate. Even if the interpreter possesses the necessary language and comprehension skills, his or her mere presence may obstruct the flow of confidential information to the provider. For example, clients of an IRS Taxpayer Clinic would naturally be reluctant to disclose or discuss personal details concerning their taxes, through relatives, minor children, or friends, in this IRS assisted program.

When these types of circumstances are encountered, the level and quality of services available to persons of limited English proficiency stand in stark contrast to Title VI's promise of equal access to Federally assisted programs and activities. Services denied, delayed or provided under adverse circumstances for an LEP person may constitute discrimination on the basis of national origin, in violation of Title VI. Numerous Federal laws require the provision of language assistance to LEP individuals seeking to access critical services and activities. For instance, the Voting Rights Act bans English-only elections in certain circumstances and outlines specific measures that must be taken to ensure that language minorities can participate in elections. *See* 42 U.S.C. 1973 b(f)(1). Similarly, the Food Stamp Act of 1977 requires states to provide written and oral language assistance to LEP persons under certain circumstances. 42 U.S.C. 2020(e)(1) and (2). These and other provisions reflect the judgment that providers of critical services and benefits bear the responsibility for ensuring that LEP individuals can meaningfully access their programs and services.

C. Legal Authority

1. Introduction

Over the last 30 years, Federal agencies have conducted thousands of investigations and reviews involving language differences that impede the access of LEP persons to services. Where the failure to accommodate language differences discriminates on the basis of national origin, Federal law has required recipients to provide appropriate language assistance to LEP persons. For example, one of the largest providers of Federal financial assistance, the Department of Health and Human Services (HHS) has entered into voluntary compliance agreements and consent decrees that require recipients who operate health and social service programs to ensure that there are bilingual employees or language interpreters to meet the needs of LEP persons seeking HHS services. HHS has also required these recipients to provide written materials and post notices in languages other than English. *See Mendoza* v. *Lavine,* 412 F.Supp. 1105 (S.D.N.Y. 1976); and *Asociacion Mixta Progresista* v. *H.E.W.,* Civil Number C72–882 (N.D. Cal. 1976). The legal authority for Treasury's enforcement actions is Title VI of the Civil Rights Act of 1964, DOJ's government-wide implementing regulation for Executive Order 12250, the August 11, 2000 DOJ LEP Guidance, and a consistent body of case law, which are described below.

2. Statute and Regulation

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d *et seq.* states: ''No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.'' Treasury is in the process of drafting its own Title VI regulations consistent with the model regulations provided by DOJ, which require that: (a) A recipient under any program to which these regulations apply, may not, directly or through contractual or other arrangements, on grounds of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(b) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be

[1] The DOJ coordination regulations at 28 CFR. 42.405(d)(1) provide that ''[w]here a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted programs (*e.g.,* affected by relocation) needs service or information in a language other than English in order effectively to be informed of or to participate in the program, the recipient shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide information to appropriate languages to such persons. This requirement applies with regard to written material of the type which is ordinarily distributed to the public.''

provided under any such program or the class of individuals to whom, or the situations in which such services, financial aid or other benefits, or facilities will be provided ''* * * *may not directly, or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination, because of their race, color or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color or national origin.*'' (Emphasis added.)

3. Case Law

Extensive case law affirms the obligation of recipients of Federal financial assistance to ensure that LEP persons can meaningfully access Federally assisted programs. The U.S. Supreme Court, in *Lau* v. *Nichols,* 414 U.S. 563 (1974), recognized that recipients of Federal financial assistance have an affirmative responsibility, pursuant to Title VI, to provide LEP persons with a meaningful opportunity to participate in public programs. In *Lau,* the Supreme Court ruled that a public school system's failure to provide English language instruction to students of Chinese ancestry who do not speak English denied the students a meaningful opportunity to participate in a public educational program in violation of Title VI of the Civil Rights Act of 1964.

As early as 1926, the Supreme Court recognized that language rules were often discriminatory. In *Yu Cong Eng et al.* v. *Trinidad, Collector of Internal Revenue,* 271 U.S. 500 (1926), the Supreme Court found that a Philippine Bookkeeping Act that prohibited the keeping of accounts in languages other than English, Spanish and Philippine dialects violated the Philippine Bill of Rights that Congress had patterned after the U.S. Constitution. The Court found that the Act deprived Chinese merchants, who were unable to read, write or understand the required languages, of liberty and property without due process. In *Gutierrez* v. *Municipal Court of S.E. Judicial District,* 838 F.2d 1031,1039 (9th Cir. 1988), *vacated as moot,* 490 U.S. 1016 (1989), the court recognized that requiring the use of English only is often used to mask national origin discrimination. Citing McArthur, *Worried About Something Else,* 60 Int'l J. Soc. Language, 87, 90–91 (1986), the court stated that because language and accents are identifying characteristics, rules that have a negative effect on bilingual persons, individuals with accents, or non-English speakers may be mere pretexts for intentional national origin discrimination.

Another case that noted the link between language and national origin discrimination is *Garcia* v. *Gloor,* 618 F.2d 264 (5th Cir. 1980) *cert. denied,* 449 U.S. 1113 (1981). The court found that on the facts before it a workplace English-only rule did not discriminate on the basis of national origin since the complaining employees were bilingual. However, the court stated that ''to a person who speaks only one tongue or to a person who has difficulty using another language other than the one spoken in his home, language might well be an immutable characteristic like skin color, sex or place of birth.'' *Id.* at 269.

The Fifth Circuit addressed language as an impermissible barrier to participation in society in *U.S.* v. *Uvalde Consolidated Independent School District,* 625 F.2d 547 (5th Cir. 1980). The court upheld an amendment to the Voting Rights Act which addressed concerns about language minorities, the protections they were to receive, and eliminated discrimination against them by prohibiting English-only elections. Most recently, in *Sandoval* v. *Hagan,* 7 F. Supp. 2d 1234 (M.D. Ala. 1998), *affirmed,* 197 F.3d 484, (11th Cir. 1999), *petition for certiorari granted, Alexander* v. *Sandoval* 121 S. Ct. 28 (Sept. 26, 2000) (No. 99–1908), the Eleventh Circuit held that the State of Alabama's policy of administering a driver's license examination in English only was a facially neutral practice that had an adverse effect on the basis of national origin, in violation of Title VI. The court specifically noted the nexus between language policies and potential discrimination based on national origin. That is, in *Sandoval,* the vast majority of individuals who were adversely affected by Alabama's English-only driver's license examination policy were national origin minorities.

4. Department of Justice August 11, 2000 LEP Guidance

This Guidance is issued in compliance with EO 13166 and its requirement that agencies providing Federal financial assistance provide guidance to recipients that is consistent with DOJ's August 11, 2000 LEP Guidance. That Guidance sets forth the compliance standards that recipients of Federal financial assistance must follow to ensure that programs and activities are meaningfully accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI. A recipient's policies or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have an adverse effect on the ability of national origin minorities to meaningfully access programs and services. Accordingly, it is important for recipients to examine their policies and practices to determine whether they adversely affect LEP persons. This policy guidance provides a legal framework to assist recipients in conducting such assessments.

D. Policy Guidance

1. Coverage

All entities that receive Federal financial assistance from Treasury either directly or indirectly, through a grant, contract or subcontract, are covered by this policy guidance. The term ''Federal financial assistance'' to which Title VI applies includes but is not limited to grants and loans of Federal funds, grants or donations of Federal property, details of Federal personnel, or any agreement, arrangement or other contract which has as one of its purposes the provision of assistance.

Title VI prohibits discrimination in any program or activity that receives Federal financial assistance. What constitutes a program or activity covered by Title VI was clarified by Congress in 1988, when the Civil Rights Restoration Act of 1987 (CRRA) was enacted. The CRRA provides that, in most cases, when a recipient receives Federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the Federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the Federal assistance is used only by one part.

2. Basic Requirements Under Title VI

A recipient whose policies, practices, or procedures exclude, limit, or have the effect of excluding or limiting, the participation of any LEP person in a Federally assisted program on the basis of national origin may be engaged in discrimination in violation of Title VI. In order to ensure compliance with Title VI, recipients must take steps to ensure that LEP persons who are eligible for their programs or services have meaningful access to the services, information, and benefits that they provide. The most important step in meeting this obligation is for recipients of Treasury financial assistance to provide the language assistance

necessary to ensure such access, at no cost to the LEP person.

The type of language assistance a recipient/covered entity provides to ensure meaningful access will depend on a variety of factors, including the total resources and size of the recipient/covered entity, the number or proportion of the eligible LEP population it serves, the nature and importance of the program or service, including the objectives of the program, the frequency with which particular languages are encountered, and the frequency with which LEP persons come into contact with the program. These factors are consistent with and incorporate the standards set forth in the Department of Justice ''Policy Guidance Document: on Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency (LEP Guidance),'' reprinted at 65 FR 50123 (August 16, 2000). There is no ''one size fits all'' solution for Title VI compliance with respect to LEP persons. Treasury will make its assessment of the language assistance needed to ensure meaningful access on a case by case basis, and a recipient will have considerable flexibility in determining precisely how to fulfill this obligation. Treasury will focus on the end result—whether the recipient has taken the necessary steps to ensure that LEP persons have meaningful access to its programs and services.

The key to providing meaningful access for LEP persons is to ensure that the recipient and LEP person can communicate effectively. The steps taken by a covered entity must ensure that the LEP person is given adequate information, is able to understand the services and benefits available, and is able to receive those for which he or she is eligible. The covered entity must also ensure that the LEP person can effectively communicate the relevant circumstances of his or her situation to the service provider.

Experience has shown that effective language assistance programs usually contain the four measures described in Section 4 below. In reviewing complaints and conducting compliance reviews, Treasury will consider a program to be in compliance when the recipient effectively incorporates and implements these four elements. The failure to incorporate or implement one or more of these elements does not necessarily mean noncompliance with Title VI, and Treasury will review the totality of the circumstances to determine whether LEP persons can meaningfully access the services and benefits of the recipient.

3. State or Local ''English-Only'' Laws

State or local ''English-only'' laws do not change the fact that recipients cannot discriminate in violation of Title VI. Entities in states and localities with ''English-only'' laws do not have to accept Federal funding. However, if they do, they have to comply with Title VI, including its prohibition against national origin discrimination by recipients.

4. Ensuring Meaningful Access to LEP Persons

(a) The Four Keys to Title VI Compliance in the LEP Context.

The key to providing meaningful access to benefits and services for LEP persons is to ensure that the language assistance provided results in accurate and effective communication between the provider and LEP applicant/client about the types of services and/or benefits available and about the applicant's or client's circumstances. Although Treasury recipients have considerable flexibility in fulfilling this obligation, effective programs usually have the following four elements:

- Assessment—The recipient conducts a thorough assessment of the language needs of the population to be served;
- Development of Comprehensive Written Policy on Language Access—The recipient develops and implements a comprehensive written policy that will ensure meaningful communication;
- Training of Staff—The recipient takes steps to ensure that staff understand the policy and are capable of carrying it out; and
- Vigilant Monitoring—The recipient conducts regular oversight of the language assistance program to ensure that LEP persons meaningfully access the program.

If implementation of one or more of these measures would be so financially burdensome as to defeat the legitimate objectives of a recipient's program, or if the recipient utilizes an equally effective alternative for ensuring that LEP persons have meaningful access to programs and services, Treasury will not find the recipient in noncompliance. However, recipients should gather and maintain documentation to substantiate any assertion of financial burden.

(b) Assessment.

The first key to ensuring meaningful access is for the recipient to assess the language needs of the eligible population. A recipient assesses language needs by identifying:

- the number and proportion of LEP persons eligible to be served or encountered by the recipient, the frequency of contact with LEP language groups, the nature or importance of the activity, benefit, or service, and the resources of the recipient.
- the points of contact in the program or activity where language assistance is likely to be needed.
- the resources that will be needed to provide effective language assistance.
- the location and availability of these resources.
- the arrangements that must be made to access these resources in a timely fashion.

(c) Development of Comprehensive Written Policy on Language Access.

A recipient can ensure effective communication by developing and implementing a comprehensive written language assistance program. This program should include: policies and procedures for identifying and assessing the language needs of its LEP applicants/clients; a range of oral language assistance options; notice to LEP persons in a language they can understand of the right to free language assistance; periodic training of staff; monitoring of the program; and translation of written materials in certain circumstances.[2]

(1) Oral Language Interpretation—In designing an effective language assistance program, a recipient should develop procedures for obtaining and providing trained and competent interpreters and other oral language assistance services, in a timely manner, by taking some or all of the following steps:

- Hiring bilingual staff who are trained and competent in the skill of interpreting;
- Hiring staff interpreters who are trained and competent in the skill of interpreting;
- Contracting with an outside interpreter service for trained and competent interpreters;
- Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting;
- Arranging/contracting for the use of a telephone language interpreter service.

See Section D.6. (b)of this notice for a discussion on ''Competence of Interpreters.''

[2] The Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 both provide similar prohibitions against discrimination on the basis of disability and require entities to provide language assistance such as sign language interpreters for hearing impaired individuals or alternative formats such as Braille, large print or tape for vision impaired individuals. In developing a comprehensive language assistance program, recipients should be mindful of their responsibilities under the ADA and Section 504 to ensure access to programs for individuals with disabilities.

The following provides guidance to recipients in determining which language assistance options will be of sufficient quantity and quality to meet the needs of their LEP beneficiaries:

• *Bilingual Staff*—Hiring bilingual staff for client contact positions facilitates participation by LEP persons. However, where there are a variety of LEP language groups in a recipient's service area, this option may be insufficient to meet the needs of all LEP applicants and clients. Where this option is insufficient to meet the needs, the recipient must provide additional and timely language assistance. Bilingual staff must be trained and must demonstrate competence as interpreters.

• *Staff Interpreters*—Paid staff interpreters are especially appropriate where there is a frequent and/or regular need for interpreting services. These persons must be competent and readily available.

• *Contract Interpreters*—The use of contract interpreters may be an option for recipients that have an infrequent need for interpreting services, have less common LEP language groups in their service areas, or need to supplement their in-house capabilities on an as-needed basis. Such contract interpreters must be readily available and competent.

• *Community Volunteers*—Use of community volunteers may provide recipients with a cost-effective method for providing interpreter services. However, experience has shown that to use community volunteers effectively, recipients must ensure that formal arrangements for interpreting services are made with community organizations so that these organizations are not subjected to *ad hoc* requests for assistance. In addition, recipients must ensure that these volunteers are competent as interpreters and understand their obligation to maintain client confidentiality. Additional language assistance must be provided where competent volunteers are not readily available during all hours of service.

• *Telephone Interpreter Lines*—A telephone interpreter service line may be a useful option as a supplemental system, or may be useful when a recipient encounters a language that it cannot otherwise accommodate. Such a service often offers interpreting assistance in many different languages and usually can provide the service in quick response to a request. However, recipients should be aware that such services may not always have readily available interpreters who are familiar with the terminology peculiar to the particular program or service. It is important that a recipient not offer this as the only language assistance option except where other language assistance options are unavailable.

(2) *Translation of Written Materials*—An effective language assistance program ensures that written materials that are routinely provided in English to applicants, clients and the public are available in regularly encountered languages other than English. It is particularly important to ensure that vital documents are translated. A document will be considered vital if it contains information that is critical for accessing the services, rights, and/or benefits, or is required by law. Thus, vital documents include, for example, applications; consent forms; letters and notices pertaining to the reduction, denial or termination of services or benefits; and letters or notices that require a response from the beneficiary or client. For instance, if a complaint form is necessary in order to file a claim with an agency, that complaint form would be vital information. Non-vital information includes documents that are not critical to access such benefits and services.

As part of its overall language assistance program, a recipient must develop and implement a plan to provide written materials in languages other than English where a significant number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively. (*See* 28 CFR 42.405(d)(1)). Treasury will determine the extent of the recipient's obligation to provide written translation of documents on a case by case basis, taking into account all relevant circumstances, including: (1) The nature, importance, and objective of the particular activity, program, or service; (2) the number or proportion of LEP persons eligible to be served or encountered by the recipient; (3) the frequency with which translated documents are needed; and (4) the total resources available to the recipient as compared to the length of the document and cost of translation.

One way for a recipient to know with greater certainty that it will be found in compliance with its obligation to provide written translations in languages other than English is for the recipient to meet the guidelines outlined in paragraphs (A) and (B) below, which outline the circumstances that provide a ''safe harbor'' for recipients. A recipient that provides written translations under these circumstances can be confident that it will be found in compliance with its obligation under Title VI regarding written translations.[3] However, the failure to provide written translations under these circumstances outlined in paragraphs (A) and (B) will not necessarily mean noncompliance with Title VI.

In such situations, Treasury will review the totality of the circumstances to determine the precise nature of a recipient's obligation to provide written materials in languages other than English as indicated earlier.

Treasury will consider a recipient to be in compliance with its Title VI obligation to provide written materials in non-English languages if:

(A) The recipient provides translated written materials, including vital documents, for each eligible LEP language group that constitutes ten percent or 3,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected by the recipient's program[4];

(B) Regarding LEP language groups that do not fall within paragraph (A) above, but constitute five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected, the recipient ensures that, at a minimum, vital documents are translated into the appropriate non-English languages of such LEP persons. Translation of other documents, if needed, can be provided orally; and

(C) Notwithstanding paragraphs (A) and (B) above, a recipient with fewer than 100 persons in a language group eligible to be served or likely to be directly affected by the recipient's program, does not translate written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral translation of written materials.

The term ''persons eligible to be served or likely to be directly affected'' relates to the issue of what is the recipient's service area for purposes of meeting its Title VI obligation. There is no ''one size fits all'' definition of what constitutes ''persons eligible to be

[3] The ''safe harbor'' provisions are not intended to establish numerical thresholds for when a recipient must translate documents. The numbers and percentages included in these provisions are based on the balancing of a number of factors, including experience in enforcing Title VI in the context of Treasury programs, and Treasury's discussions with other agecies about experiences of their grant recipients with language across issues.

[4] See section D.4.(c)(2) above for a description of vital documents. Large documents, such as enrollment handbooks, may not need to be translated in their entirety. However, vital information contained in large documents must be translated.

served or likely to be directly affected'' and Treasury will address this issue on a case by case basis. Ordinarily, these persons are those who are in the geographic area that has been approved by a Federal grant agency as the recipient's service area. Thus, for language groups that do not fall within paragraphs (A) and (B), above, a recipient can ensure access by providing written notice in the LEP person's primary language of the right to receive free language assistance.

Recent technological advances have made it easier for recipients to store translated documents readily. At the same time, Treasury recognizes that recipients in a number of areas, such as many large cities, regularly serve LEP persons from many different areas of the world who speak dozens of different languages. It would be unduly burdensome to demand that recipients in these circumstances translate all written materials into these languages. As a result, Treasury will determine the extent of the recipient's obligation to provide written translations of documents on a case by case basis, looking at the totality of the circumstances.

It is also important to ensure that the person translating the materials is well qualified. In addition, in some circumstances verbatim translation of materials may not accurately or appropriately convey the substance of what is contained in the written materials. An effective way to address this potential problem is to reach out to community-based organizations to review translated materials to ensure that they are accurate and easily understood by LEP persons.

(3) *Methods for Providing Notice to LEP Persons*—A vital part of a well-functioning compliance program includes having effective methods for notifying LEP persons of their right to language assistance and the availability of such assistance free of charge. These methods include but are not limited to:

- Use of language identification cards that allow LEP persons to identify their language needs to staff. To be effective, the cards (*e.g.,* ''I speak'' cards) must invite the LEP person to identify the language he/she speaks.
- Posting and maintaining signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of entry. To be effective, these signs must inform LEP persons of their right to free language assistance services and invite them to identify themselves as persons needing such services.
- Translation of application forms and instructional, informational and other written materials into appropriate non-English languages by competent translators. For LEP persons whose language does not exist in written form, assistance from an interpreter to explain the contents of the document.
- Uniform procedures for timely and effective telephone communication between staff and LEP persons. This must include instructions for English-speaking employees to obtain assistance from interpreters or bilingual staff when receiving calls from or initiating calls to LEP persons.
- Inclusion of statements about the services available and the right to free language assistance services, in appropriate non-English languages, in brochures, booklets, outreach and recruitment information, and other materials that are routinely disseminated to the public.

(d) Training of Staff.

Another vital element in ensuring that its policies are followed is a recipient's dissemination of its policy to all employees likely to have contact with LEP persons, and periodic training of these employees. Effective training ensures that employees are knowledgeable and aware of LEP policies and procedures, are trained to work effectively with in-person and telephone interpreters, and understand the dynamics of interpretation between clients, providers and interpreters. It is important that this training be part of the orientation for new employees and that all employees in client contact positions be properly trained. Recipients may find it useful to maintain a training registry that records the names and dates of employees' training. Effective training is one means of ensuring that there is not a gap between a recipient's written policies and procedures, and the actual practices of employees who are in the front lines interacting with LEP persons.

(e) Monitoring and Updating the LEP policy.

Recipients should always consider whether new documents, programs, services, and activities need to be made accessible for LEP individuals. They should then provide needed language services and notice of those services to the LEP public and to employees. In addition, Treasury recipients should evaluate their entire language policy at least every three years. One way to evaluate the LEP policy is to seek feedback from the community. Recipients should assess:

- Current LEP populations in service area.
- Current communication needs of LEP individuals encountered by the program.
- Whether existing assistance is meeting the needs of such persons.
- Whether staff knows and understands the LEP policy and how to implement it.
- Whether identified sources for assistance are still available and viable.

5. Treasury's Assessment of Meaningful Access

The failure to take all of the steps outlined in Section D(4), above, will not necessarily mean that a recipient has failed to provide meaningful access to LEP clients. The following are examples of how meaningful access will be assessed by Treasury:

- A small recipient has about 50 LEP Hispanic clients and a small number of employees, and asserts that he cannot afford to hire bilingual staff, contract with a professional interpreter service, or translate written documents. To accommodate the language needs of LEP clients, the recipient has made arrangements with a Hispanic community organization for trained and competent volunteer interpreters, and with a telephone interpreter language line, to interpret during consultations and to orally translate written documents. There have been no client complaints of inordinate delays or other service related problems with respect to LEP clients. Given the resources, the size of the staff, and the size of the LEP population, Treasury would find this recipient in compliance with Title VI.
- A recipient with a large budget serves 500,000 beneficiaries. Of the beneficiaries eligible for services, 3,500 are LEP Chinese persons, 4,000 are LEP Hispanic persons, 2,000 are LEP Vietnamese persons and about 400 are LEP Laotian persons. The recipient has no policy regarding language assistance to LEP persons, and LEP clients are told to bring their own interpreters, are provided with application and consent forms in English and if unaccompanied by their own interpreters, must solicit the help of other clients or must return at a later date with an interpreter. Given the size of this program, its resources, the size of the eligible LEP population, and the nature of the program, Treasury would likely find this recipient in violation of Title VI and would likely require it to develop a comprehensive language assistance program that includes all of the options discussed in Section D.4, above.

6. Interpreters

Two recurring issues in the area of interpreter services involve (a) the use of friends, family, or minor children as interpreters, and (b) the need to ensure that interpreters are competent.

(a) *Use of Friends, Family and Minor Children as Interpreters*—A recipient may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends, minor children, or family members as interpreters, as this could compromise the effectiveness of the service. Use of such persons could result in a breach of confidentiality or reluctance on the part of individuals to reveal personal information critical to their situations. In addition, family and friends usually are not competent to act as interpreters, since they are often insufficiently proficient in both languages, unskilled in interpretation, and unfamiliar with specialized terminology.

If after a recipient informs an LEP person of the right to free interpreter services, the person declines such services and requests the use of a family member or friend, the recipient may use the family member or friend, if the use of such a person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The recipient should document the offer and decline in the LEP person's file. Even if an LEP person elects to use a family member or friend, the recipient should suggest that a trained interpreter sit in on the encounter to ensure accurate interpretation.

(b) *Competence of Interpreters*—In order to provide effective services to LEP persons, a recipient must ensure that it uses persons who are competent to provide interpreter services. Competency does not necessarily mean formal certification as an interpreter, though certification is helpful. On the other hand, competency requires more than self-identification as bilingual. The competency requirement contemplates demonstrated proficiency in both English and the other language, orientation and training that includes the skills and ethics of interpreting (*e.g.*, issues of confidentiality), fundamental knowledge in both languages of any specialized terms, or concepts peculiar to the recipient's program or activity, sensitivity to the LEP person's culture and a demonstrated ability to convey information in both languages, accurately. A recipient must ensure that those persons it provides as interpreters are trained and demonstrate competency as interpreters.

7. Examples of Prohibited Practices

Listed below are examples of practices which may violate Title VI:

- Providing services to LEP persons that are more limited in scope or are lower in quality than those provided to other persons, or placing greater burdens on LEP than on non-LEP persons;
- Subjecting LEP persons to unreasonable delays in the delivery of services, or the provision of information on rights;
- Limiting participation in a program or activity on the basis of English proficiency;
- Failing to inform LEP persons of the right to receive free interpreter services and/or requiring LEP persons to provide their own interpreter.

E. Promising Practices

In meeting the needs of their LEP clients, some recipients have found unique ways of providing interpreter services and reaching out to the LEP community. Examples of promising practices include the following:

Language Banks—In several parts of the country, both urban and rural, community organizations and providers have created community language banks that train, hire and dispatch competent interpreters to participating organizations, reducing the need to have on-staff interpreters for low demand languages. These language banks are frequently nonprofit and charge reasonable rates.

Pamphlets—A recipient has created pamphlets in several languages, entitled ''While Awaiting the Arrival of an Interpreter.'' The pamphlets are intended to facilitate basic communication between clients and staff. They are not intended to replace interpreters but may aid in increasing the comfort level of LEP persons as they wait for services.

Use of Technology—Some recipients use their internet and/or intranet capabilities to store translated documents online. These documents can be retrieved as needed.

Telephone Information Lines—Recipients have established telephone information lines in languages spoken by frequently encountered language groups to instruct callers, in the non-English languages, on how to leave a recorded message that will be answered by someone who speaks the caller's language.

Signage and Other Outreach—Other recipients have provided information about services, benefits, eligibility requirements, and the availability of free language assistance, in appropriate languages by (a) posting signs and placards with this information in public places such as grocery stores, bus shelters and subway stations; (b) putting notices in newspapers, and on radio and television stations that serve LEP groups; (c) placing flyers and signs in the offices of community-based organizations that serve large populations of LEP persons; and (d) establishing information lines in appropriate languages.

F. Model Plan

The following example of a model language assistance program may be useful for recipients in developing their plans. The plan incorporates a variety of options and methods for providing meaningful access to LEP individuals:

- A formal written language assistance program.
- Identification and assessment of the languages that are likely to be encountered and estimating the number of LEP persons that are eligible for services and that are likely to be affected by its program through a review of census and client utilization data and data from school systems and community agencies and organizations.
- Posting of signs in lobbies and in other waiting areas, in several languages, informing applicants and clients of their right to free interpreter services and inviting them to identify themselves as persons needing language assistance.
- Use of ''I speak'' cards by intake workers and other contact personnel so that they can identify their primary languages.
- Keeping the language of the LEP person in his/her record if such a record would normally be kept for non-LEP persons so that all staff can identify the language assistance needs of the client.
- Employment of a sufficient number of staff, bilingual in appropriate languages, in client contact positions. These persons must be trained and competent as interpreters.
- Contracts with interpreting services that can provide competent interpreters in a wide variety of languages, in a timely manner.
- Formal arrangements with community groups for competent and timely interpreter services by community volunteers.
- An arrangement with a telephone language interpreter line.
- Translation of application forms, instructional, informational and other key documents into appropriate non-English languages. Provision of oral interpreter assistance with documents, for those persons whose language does not exist in written form.
- Procedures for effective telephone communication between staff and LEP persons, including instructions for English-speaking employees to obtain assistance from bilingual staff or interpreters when initiating or receiving calls from LEP persons.

• Notice to and training of all staff, particularly client contact staff, with respect to the recipient's Title VI obligation to provide language assistance to LEP persons, and on the language assistance policies and the procedures to be followed in securing such assistance in a timely manner.

• Insertion of notices, in appropriate languages, about the right of LEP applicants and clients to free interpreters and other language assistance, in brochures, pamphlets, manuals, and other materials disseminated to the public and to staff.

• Notice to the public regarding the language assistance policies and procedures, and notice to and consultation with community organizations that represent LEP language groups, regarding problems and solutions, including standards and procedures for using their members as interpreters.

• Adoption of a procedure for the resolution of complaints regarding the provision of language assistance; and for notifying clients of their right to and how to file a complaint under Title VI with Treasury.

• Appointment of a senior level employee to coordinate the language assistance program, and assurance that there is regular monitoring of the program.

G. Compliance and Enforcement

Treasury will enforce recipients' responsibilities to LEP beneficiaries through procedures provided for in Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance. Treasury will always provide recipients with the opportunity to come into voluntary compliance prior to initiating formal enforcement proceedings.

In determining compliance with Title VI, Treasury's concern will be whether the recipient's policies and procedures allow LEP persons to overcome language barriers and participate meaningfully in programs, services and benefits. A recipient's appropriate use of the methods and options discussed in this guidance will be viewed by Treasury as evidence of a recipient's intent to comply with Title VI.

H. Complaint Process

Anyone who believes that he/she has been discriminated against because of race, color or national origin in violation of Title VI may file a complaint with Treasury within 180 days of the date on which the discrimination took place.

The following information should be included:

• Your name and address (a telephone number where you may be reached during business hours is helpful, but not required);

• A general description of the person(s) or class of persons injured by the alleged discriminatory act(s);

• The name and location of the organization or institution that committed the alleged discriminatory act(s);

• A description of the alleged discriminatory act(s) in sufficient detail to enable the Office of Equal Opportunity Program (OEOP) to understand what occurred, when it occurred, and the basis for the alleged discrimination.

• The letter or form must be signed and dated by the complainant or by someone authorized to do so on his or her behalf.

A recipient may not retaliate against any person who has made a complaint, testified, assisted or participated in any manner in an investigation or proceeding under the statutes governing federal financial assistance programs.

Civil rights complaints should be filed with: Department of the Treasury, Office of Equal Opportunity Program, 1500 Pennsylvania Avenue, NW, Room 6071 Metropolitan Square, Washington, DC 20220.

I. Technical Assistance

Treasury and its bureaus will provide technical assistance to recipients, and will continue to be available to provide such assistance to any recipient seeking to ensure that it operates an effective language assistance program. In addition, during its investigative process, Treasury is available to provide technical assistance to enable recipients to come into voluntary compliance.

[FR Doc. 02–5421 Filed 3–6–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–34–95]

Agency Information Collection Activities: Proposed Collection; Comment Request; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice and request for comments.

SUMMARY: This document contains a correction to a notice and request for comments relating to inviting the general public and other agencies to comment on proposed and/or continuing information collections. This document was published in the **Federal Register** on February 13, 2002 (67 FR 6788).

FOR FURTHER INFORMATION CONTACT: Allan Hopkins (202) 622–6665 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice and request for comments that is the subject of this correction is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)).

Need for Correction

As published, the notice and request for comments contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice and request for comments, which is the subject of FR. Doc 02–3528, is corrected as follows:

On page 6788, column 2, in the preamble, paragraph 7, line 2, the language ''Hours: 1,500'' is corrected to read ''Hours: 15,000''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, Income Tax and Accounting.

[FR Doc. 02–5481 Filed 3–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8717

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning Form 8717, User Fee for Employee Plan Determination Letter Request.

DATES: Written comments should be received on or before May 6, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, or through the Internet, *CAROL.A.SAVAGE@irs.gov*, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: User Fee for Employee Plan Determination Letter Request.

OMB Number: 1545–1772.

Form Number: 8717.

Abstract: The Omnibus Reconciliation Act of 1990 requires payment of a ''user fee'' with each application for a determination letter. Because of this requirement, the Form 8717 was created to provide filers the means to make payment and indicate the type of request.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization, and not-for-profit institutions.

Estimated Number of Responses: 100,000.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: February 28, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–5482 Filed 3–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–62–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

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 IRS is soliciting comments concerning an existing final and temporary regulations, IA–62–91 (TD 8482), Capitalization and Inclusion in Inventory of Certain Costs, (§§ 1.263A–2 and 1.263A–3).

DATES: Written comments should be received on or before May 6, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulation should be directed to Carol Savage, (202) 622–3945, or through the Internet, *CAROL.A.SAVAGE@irs.gov*, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Capitalization and Inclusion in Inventory of Certain Costs.

OMB Number: 1545–0987.

Regulation Project Numbers: IA–62–91.

Abstract: The requirements are necessary to determine whether taxpayers comply with the cost allocation rules of Internal Revenue Code section 263A and with the requirements for changing their methods of accounting. The information will be used to verify taxpayers' changes in method of accounting.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: The estimated annual reporting and recordkeeping burden per respondent varies from 1 hour to 9 hours.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: February 28, 2002.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–5483 Filed 3–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before April 8, 2002.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to *ahunt@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, fax to (202) 906–6518, or e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Sally W. Watts at *sally.watts@ots.treas.gov,* (202) 906–7380, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Loans in Areas Having Special Flood Hazards.

OMB Number: 1550–0088.

Form Number: N/A.

Regulation requirement: 12 CFR 572.

Description: Savings associations are required by statute and 12 CFR 572 to file certain reports, make certain disclosures, and keep certain records. Borrowers use the information to make valid decisions regarding the purchase of flood insurance. OTS uses the records to verify compliance.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 1,013.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: .25 hours.

Estimated Total Burden: 51,663.

Clearance Officer: Sally W. Watts, (202) 906–7380, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 28, 2002.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. 02–5367 Filed 3–6–02; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0501]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to properly maintain Veterans Mortgage Life Insurance accounts.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 6, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0501'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.

OMB Control Number: 2900–0501.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–0543 is used to report any recent changes in the status of a veteran's mortgage insured under the Veterans Mortgage Life Insurance (VMLI). VMLI is automatically terminated when the mortgage is paid in full or when the title to the property secured by the mortgage is no longer in the veteran's name. The information collected is used to maintain Veterans Mortgage Life Insurance accounts.

Affected Public: Individuals or households.

Estimated Annual Burden: 45 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 540.

Dated: February 22, 2002.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 02–5377 Filed 3–6–02; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Office; Government Owned Invention for Licensing

AGENCY: Research and Development Office, VA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: Mindy Aisen, MD, Department of Veterans Affairs, Director, Technology Transfer Program, Research and Development Office, 810 Vermont Avenue, NW., Washington, DC 20420; Fax: (202) 275–7228; e-mail at *mindy.aisen@mail.va.gov.* Any request for information should include the number and title for the relevant invention as indicated below. Issued patent may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20031.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: 09/931, 009 ''Proinflammatory Fibrinopeptide''.

Dated: February 27, 2002.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 02–5378 Filed 3–6–02; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
March 7, 2002

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No.011231309-2090-03;I.D. 121301A]

RIN 0648–AO69

Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the 2002 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California. Final specifications include the levels of the acceptable biological catch (ABC) and optimum yields (OYs). Commercial OYs (the total catch OYs reduced by tribal allocations and by amounts expected to be taken in recreational and compensation fisheries) described herein are allocated between the limited entry and open access fisheries. Management measures for 2002 are intended to prevent overfishing; rebuild overfished species; minimize incidental catch and discard of overfished and depleted stocks; provide equitable harvest opportunity for both recreational and commercial sectors; and, within the commercial fisheries, achieve harvest guidelines and limited entry and open access allocations to the extent practicable.

DATES: Effective 0001 hours local time (l.t.) March 1, 2002 until the 2003 annual specifications and management measures are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**. Section 660.323, paragraph (a)(2)(ii) is effective 0001 hours l.t. March 1, 2002.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) for this action are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220. Copies of the final regulatory flexibility analysis (FRFA) and the Small Entity Compliance Guide are available from D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to the Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736; and e-mail: *yvonne.dereynier@noaa.gov*, *becky.renko@noaa.gov* or Svein Fougner (Southwest Region, NMFS), phone: 562–980–4000; fax: 562–980–4047; and e-mail: *svein.fougner@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule also is accessible via the Internet at the Office of the **Federal Register**'s website at *http://www.access.gpo.gov/ su--docs/aces/aces140.htm*. Background information and documents are available at the NMFS Northwest Region website at *http:// www.nwr.noaa.gov/ 1sustfsh/gdfsh01.htm* and at the Council's website at *http://www.pcouncil.org*.

Background

A proposed rule to implement the 2002 specifications and management measures for Pacific Coast groundfish was published on January 11, 2002 (67 FR 1555). NMFS requested public comment on the proposed rule through February 11, 2002. During the comment period on the proposed rule, NMFS received 5 letters of comment, which are addressed later in the preamble of this final rule. Background information on the Pacific Coast groundfish fishery is found in the preamble to the proposed rule and is not repeated here.

The FMP requires that fishery specifications for groundfish be annually evaluated and revised, as necessary, that OYs be specified for species or species groups in need of particular protection, and that management measures designed to achieve the OYs be published in the **Federal Register** and made effective by January 1, the beginning of the fishing year. To ensure that new 2002 fishery management measures were effective January 1, 2002, NMFS published an emergency rule announcing final management measures for January–February 2002 (67 FR 1540, January 11, 2002). Annual specifications for 2002 and management measures for March–December 2002 were proposed in a separate rule, also published on January 11, 2002.

Specifications and management measures announced in this rule for 2002 are designed to rebuild overfished stocks through constraining direct and incidental mortality, to prevent overfishing, and to achieve as much of the OYs as practicable for healthier groundfish stocks managed under the FMP.

NMFS and the Council are preparing three new stock assessments in 2002. These stock assessments use data from the 2001 resource surveys and will not be ready until April 2002 when they will be reviewed by the standard Stock Assessment Review (STAR) Panels scheduled for April 2002. The first Council meeting after the STAR panels is in June 2002, with the next meeting in September 2002. The Council needs at least two meetings during which it reviews the data, takes public comment, and adopts preliminary and then final specifications and management measures. NMFS then needs 5 months to review and implement these measures through a proposed and final rule. Because of the timing of the preparation and review of the stock assessments, the necessity for at least two Council meetings and the time necessary for Federal rulemaking to implement the specifications and management measures for 2003, it is likely that the rulemaking cannot be completed by January 1, 2003. In that case, the specifications and management measures for 2002 would remain in effect for the first two months of 2003, until the new measures are implemented.

Comments and Responses

During the comment period for the 2002 specifications and management measures, which ended on February 11, 2002, NMFS received 5 letters of comment. Three letters were received opposing different portions of the rule: one from a non-governmental organization representing environmental interests, one from an association of seafood processors, and one from a central California longline fisherman. A trawl gear manufacturer wrote a letter of comment requesting clarification on a portion of the gear regulations. The Washington Fish and Wildlife Commission also sent a notice during the comment period on changes to Washington State recreational fishing regulations on yelloweye rockfish, along with a request from the Washington Department of Fish and Wildlife (WDFW) to make regulations in Federal

waters compatible with the Commission's recommendations.

Comments on Harvest Specifications and Overfished Species Rebuilding

Comment 1: The proposed specifications would dramatically lengthen the period of time it will take to rebuild darkblotched rockfish. The increased darkblotched harvest associated with this lengthened rebuilding period would violate the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to prevent overfishing and to rebuild overfished species as quickly as possible. NMFS has also failed to consider the effects of lengthening the rebuilding periods on darkblotched rockfish and on species that may co-occur with darkblotched rockfish. Additionally, NMFS has not explained why the tables of trip limits do not include darkblotched rockfish.

Response: The goals of rebuilding programs are to achieve the population size and structure that will support the maximum sustainable yield (MSY) within a specified time period. The statute requires this time period to be ''as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, * * * and the interaction of the overfished stock of fish within the marine ecosystem.'' The period shall not exceed 10 years, ''except in cases where the biology of the stock of fish, other environmental conditions * * * dictate otherwise.'' NMFS has further interpreted this in its National Standard Guidelines found at 50 CFR 600.310(e)(iv)(2). Under these guidelines, if the minimum possible time to rebuild is 10 years or greater, as is the case with darkblotched rockfish, then the specified time period for rebuilding may be adjusted upward to address the needs of fishing communities and recommendations from international organizations, providing the maximum time to rebuild does not exceed the minimum time to rebuild plus one mean generation time. The minimum possible time to rebuild a stock in the absence of fishing is determined by the status and biology of the stock and its interaction with other components of the ecosystem. NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild is the elapsed time until the MSY biomass level would be achieved with a 50 percent probability. (Technical Guidance On the Use of Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Act NOAA Technical Memorandum NMFS-F/SPO-## July 17, 1998) For darkblotched rockfish the minimum time to rebuild is 14 years (2014). The mean generation time for darkblotched rockfish is 33 years, therefore the maximum allowable time to rebuild would be 47 years (2047).

A draft rebuilding analysis was prepared in May 2001 and presented to the Council at its June 2001 meeting. This draft analysis was revised by NMFS in August 2001 and was adopted by the Council at its September 2001 meeting. The Council's SSC reviewed the revised rebuilding analysis and concluded that it was technically sound. Unlike the preliminary analysis, the final analysis incorporated survey data from 2000 and addressed assessment concerns identified by the author of the draft analysis. The new analysis indicated that the stock was more depleted than originally estimated (12 percent of virgin biomass vs 22 percent of virgin biomass). It also indicated that the stock could not be rebuilt within 10 years, even in the absence of all fishing mortality. Therefore, based on the new analysis, and consistent with the National Standard Guidelines, the rebuilding period could be lengthened from what had originally been anticipated, within the constraints set by the statute and the National Standard Guidelines. The Council recommended a rebuilding period longer than the minimum, but shorter than the maximum period allowed under the Guidelines, because of the severe adverse economic impacts to the fishing communities, described below, that would result from a lower OY for darkblotched rockfish.

The 2002 OY of 168 mt, based on the revised rebuilding analysis, is expected to provide a high probability of preventing further stock declines while maintaining a high probability (70 percent) of rebuilding the stock within the maximum allowable time period. The target rebuilding time associated with an OY of 168 mt can be expressed as a 70 percent probability of rebuilding the stock within the maximum allowable time or as 50 percent probability of rebuilding to the target level in the target rebuilding time of 34 years (2034).

Fishing communities have suffered severe declines in groundfish revenue over the past several years. Although the fishing communities are not heavily dependent on revenue from darkblotched rockfish directly, they have a strong dependence on revenue from species with which darkblotched rockfish co-occur. The DTS (Dover sole-thornyheads-sablefish) fishery, which targets Dover sole, and the deep-water flatfish fishery, comprise the major sources of estimated darkblotched bycatch. Bycatch modeling conducted as part of the 2002 specification process addressed the bycatch interaction between these species and darkblotched rockfish. In order to constrain the projected bycatch of darkblotched rockfish to remain within the adopted total catch OY of 168 mt, trawl landing limits for these species were shifted substantially to periods of the year in which bycatch of darkblotched rockfish was expected to be relatively low.

The Council and NMFS also considered the likely financial effects on the trawl fleet and these communities that would be associated with lowering the darkblotched rockfish OY from 168 mt to the 130 mt specified for 2001. Darkblotched rockfish bycatch rates in the DTS fishery that were used in the bycatch modeling of the preferred suite of management alternatives range from 1.5 percent to 2.65 percent, depending on the season. Using these endpoints to bound the effect on the DTS fishery, achieving a reduction of 38 mt of darkblotched from the 168 mt level would require foregoing between 1,400 mt (18 percent) and 2,500 mt (31 percent) of projected DTS landings. Since DTS targeting opportunities were already shifted substantially away from the highest bycatch periods, it is unlikely that the effect on DTS landings would fall towards the low end of this range. This loss would amount to between $1.9 million and $3.3 million in ex-vessel revenues. Because of the importance of these species to the processing sector, this loss could accelerate the rate of plant closures and unemployment in the region.

On August 20, 2001, the Federal magistrate ruled in *National Resources Defense Council, Inc.* v. *Evans* (N.D. Cal. 2001) that rebuilding plans under the Pacific Coast Groundfish Fishery Management Plan (FMP) must be in the form of plan amendments or proposed regulations, as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at 16 U.S.C. 1854 (e)(3). As a result of the magistrate's decision, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. The rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

The effects on co-occurring species of the 2002 OY for darkblotched rockfish were considered in both the supporting analytical documents for the annual

specifications and management measures.

As set out in IV.A.(21)(c), darkblotched rockfish is considered a slope rockfish and is listed as a minor slope rockfish in both the northern and southern areas on Table 2. Trip limits for commercial fisheries are set out in Tables 3–5, including trip limits for minor slope rockfish. This information, the minor rockfish table, and the trip limit tables were all published in the proposed rule. The separation of minor rockfish species into nearshore, shelf, and slope groups was first implemented in 2000, as documented in that year's annual specifications and management measures (65 FR 221, January 4, 2000). The total harvest of darkblotched rockfish in 2002 will be constrained by management measures designed to limit the directed and incidental harvest of minor slope rockfish as a complex and of darkblotched rockfish in particular.

Comment 2: The OYs associated with lingcod, Pacific ocean perch (POP), widow rockfish, bocaccio, and darkblotched rockfish, are based on overfished species rebuilding analysis and provide too high of probabilities (60 percent or greater) of rebuilding these stocks to the MSY biomass within the maximum allowable time periods. The Federal courts have twice ruled that the probability of rebuilding need only be 50 percent.

Response: As explained above in the response to Comment 1, the Magnuson-Stevens Act requires overfished stocks to be rebuilt in as short a time as possible, ''taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem.'' NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild is the elapsed time until the MSY biomass level is achieved with a 50 percent probability. If the minimum possible time to rebuild is 10 years or greater, as is the case with POP, widow rockfish, and bocaccio, then the time period for rebuilding may be adjusted upward to address the needs of fishing communities and recommendations from international organizations, providing the maximum time to rebuild does not exceed the minimum time to rebuild plus one mean generation time. In determining the target rebuilding time period for a species with a minimum rebuilding time of 10 years or greater, NMFS guidance recommends that the target fishing time be shorter than the maximum allowable time.

The target rebuilding time associated with an OY can be expressed as a probability of rebuilding the stock within the maximum allowable time or as a target rebuilding time based on the median time to rebuild with a 50 percent probability. Setting the OYs at the 50 percent level would be equivalent to setting the rebuilding period to the maximum allowable time and is therefore not consistent with the NMFS technical guidance. Only under special circumstances detailed in 50 CFR 600.310 (e)(4) of the National Standards Guidelines, can the target rebuilding time period be set equal to the maximum allowable rebuilding time. Because of the extreme economic hardship on commercial and recreational fishing industries associated with the rebuilding measures for canary rockfish, the Council recommended a target rebuilding period that was slightly less than the maximum allowable rebuilding time with a 52 percent probability of rebuilding the canary rockfish stock to the MSY biomass within the maximum allowable rebuilding time.

Because the minimum rebuilding time for lingcod was less than 10 years, the Magnuson-Stevens Act requires that target rebuilding time period be 10 years or less. The 2002 OY of 577 mt is based on a constant fishing mortality rate rebuilding strategy recommended by the Council which is approximately 6 percent of the population per year (See Council documents: Revised Rebuilding Plan for West Coast lingcod Exhibit C.10 Attachment 5, June 2001). As noted in the response to Comment 1, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. The rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

Comment 3: NMFS has failed to justify and analyze increasing POP harvest levels; the proposed harvest level will not prevent overfishing and will fail to rebuild POP.

Response: NMFS disagrees; the proposed harvest level is not expected to result in overfishing of POP. Overfishing is a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield (MSY) on a continuing basis. When setting the 2002 ABCs, the Council maintained a policy of using a default harvest rate as a proxy (also referred to as an MSY control rule) for the fishing mortality rate that is expected to achieve the MSY. The default harvest rate proxies used by the Council for rockfish, including POP, are fully described in the preamble to the 2001 annual specifications and management measures (66 FR 2338, January 11). The 2002 OY for POP was then set at a level that is expected to prevent overfishing, substantially less than the ABC. In addition, the OYs for all overfished species were set at levels that are intended to rebuild those species.

The original POP rebuilding analysis prepared in October, 1999 was based on a 1997 stock assessment. As stated above in the responses to Comments 1 and 2, the NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild in the absence of fishing is the elapsed time until the MSY biomass level is achieved with a 50 percent probability. The minimum time to rebuild POP to the MSY biomass level in the absence of fishing, with a 50 percent probability, was calculated to be 18 years (2017) in the original rebuilding analysis. The mean generation time was estimated to be 29 years. This resulted in the maximum allowable time being estimated at 47 years (2046). The rebuilding measures recommended by the Council beginning in 2000 (65 FR 221, January 4, 2000) were expected to provide a high probability of preventing further stock declines while maintaining a high probability (79 percent) of rebuilding the stock within the maximum allowable time period. The target rebuilding time recommended in 2000 can also be expressed as 43 years (2042) for the median time (50 percent level) to rebuild.

In 2001, the POP rebuilding analysis was updated with more recent scientific information. As a result of the new analysis, the minimum time to rebuild POP to the MSY biomass level in the absence of fishing, with a 50 percent probability, was 13 years (2014). The preferred POP OY of 350 mt for 2002, reflects a 70 percent probability of rebuilding by the year 2042. The target rebuilding time associated with the 350 mt OY for 2002 can also be expressed as 27 years (2028) for the median time (50 percent level) to rebuild. Therefore, the 2002 OY of 350 mt based on the revised rebuilding analysis is estimated to result in the stock being rebuilt 15 years earlier than originally estimated. The Council's SSC reviewed the revised rebuilding analysis and concluded that it was technically sound. A constant fishing mortality rate rebuilding strategy, where a constant proportion of the stock is removed over time, was recommended for POP rebuilding. In short, as the overfished stock biomass increases, the amount of fish harvested

(including landed catch and discard) also increases, while still allowing overall the stock biomass to increase.

Comment 4: The OYs for minor rockfish both north and south of 40°10′ N. lat. have been reduced by 50 percent as a precautionary measure. There is no scientific justification for a reduction of this magnitude. This large reduction could exacerbate discard of minor rockfish caught incidentally in fisheries targeting other species. We recommend that the precautionary reduction be no more than 25 percent.

Response: As described in footnotes x/ and y/ to Table 1a, minor rockfish include the ''remaining rockfish'' and ''other rockfish'' categories combined. The ''remaining rockfish'' category generally includes species that have been assessed by less rigorous methods than stock assessments, and the ''other rockfish'' category includes species that do not have quantifiable assessments. The Council's policy for setting ABCs and OYs for rockfish generally and for these minor rockfish in particular are based largely on the conclusions of the March 2000 West Coast Groundfish Harvest Policy Rate Workshop, which was sponsored by the Council's SSC. The panel report from that workshop, authored by several noted stock assessment scientists, recommended that the Council ''establish F= 0.75M as the default, risk-neutral policy for (setting ABCs for) the remaining rockfish management category.'' This policy reduces the remaining rockfish ABCs by 25 percent from the natural mortality rate (M) to derive a sustainable fishing mortality rate (F). To derive remaining rockfish total catch OYs, the remaining rockfish ABCs at F=0.75M are reduced by 25 percent. To derive other rockfish total catch OYs, the other rockfish ABCs are based on recent catch levels reduced by 50 percent. The Council first adopted these adjustments to minor rockfish ABCs and OYs for the 2001 fishing years and based its recommendations on the advice of the Harvest Rate Policy Workshop's panel report and on the advice of its SSC. NMFS believes that these adjustments are appropriately precautionary and reasonable given the level of uncertainty associated with the stock assessments for these species and the practice of setting ABCs for some species based on historical landings levels.

Comment 5: NMFS has considered only one harvest level per species for canary rockfish, bocaccio and cowcod. The National Environmental Policy Act (NEPA) requires an analysis of a range of alternatives.

Response: NMFS believes that the ABC/OY alternatives presented in the NEPA document represent a reasonable range of alternatives. Under each alternative, a full suite of ABC/OYs for all managed species were considered. For species such as canary, bocaccio and cowcod, where no new stock assessment information was available, the outcome and projections from the previous assessments and rebuilding analyses (the best available scientific information) were carried over into the new fishing year. (See Council documents: Appendix to the Status of Pacific Coast Groundfish Fishery Through 1997 and Recommended Acceptable Biological Catches for 1998, Appendix to the Status of Pacific Coast Groundfish Fishery Through 1998 and Recommended Acceptable Biological Catches for 1999, and Appendix to the Status of Pacific Coast Groundfish Fishery Through 1999 and Recommended Acceptable Biological Catches for 2000.)

It is not possible for NMFS and the Council to prepare a new stock assessment for every species each year. Therefore, a stock assessment is prepared with the anticipation that it will be used for a few years. A stock assessment will project the stock condition three years ahead under various harvests. Without new scientific information, there is no reason to reconsider the results of prior stock assessments and the harvest levels based on those assessments every year. The OYs for canary rockfish and bocaccio are based on rebuilding measures that include constant catch strategies for the initial OYs, where catch is held constant over time, and are established for multiple year periods. (For further information on the most recent stock assessments for these species see Council documents: Revised Rebuilding Plan for West Coast Canary Rockfish, September 2001, Exhibit C.5, Attachment 2; Revised Rebuilding Plan for West Coast Bocaccio Rockfish, September 2001, Exhibit C.5, Attachment 4.) The cowcod OY is based on a constant fishing mortality rate rebuilding strategy that is approximately 1 percent of the population (See Council document: Revised Rebuilding Plan for West Coast Cowcod, June 2001, Exhibit C.10, Attachment 3). These OYs are consistent with the long-term rebuilding goals defined for the individual species and recommended by the Council. As noted earlier in the response to Comment 1, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. As noted in the responses to Comments 1 and 2, rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

Comment 6: A decision in Midwater Trawlers Cooperative v. Daley by the 9th Circuit Court of Appeals is pending. We contend that the use of the ''sliding scale'' to determine whiting allocations is arbitrary and capricious and is not based on the scientific recommendations of NMFS' own scientists.

Response. NMFS agrees that the Court has heard oral argument in the case of *Midwater Trawlers Cooperative* v. *Daley*, and a decision is pending. NMFS does not, however, agree that using the sliding scale to determine the tribal whiting allocation is arbitrary and capricious. In *U.S.* v. *Washington*, 143 F.Supp.2d 1218 (W.D. Wash., Order on Summary Judgment Motions, April 5, 2001) the Court held that ''the sliding scale allocation method advocated by the Secretary and Makah shall govern the United States aspect of the Pacific whiting fishery until the Secretary finds just cause for alteration or abandonment of the plan, the parties agree to a permissible alternative, or further order issues from this court.''

Comments on Bycatch

Comment 7: NMFS has failed to adequately account for bycatch and discard mortality in setting the harvest limits for overfished species and targeted stocks in the Pacific groundfish fishery. For five of the eight overfished species, NMFS has performed a new bycatch analysis that concludes that discard mortality is lower than NMFS has previously assumed for these species. Based on this analysis, NMFS has proposed to adopt the same discard-rate assumptions it has used previously, 16 percent of landed catch for most species. NMFS has failed to consider whether this traditional discard rate assumption is adequately precautionary. NMFS has also failed to consider more protective discard rate assumptions. We have numerous disagreements with the validity of the underlying assumptions in the bycatch analysis and with the validity of the data analyzed.

Response: The Magnuson-Stevens Act defines bycatch as ''fish which are harvested in a fishery, which are not sold or kept for personal use, and include economic discards and regulatory discards.'' By contrast, Pacific Coast groundfish fishery management and many other fishery management regimes commonly use the term bycatch to describe non-targeted species that are caught in common with (co-occur with) target species, some of which are landed and sold or otherwise

used and some of which are discarded. The term ''discard'' is used to describe those fish harvested that are neither landed nor used. For the purposes of this rule, the term ''bycatch'' is used to describe a species' co-occurrence with a target species, regardless of that first species' disposition.

In managing the groundfish fishery to ensure the timely rebuilding of an overfished stock, NMFS must ensure that the total catch (landed catch plus discard) of that stock does not exceed its rebuilding OY. While the National Standards call for the minimization of discard and discard mortality to the extent practicable, it makes no difference to stock health or productivity whether discard mortality comprises 0 percent, 10 percent, 50 percent, or 100 percent of the total allowable catch. Discard, where avoidable, is undesirable from economic and social perspectives, and is discouraged by the statute. However, management measures that are needed to limit the total harvest of overfished groundfish species and to discourage the targeting of these overfished, but economically valuable, groundfish species may result in discard.

NMFS' approach to bycatch management in the 2002 specifications and management measures is a radical departure from historic bycatch management practices. The primary emphasis of the bycatch modeling that NMFS used in the development of the 2002 management measures is the estimation of the total amounts of bycatch species that will be caught coincidentally with available target species. The new management approach structures the amount and timing of cumulative landings limits for target species so that the expected total catch of the five overfished species (canary rockfish, POP, lingcod, boccacio and darkblotched rockfish) will not exceed their allowable annual harvests. This new approach better accounts for the total mortality of the overfished stocks taken as bycatch than the previous method of applying estimated discard rates to the annual OY to calculate landed catch harvest guidelines.

In the past, NMFS would assume that a certain percent of a species' total catch OY would be dead from fishery discard, rather than dead because it was caught and landed. This percent of assumed dead discarded fish would be deducted from a species annual OY at the beginning of the fishing year in order to calculate the species' landed catch OY for the year. The fishery would be managed throughout the year so that actual landings would not exceed the landed catch OY for each species. This approach can result in the annual OY for the bycatch species being exceeded if the amount of discards is not accurately estimated, and it may not account for the actual ratio of co-occurrence of target and bycatch species in the catch. Thus, NMFS believes that setting cumulative landing limits for both target and bycatch species based on their co-occurrence in the catch is a superior first line of defense in ensuring that annual OYs for bycatch species are not exceeded.

Although no longer the first line of defense, calculating landed catch OYs based on estimated discard rates is still a strong second line of defense. NMFS' new modeling approach for 2002 provided insight into the expected level of discards that are associated with total amounts of catch. Results from the modeling were drawn upon as described later in this response to estimate landed catch OYs for the five overfished species in the commercial fishery. Should landings of any species progress at a pace that threatens to exceed its landed catch OY, inseason action will be taken to reduce fishing effort for one or more of the target species.

The third line of defense is the revision of the procedures used for evaluating inseason progress of the fishery and for making management adjustments for the target species. In previous years, when inseason monitoring had revealed that landings of a target species, or complex, were progressing at a rate that was too fast or too slow, adjustments were made to the cumulative landings limits based primarily on achieving the annual OY for the target species with little consideration of the bycatch implications of changing those limits. For 2002 inseason actions, the bycatch model will be used to evaluate the bycatch consequences of deviations from the projected target fishery landings that have occurred, and of any proposed changes in target species limits during the remainder of the year. Target species landings limits will not be adjusted upwards if an adjustment means that an associated bycatch species total catch OY will be exceeded, even if the annual OY for the target species will not be achieved. As in the 2000 and 2001 fisheries, trip limits for overfished species that are intended to provide for minimal bycatch retention of these species will not be increased during the year even if it appears that their landings will be less than their landed catch OYs.

Since the early 1990s, discard estimates for West Coast groundfish have been derived from several different data sources. Recent rockfish discard estimates of 16 percent of a total catch OY were initially derived from a 1985–87 observed trawl study, commonly known as ''the Pikitch study'' for its principal investigator. Some discard estimates were updated with data from the 1995–1998 Experimental Data Collection Program (EDCP). NMFS began a significant new effort to quantify total catch and discards in the groundfish fishery in August 2001, when it introduced a mandatory observer program. Data from the new coastwide observer program will not be available for use until after the program has been operational for at least a full year. For the 2002 specifications and management measures, NMFS new bycatch analysis and modeling compared data from the Pikitch study, the EDCP, and trawl logbooks in greater depth and more comprehensively than in the past.

The NMFS bycatch modeling for 2002 provided an assessment of the amount of regulatory-induced discards (i.e., the amounts of catch that must be discarded because they exceed a vessel's cumulative landing limit). The model provided this assessment by applying uniform bycatch rates to projected target landings. The resulting implied discard rates are thought to underestimate the amount of discard that would occur with less uniform distributions of bycatch. However, the bycatch analysis also included additional simulation modeling intended to provide insight on the extent of this underestimation. It is important to note, however, that as long as the average bycatch rate applied to the target landings accurately reflects the overall average rate of bycatch in that fishery/region/time-period, the distribution of discard rates for individual tows or vessels around that average will not affect the accurate calculation of total bycatch. Because several different approaches were used in conducting the bycatch analysis, it was possible to compare bycatch rates under sets of assumptions that reflected both the bycatch uniformity of the model and a much more realistic non-uniform distribution of bycatch. Consequently NMFS reported a range of expected discards that is explained in more detail in the preamble to the proposed rule (67 FR 1570–71). In all cases, except darkblotched rockfish, the upper ends of the ranges estimated for regulatory-induced discards were below the discard rates applied by NMFS in prior years. For darkblotched rockfish, the upper end was at the 16 percent rate applied in prior years.

NMFS decided to continue to use the 16 percent discard estimate from prior years for canary rockfish, bocaccio, and

POP. For lingcod, NMFS used the 20 percent rate used in prior years, and for darkblotched rockfish, NMFS used a higher rate of 20 percent as explained in the preamble to the proposed rule. All of these discard rates are higher than the ranges estimated from the new bycatch and discard analysis, as a precautionary measure for two basic reasons. First, the bycatch analysis which yielded lower discard rates is new and not yet validated by actual data from the new observer program. Second, the analysis does not take into account size- or market-related discards for which there is little existing data. Thus, NMFS believes that using the 16 percent and 20 percent discard estimates described above for the five overfished species covered by the new analysis in 2002 is appropriately conservative and precautionary.

Comment 8: The total catch OY for chilipepper rockfish has been artificially reduced to 2,000 mt to reflect alleged incidental catch of bocaccio rockfish. The data being used to support this reduction do not reflect changes in fishing gear and patterns. An OY reduction of this magnitude is unnecessary and additional harvest of chilipepper should be allowed.

Response: As described in footnote n/ of Table 1a, the chilipepper rockfish ABC of 2,700 mt for the Monterey-Conception area is based on the 1998 chilipepper stock assessment with the application of an F50% Fmsy proxy. Because the unfished biomass is estimated to be above 40 percent, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt, near the recent average landed catch, to discourage effort on chilipepper, which is known to have bycatch of overfished bocaccio rockfish. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,985 mt.

Reducing the chilipepper rockfish OY to protect co-occurring bocaccio is one of several measures the Council has recommended to protect and rebuild bocaccio. Bocaccio and chilipepper management measures for 2002 were based on the Council's initial adoption of bocaccio rebuilding measures in November 1999. (See Council documents: Draft Bocaccio Rebuilding Plan, November 1999, Attachment G.2.c.; Final Groundfish Management Team ABC and OY Recommendations for 2000, November 1999, Groundfish Management Team (GMT) Report G.3.(1); Scientific and Statistical Committee Report on Final Harvest Levels for 2000, November 1999, Supplemental SSC Report G.3). During its November 1999 meeting, the Council and its advisory entities discussed rebuilding measures for bocaccio rockfish and determined that reducing the chilipepper harvest target from an F50% OY of 2,700 mt to 2,000 mt would provide a measure of protection for bocaccio rockfish. This same adjustment was carried through into 2001 and 2002, based on the Council's adopted rebuilding measures for bocaccio. (Bocaccio rebuilding plan updated at: Revised Rebuilding Plan for Southern West Coast Bocaccio, *Sebastes paucispinis*, September 2001, Exhibit C.5., Supplemental Attachment 4). The Council will likely re-consider this adjustment to the chilipepper rockfish OY when it re-considers overall bocaccio rebuilding measures as part of its FMP amendment for rebuilding plans, scheduled for Council consideration in April and June of 2002. For the 2002 specifications and management measures, NMFS notes that this adjustment to the chilipepper OY is based on the best available scientific information. Reducing fisheries effort on and harvest levels of healthy stock that co-occur with depleted stocks is one of the hallmarks of the Council's overall strategy for rebuilding overfished groundfish species.

Comment 9: NMFS has failed to perform any bycatch analysis for widow rockfish, proposing instead to use the 16 percent discard rate assumption. NMFS has failed to consider whether the cumulative limits for widow rockfish and co-occurring species that have been lowered over time have resulted in an increase in the discard rate over time. In considering only this single bycatch rate for widow rockfish, NMFS has also violated NEPA.

Response: NMFS's bycatch analysis for 2002 focused on lingcod, bocaccio, canary rockfish, darkblotched rockfish, and POP. NMFS has not, however, failed to consider the bycatch of widow rockfish in the groundfish fisheries. Historically, widow rockfish has been a target species, not a bycatch species. The 16 percent discard rate assumption for widow rockfish is based on a 1985–1987 observed trawl study of widow rockfish discard in trawl fisheries targeting widow rockfish as well as numerous other rockfish and non-rockfish species, commonly known as ''the Pikitch study'' for its principal investigator. NMFS's bycatch analysis for 2002 used data from the Pikitch study, the 1995–1998 Experimental Data Collection Program (EDCP) and trawl logbooks. Preliminary evaluation of data from the EDCP and Pikitch studies in preparation for the bycatch analysis showed widow rockfish as having a discard rate in fisheries where it was a bycatch species that was far enough below the 16 percent assumed by the Pikitch study to conclude that the 16 percent discard rate assumption was reasonably conservative and precautionary. (See Draft Summary Minutes for August 6–10, 2001 GMT meeting).

Directed fishing opportunities for widow rockfish have been eliminated in 2002. Directed fishing opportunities for yellowtail rockfish, which like widow rockfish can be targeted by mid-water trawl and often co-occurs with widow rockfish, have also been eliminated. In 2002, widow rockfish retention will be permitted only in the mid-water trawl fisheries for whiting, which are full-retention fisheries and in small footrope trawl fisheries for flatfish and DTS species, where a 1,000 lb (454 kg) per month limit is provided. Modest amounts of widow rockfish may also be taken in the hook-and-line fisheries for shelf rockfish; however, limits for the shelf rockfish group as a whole are set at incidental catch levels.

Comment 10: The proposed rule does not account for bycatch of yelloweye rockfish and cowcod. For cowcod, the agency has only proposed setting the landed catch OY at zero, prohibiting cowcod retention, and closing certain waters off southern California to groundfish fishing. The agency does not discuss whether the proposed closures constrain discard mortality to the necessary levels. NMFS has violated NEPA in not considering alternative closed areas.

Response: NMFS disagrees. As discussed in the preamble to the proposed rule (see 67 FR 1572, 1574, and 1575), the 2002 management measures include several regulations intended to minimize yelloweye rockfish interception and retention. Yelloweye rockfish is not often intercepted in the trawl fisheries. Thus, yelloweye rockfish management focuses on eliminating commercial hook-and-line interception and reducing recreational fisheries opportunities for interception. Modest amounts of yelloweye rockfish retention are permitted in the trawl fisheries to ensure that if it is encountered, it will be available for scientific sampling. Yelloweye rockfish is caught incidentally in hook-and-line sablefish fisheries and probably directly targeted in hook-and-line rockfish fisheries. Yelloweye rockfish tend to sell for a higher price per pound than other co-occurring rockfish species, which makes them a likely target rockfish species. Thus, yelloweye rockfish retention has been prohibited entirely in the limited

entry fixed gear fisheries. Sablefish hook-and-line fishing has been structured with weekly limits to provide higher limits that are expected to encourage vessels to take the time to travel to continental slope waters, where yelloweye rockfish is less frequently encountered, for the larger and more valuable sablefish. Washington State has recommended prohibiting all yelloweye rockfish in recreational fisheries. Oregon State has recommended a 1–fish bag limit for yelloweye rockfish and prohibiting yelloweye rockfish retention when halibut are on board to discourage anglers on halibut fishing trips from targeting yelloweye rockfish as part of their fishing trips. All of these yelloweye rockfish protection measures are new in 2002.

Cowcod management measures for 2002 were based on the Council's initial adoption of cowcod rebuilding measures in November 2000. (See Council documents: GMT Comments on Cowcod Management Measures for 2001, November 2000, Exhibit C.9.c., Supplemental GMT Report 2; Enforcement Consultants Comments on Cowcod Management Measures for 2001, Exhibit C.9.c., Supplemental Enforcement Consultants Report). During its November 2000 meeting, the Council and its advisory entities discussed alternative cowcod closed areas based on prime cowcod habitat described in the Council's November 2000 draft ''Initial Rebuilding Plan for West Coast Cowcod, Sebastes levis,'' Exhibit C.1., Attachment 2 (Later updated in May 2001, available as the Council's June 2001 Exhibit C.10., Attachment 3). The Council will likely re-consider these closed areas when it re-considers overall cowcod rebuilding measures as part of its FMP amendment for rebuilding plans, scheduled for Council consideration in April and June of 2002. If the Council again adopts closed areas to protect cowcod, it is unlikely that the Council would recommend an annual process of considering new changes to the dimensions of those closed areas.

Comment 11: The proposed rule fails to provide a mechanism for accurately assessing bycatch in the groundfish fishery because the specifications do not provide for an observer program. By failing to consider inclusion of an adequate observer program (one that produces sufficient data to accurately assess the amount and type of bycatch occurring in the fishery), NMFS has violated the NEPA requirement to consider a reasonable range of alternatives.

Response: The annual specifications and management measures regulations package is not intended to, and in fact does not, provide annual revisions to all of the Federal regulations and management programs that affect the West Coast groundfish fisheries. Observer program regulations for the West Coast groundfish fishery are found at 50 CFR 660.360. An observer coverage plan describing the goals of and methodology used in the West Coast Groundfish Observer Program was announced in the **Federal Register** on January 10, 2002 at 67 FR 1329 and is available online at: http://www.nwfsc.noaa.gov/ fram/Observer/ ObserverSamplingPlan.pdf or from the NMFS Northwest Fisheries Science Center, 2725 Montlake Blvd., E., Seattle, WA 98112. Further information on the observer program is also available in the Small Entity Compliance Guide for the observer program regulations, found online at: http://www.nwr.noaa. gov/ 1sustfsh/ groundfish/ public2002/ compliance.pdf or from the Northwest Region (See **ADDRESSES**). Any future changes to observer program regulations or to the observer program coverage plan will continue to be developed and considered outside of the context of the annual specifications and management measures regulatory package.

Comment 12: NMFS has not assessed the effect of the proposed increase in shortspine thornyhead harvest levels on the bycatch of co-occurring overfished species.

Response: NMFS disagrees. Shortspine thornyhead is part of the DTS complex. As discussed earlier in the response to Comment 1, the cumulative limits for each of the species in that complex were primarily governed by the rates at which overfished species could be intercepted by the fishery targeting DTS.

Comment 13: NMFS new bycatch analysis assumes that all fish caught by a trawl vessel are retained and landed until the vessel reaches its trip limit for that species, at which point (and only at which point) discard commences for that species. We disagree with this assumption. Fishers may begin discarding well before approaching a cumulative landing limit because of size- or market-related reasons or because they fear that landing a species with a very low OY will cause that OY to be exceeded early in the fishing year and result in closure of the fishery. Thus NMFS bycatch analysis underestimates discards.

Response: As noted by the commenter, the new bycatch analysis does not quantitatively address the issue of size- or market-related discards. The two available sources of discard information that incorporated scientific observers (Pikitch study and EDCP) do not reliably identify the different reasons why discard occurred. NMFS has conducted an analysis of discard in the DTS fishery, based on data from EDCP, which correlates observed discard with the remaining trip limit for the vessel and its total catch of related species. However, the agency did not have enough time to conduct a similar analysis of these species in time for setting the 2002 specifications. As stated in the response to Comment 7, the agency adopted more precautionary landed catch OYs, by using the higher overfished species discard rates of 2001, rather than the discard estimates generated by the new bycatch analysis. The only exception to this use of the more conservative 2001 rates was darkblotched rockfish, for which NMFS used a 20 percent discard rate based on higher observed rates of discard for slope rockfish from EDCP observations. It should also be noted that the generally poor recruitments observed for these overfished stocks during the late 1990s suggest that the likelihood of encountering unmarketable small fish is probably lower now than it was in the past.

In addition to the issue of size- or market-related discards, the commenter suggests that strategic behavior will lead fishers to discard species with low OYs prior to attaining their trip limits, so as to increase the likelihood of a full season for other species. For such a decision to make economic sense, individual fishers, would need to have considerable certainty that all or most other fishery participants will make the same choice, which is unlikely. If they do not, then the fisher will lose fishing time and the value of the catch that has been unnecessarily discarded. Given the high unit-value of these fish and the significant recent declines in fleet revenue, it is speculative to assume that this type of behavior would occur. With the NMFS observer program beginning trawl observation in September 2001, NMFS should be able to begin assessing the likelihood of such behavior by 2003. Until then, even in the unlikely event that all of the catch of these species were discarded, the estimated total amount of bycatch in the fishery will continue to be driven not by the lack of landed catch, but by estimates derived from the bycatch model, thus assuring that the annual OY for the bycatch species is not exceeded.

Comment 14: NMFS new bycatch analysis considers only the limited entry commercial trawl fishery and omits all consideration of bycatch occurring in other portions of the

commercial fishery, in the open access fishery, and in the recreational fishery. The agency has failed to consider or address adequately how these omissions may affect both its bycatch analysis and the amount of bycatch that actually is occurring in the entire groundfish fishery. The shrimp trawl fishery alone has potential to cause substantial bycatch.

Response: Quantitative estimates of bycatch occurring in other commercial, as well as sport, fisheries were not included in the quantitative bycatch modeling because there is little or no data available for bycatch rates in remaining target fisheries. For example, in line gear fisheries, landings receipts may reveal that certain species were landed together, but there is no counterpart to trawl logbooks in these fisheries to confirm that they were actually caught together.

The potential bycatch effects of these other fishery sectors were not ignored in crafting of management recommendations for 2002. Because line gears are better suited for use in rocky habitat than is small footrope trawl gear, more restrictive trip limits for shelf rockfish species were set for these gears to discourage fishing in areas where bycatch of overfished species would most likely occur. Additionally, substantial time and area closures were set for shelf species in the southern management area for all sectors of the fishery except limited entry trawl. Recreational bag limits for combined rockfish have also been lowered coastwide in recent years, in conjunction with sublimits on overfished species, in order to reduce fishing effort in rockfish habitat on the shelf when these fisheries are open.

Recreational and commercial fixed gear fleets have had only minor participation in slope rockfish fisheries. Since 1994, the minor slope rockfish landings of all non-trawl commercial gears in the northern area have amounted to less than 10 percent of the groundfish trawl landings, and line gears have contributed most of that. Since 1995, darkblotched rockfish has not comprised more than 2.5 percent or 2 mt of all northern minor slope rockfish landed by line gears. Only 0.6 mt of darkblotched rockfish has been landed during the entire 1999–2001 period. Similarly, annual landings of POP by line gears have been less than 1 mt since 1996.

NMFS and the Council do not have direct control over fishing practices in the West Coast pink shrimp trawl fishery. However, they have encouraged the three states to implement requirements that will limit the bycatch of rockfish in general and canary rockfish in particular during prosecution of that fishery. During the 2001 fishery, Oregon and Washington implemented mandatory use of finfish excluders. This action was triggered on August 1 when a limit of 2.5 mt of canary landings was reached and remained in effect throughout the remaining three months of the fishery. The same protocol for implementing this requirement will be in place for 2002. For procedural reasons, California was unable to implement similar requirements during the 2001 fishery, but will be requiring the use of finfish excluders in its pink shrimp fishery from the beginning of its 2002 season on April 1.

Comment 15: NMFS' assertion that the new cumulative limits requiring small footropes have reduced bycatch is unsubstantiated. NMFS also fails to adequately consider changes that have occurred since the data were generated that would tend to increase the amount of discard currently occurring in the fishery. Those changes include: the ever lower trip limits that tend to cause discard rates to go up, and the incentive fishers have to discard species earlier once those species are overfished.

Response: The new bycatch analysis is not based on the presumption that small-footrope gear is more effective at avoiding rockfish. It uses bycatch data from fisheries where small-footrope gear was used because that is the gear that trawlers may now use to take and retain shelf groundfish species. There must be correspondence between the gear that is used in the current fishery and the gear that was used when data were collected for the studies that form the basis of the bycatch rates included in the modeling. Small footrope gear need be no more effective at avoiding bycatch in 2002 than it has been in the past for the analysis to be sound.

There are, however, several reasons for believing that the requirement for small footrope usage has altered the distribution of aggregate fishing effort among locations and strategies on the shelf, and that this has had a beneficial effect on the fleet bycatch rates of overfished species. First, rockfish are so named because they frequent rocky habitat. This habitat can be extremely destructive to trawl gear that is not designed for use in such areas. Before implementation of the small footrope requirement, fishers were allowed to and did target this rocky habitat using gear configured with 2–3 ft (6096–9144 m)diameter truck tires protecting the trawl footropes. This style of footrope allows the net to be towed through very rocky areas with far less chance of damaging, snagging, or losing the net completely, along with trawls doors and cables. Nets in this fishery typically cost about $5,000, with doors and cables costing about $7,000. Even minor damage to a net may result in hundreds of dollars in repair costs. A fisher trawling an 8–inch (20.3–cm)footrope through rocky habitat would be wagering the potential for thousands of dollars of gear repair or replacement against the limited economic returns afforded by the current groundfish limits. In the northern management area, the maximum return from the small footrope 2–month limits for widow, yellowtail, canary, minor shelf rockfish, and lingcod range from $1,850 in the winter to $2,350 in the summer.

From a more empirical perspective, WDFW conducted a comparison of trawl fishing locations off Oregon and Washington, as reported in logbooks between 1999 and 2000—before and after implementation of the small footrope requirement. These data are limited in that they only identify the starting position of each tow. However, these logbooks represent the only comprehensive source of fishing locations for any West Coast groundfish fleet, commercial or sport. The analysis found substantial changes in fishing locations and in particular, a shift in trawl effort from areas of higher to lower canary rockfish bycatch.

The commenter also criticized the lack of consideration given to ''countervailing factors that could have increased bycatch in particular, the lower landing limits that have been established for various species since then.'' While lower trip limits may in some cases result in higher discards, there is no logical connection between lower retention limits and higher rates of bycatch. The dynamics by which the sizes of trip limits may affect the rate of discard are discussed on pages A–4 and A–5 of the EA/RIR/IRFA.

Comment 16: We disagree with the NMFS assertion that the decrease in landings limits in recent years for all shelf rockfish species has resulted in fewer incentives for fishers to target those species than there were at the time of the Pikitch study and a decrease in the amount of bycatch in the fishery. What matters is not the absolute amount of fishing opportunity that is available for a given species, but the relative amount of fishing opportunity for co-occurring species. So long as there are fishing harvest limits for co-occurring species that are higher than the limits for one or more overfished species, there will be incentive for fishers to fish in a manner likely to result in bycatch and discard of the overfished species. We

also note that NMFS assumes that all overfished species are located on the shelf, which is not the case. Dark-blotched rockfish and POP are both slope species. Finally, there is still substantial fishing effort occurring on the shelf, as shown by Oregon Department of Fish and Wildlife data. NMFS has failed to address this data and has failed to point to adequate data indicating that significant fishing is no longer occurring on the shelf.

Response: The major reductions in trip limits for continental shelf species that have occurred over the past 10–15 years are well-documented in the **Federal Register** and the Council's SAFE reports. These reductions have in turn led to major decreases in landings for shelf rockfish species. As an illustration, consider the combined landings of lingcod, yellowtail, chilipepper, widow, canary, bocaccio, and minor shelf rockfishes, along with flatfish other than Dover sole. Dover sole and other DTS species are not included, because significant amounts of these species are caught on the continental slope. In 1997, during the Pikitch study, landings of these species amounted to 34,000 mt. By 1996, during the EDCP study, they had fallen to 22,800 mt. The largely complete data from the 2001 fishery show 10,800 mt of landings for these species.

While it is true that much of this decline is attributable to species that are now under rebuilding plans, these trends are also apparent in the declining landings of healthy species for which limits have been reduced to afford greater protection to depleted stocks. For example, the species now assigned to the minor shelf rockfish group accounted for more than 1,200 mt of landings in 1987—and no less than 900 mt from that year through 1996. Landings of these species had dropped to less than 100 mt by 2000. More than 12,000 mt of flatfish species other than Dover sole were landed in 1991, but less than 7,500 mt by 2000. Landings of chilipepper rockfish, which co-occurs with bocaccio, have fallen from over 2,100 mt annually between 1989 and 1991, to roughly 400 mt annually since 2000. Landings of yellowtail rockfish, often associated with canary rockfish, averaged 4,300 mt between 1987 and 1996 and fell to less than 2,800 mt in 2000 and 1,700 mt in 2001. During the summer months, a significant percentage of fishing for Dover sole, shortspine thornyhead, and sablefish typically occurs on the shelf. Based on the 1999 logbook data for Oregon and Washington, roughly 60 percent of trawl sablefish and 70 percent of Dover sole were caught in shelf depths between July and September, as opposed to less than 5 percent of each during the first quarter. During the months from May through October, landings of these three species averaged 13,000 mt annually, from 1987 to 1993. During 2000 and 2001, their landings in these months have fallen to less than 5,500 mt.

NMFS is well aware that darkblotched and POP are continental slope species, as indicated in IV.A.(21)(c) and Table 2 of the proposed rule and this final rule. NMFS has taken numerous actions to reduce overall trawl effort on the slope. For instance, trip limits for minor slope rockfish in the northern area, a complex that includes darkblotched rockfish, have been lowered for the express purpose of constraining darkblotched rockfish catch. During the 2001 fishery, only 203 mt of the 975 mt harvest guideline for these other slope rockfish were landed as a result of these restrictions. Similarly, 2001 landings of another slope species—longspine thornyhead—represented only 1,159 mt of its 2,043 mt landed catch OY, due to trip limit reductions to protect other species.

As in the shelf examples, trawl effort and catch of northern slope target species has declined significantly over the past decade. Landings of all slope rockfish in the northern area averaged over 3,200 mt from 1991 to 1993. By 2001, that amount had fallen to just over 400 mt. Removing darkblotched rockfish and POP from this group, landings of the remaining slope species fell from an average of 1,100 mt in 1991–93 to 130 mt in 2001. Additionally, the deep-water harvest of DTS species during the winter months in the northern area has also dropped, from an average of 11,000 mt during 1988–93 to 4,100 mt in 2001.

Finally, the commenter's assertion that ''so long as there exist fishing harvest limits for co-occurring species which are higher than the limits for one or more overfished species, there will be incentive for fishers to fish in a manner likely to result in bycatch and discard of the overfished species'' disregards the structure of the fisheries management regime, which allows the harvest of healthy target species while restraining the bycatch of overfished species to their annual OYs. The OYs of overfished stocks are set to rebuild those overfished stocks to their MSY levels within the constraints set by the national standard guidelines. Certainly, bycatch would be less if target species landing limits were no greater than the limits on bycatch species, but the fishery would forfeit millions of dollars of revenue derived from the harvest of healthy target species and likely suffer economic collapse. The structure of the 2002 fisheries management regime is to set the limits for target and bycatch species based on their actual ratio of co-occurrence in the catch, and at a level that ensures the total catch of the bycatch species does not exceed the annual catch OY.

Comment 17: NMFS' new bycatch analysis fails to address adequately the limitations of the logbook data, particularly logbook data for fishing south of Cape Mendocino and for bocaccio. NMFS has failed to consider adequately and to correct for the inherent limitations of logbook data, most serious of which is that the fishers compiling the data have an incentive to skew the data. NMFS also fails to adequately address the fact that the logbook data do not include discard estimates and could, therefore, yield underestimates of total bycatch.

Response: The NMFS analysis clearly acknowledges the limitations of reliance on logbook data as the sole source of southern bycatch information that captures only landings of bycatch species and not total catch (p. A–8 of the EA). However, until sufficient data are compiled by the NMFS observer program, this is the only available source of bycatch information from the trawl fishery in this region. Although the tow-level retained catches in logbooks are self-reported, as noted in the comments, these ''hailed'' weights are adjusted so that the total poundage corresponds to the amounts recorded on each trip's fish ticket. Additionally, all of the logbook data included in the analysis were screened so that only tows occurring prior to a vessel reaching its limit for a species were included in the calculation of a bycatch rate. This screening eliminates the downward bias in bycatch rates that would result from including tows where discard was necessitated by trip limits. The commenter also questions the use of these southern logbook rates as the midpoints of the considered bycatch range rather than the low end. This expectation that the bycatch rates from the 1999 logbook must represent the low end of the range is not supported by comparison of rates from all three sources where they are available in the northern area (Table 4a, pp A–17 to A–19 in EA).

Comments on Management Measures

Comment 18: The Washington State Fish and Wildlife Commission met on February 9, 2002, and recommended that the Washington State yelloweye rockfish bag limit be reduced from 1 yelloweye rockfish to zero yelloweye rockfish, basically prohibiting yelloweye rockfish retention in all

Washington recreational fisheries. In general, the Council manages recreational fisheries through the recommendations of the individual states. We ask that NMFS implement the Commission's new and more protective recommendation for yelloweye rockfish taken in Federal waters off Washington State to ensure that state and Federal regulations are compatible and equally protective of yelloweye rockfish.

Response: NMFS agrees and has revised paragraph IV.D.(3)(a) for rockfish taken in recreational fisheries off Washington State to comport with these new recommendations of the State's Fish and Wildlife Commission.

Comment 19: Why is the California coastline divided into three management sectors for commercial hook-and-line gears and only two management sectors for commercial trawl gear? And, why is fishing most restricted for commercial hook-and-line vessels operating between 40°10′ N. lat. and Point Conception?

Response: Management measures for West Coast commercial hook-and-line fisheries are set for three different sub-areas: north of 40°10′ N. lat. (near Cape Mendocino), between 40°10′ N. lat. and Point Conception (34°27′ N. lat.), and south of Point Conception. Management measures for West Coast commercial trawl fisheries are set for two different sub-areas: north and south of 40°10′ N. lat. These division lines, 40°10′ N. lat. and Point Conception, were chosen because they represent approximate divisions in marine ecosystems, with different groundfish species mixes found north and south of the division lines. The main reason that there are only two sub-areas for trawlers is that there are very few groundfish trawl vessels operating south of Point Conception. Commercial hook-and-line fishing for rockfish between 40°10′ N. lat. and Point Conception is more restricted than fishing in the northern and southern areas because there is a relatively large number of commercial hook-and-line vessels targeting rockfish in that central area and there are several overfished rockfish found in the central area. Some overfished rockfish species, like darkblotched rockfish, are concentrated in the northern area, but also occur in the central area. Some overfished rockfish species, like bocaccio, are concentrated in the southern and central areas. This overlap between northern and southern species mixes, combined with the many vessels participating in that area, results in a need for more restrictive management measures for vessels operating in that central area.

Comment 20: Why are commercial trawl vessels and recreational vessels allowed to retain canary rockfish when commercial hook-and-line vessels are not allowed to retain canary rockfish?

Response: Commercial trawl vessels and recreational hook-and-line vessels are allowed a minimal amount of canary rockfish retention, so that canary rockfish that is taken incidentally in fisheries targeting other species may be retained. For the commercial hook-and-line fisheries, however, canary rockfish tend to be either directly targeted or caught in combination with yelloweye rockfish, another overfished species. To protect both canary rockfish and yelloweye rockfish, fishing for canary rockfish has been prohibited for those commercial hook-and-line fisheries.

Comment 21: Why is widow rockfish included in minor shelf rockfish for commercial hook-and-line trip limits while it is regulated separately from other rockfish for trawl vessels and not regulated at all for recreational vessels?

Response: For 2002, widow rockfish has been included in overall shelf rockfish limits for both limited entry fixed gear and open access fisheries. The overall shelf rockfish limits apply to widow and yellowtail rockfish as well as to the minor shelf rockfish listed in Table 2. The main reason that these major and minor shelf rockfish have been grouped together for commercial hook-and-line fisheries management is that several shelf rockfish species are overfished (bocaccio, canary rockfish, cowcod, widow, yelloweye rockfish) and commercial hook-and-line vessels have historically been successful at targeting shelf rockfish species. Although hook-and-line vessels are restricted from going out to target shelf rockfish, a small limit for shelf rockfish has been allowed in order to permit retention of the shelf species that are incidentally harvested when the vessels are targeting other species.

Trawl fisheries and recreational hook-and-line fisheries are restricted to shelf rockfish limits that are intended to allow some retention of shelf rockfish caught incidentally to fisheries targeting other species. However, the primary mechanism for restricting shelf rockfish catch in the trawl fisheries, as discussed earlier in the Response to Comment 7, is the constraint of limits for target species such as flatfish and DTS complex species. Recreational fisheries, which are more likely to target nearshore rockfish, have a 1–fish canary rockfish limit to allow some retention of canary rockfish for anglers who may be targeting other rockfish species. Widow rockfish is seldom taken in the recreational fishery.

Comment 22: Why do commercial trawl vessels have a 12–month season and much higher shelf rockfish limits than commercial hook-and-line vessels? It is unfair to restrict California commercial hook-and-line vessels to the same seasons as the recreational vessels. Limited entry fixed gear limits and seasons should be the same as those for limited entry trawlers.

Response: As discussed earlier in the response to Comment 21, shelf rockfish limits for limited entry trawlers are set only high enough to allow the minimum retention of shelf rockfish caught incidentally in fisheries targeting other species, such as the flatfish fisheries. Similarly, shelf rockfish limits for limited entry fixed gear and open access fisheries are set at levels that should allow retention of some incidentally-caught shelf rockfish. Shelf and nearshore rockfish fishing opportunities are closed for commercial hook-and-line fisheries south of 40°10′ N. lat. during some months of the year both to discourage all fishing that might incidentally take shelf and nearshore rockfish during the closed months and to allow higher shelf and nearshore rockfish limits during the open months.

Comment 23: Paragraph IV.A.(14)(b)(iii) states in part, ''If a vessel has landings attributed to both types of trawl (midwater and small footrope) during a cumulative limit period, all landings are counted toward the most restrictive gear specific cumulative limit.'' The wording of this regulation does not match the Council's intent, which was to allow trawlers to fish with both small footrope gear and midwater trawl gear in a single cumulative limit period as long as neither the gear-specific nor the larger of the two limits were exceeded.

Response: NMFS agrees. That sentence has been corrected to read as follows: ''If a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the midwater gear limit is higher than the small footrope gear limit, the small footrope gear limit may not be exceeded with small footrope gear and counts toward the midwater gear limit. Conversely, if a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the small footrope gear limit is higher than the midwater gear limit, the midwater gear limit may not be exceeded with midwater gear and counts toward the small footrope gear limit.'' NMFS has additionally clarified a sentence in paragraph IV.A.(14)(b)(i) that read in the proposed rule, ''It is unlawful for any

vessel using large footrope gear to exceed large footrope gear limits for any species or to use large footrope gear to exceed small footrope gear or midwater gear limits for any species.'' This sentence has been clarified as follows: ''It is unlawful for any vessel with large footrope gear on board to exceed large footrope gear limits for any species, regardless of which type of trawl gear was used to catch those fish. If a species is subject to a large footrope gear per trip limit, it is unlawful for a vessel fishing with large footrope gear under the per trip limit to exceed the small footrope gear cumulative limit during the applicable cumulative limit period.''

Comments on the EA/RIR/IRFA

Comment 24: The EA as a whole is insufficient to support a finding of no significant impact and fails to adequately consider the significant criteria established by the NEPA's implementing regulations. The EA acknowledges that there is uncertainty about the effects of the specifications and management measures on the human environment and that some of the effects of this action are unknown.

Response: The precautionary approach in fisheries management is multi-faceted and broad in scope. In a fisheries context, the precautionary approach implements conservation measures even in the absence of scientific certainty. The EA/RIR/IRFA acknowledges the scientific uncertainty in setting specifications and management measures and discloses the precautionary measures taken to address the inherent uncertainty in fisheries management. For example, the EA's discussion on setting the POP total catch OY reads in part, ''While Alternatives 1.1 [290 mt total catch OY] and 1.3 [350 mt total catch OY] are lower and higher than the no action alternative [303 mt total catch OY,] respectively, the magnitude of difference between the numbers is small. However, the degree to which that difference might affect the POP stock is unknown.'' As discussed above in the response to Comment 3, the selected Alternative 1.3 has a 70 percent probability of rebuilding the POP stock within the time allowed. Precautionary measures to protect POP through constraining directed and incidental harvest are discussed in the EA under the evaluation of alternative bycatch and discard rate assumptions and under the evaluation of alternative fishery management measures.

Although greater scientific certainty can improve management decisions, scientific uncertainty is an inherent part of fisheries management. Uncertainties must be acknowledged, as they are in the EA, and the agency must implement measures to protect the fishery resources against the harm that could result from those uncertainties. NMFS and the Council have taken action to protect groundfish stocks against harm from uncertainty in numerous policies, for example: the protective ABC policies, setting harvest as conservative as F55% for rockfish; the precautionary ''40–10'' OY policy, which reduces total catch for stocks that are below Fmsy but not overfished; the 2002 bycatch management program for overfished species. These policies and many other overfished species rebuilding measures are intended to acknowledge scientific uncertainty in fisheries management and to guard against potential negative effects of that uncertainty.

Comment 25: NMFS has violated NEPA by failing to consider alternative management techniques beyond trip limit management. The only season closure alternative considered by NMFS was a 6–month season wherein all fisheries would be shut down for 6 months. The agency has not considered staggering season closures, which could optimize landed catch OYs for more cleanly targeted stocks, nor has the agency considered closures shorter than 6 months. Further, the EA considers only the socio-economic effects of different season structures and not the biological effects of those structures.

Response: A primary focus of the EA in specifying management measures for considered season alternatives were areal and temporal variations in the co-occurrence of overfished species in a host of directed fisheries targeting healthy stocks. Trip limits and closures for all season alternatives were designed to minimize the bycatch of these overfished groundfish species and to constrain the fisheries so that the landed catch OYs of these species would not be exceeded. (See the EA/RIR/IRFA at pages T–6 through T–16.) Using the preferred alternative as an example, constraints to control the fishing-related mortality associated with the Pacific Coast groundfish fisheries include: (1) Elimination of midwater trawl opportunities that would target widow and yellowtail rockfish to reduce mortality of widow and canary rockfish,(2) elimination of commercial line fisheries opportunities and seasonal closures for continental shelf fisheries that target shelf rockfish and prohibition of canary and yelloweye rockfish retention, and (3) seasonal closures of recreational and commercial hook-and-line groundfish fisheries off California to reduce the mortality of bocaccio, canary rockfish, and yelloweye rockfish. While the coastwide six month season alternative and other commercial season variations of that alternative were rejected on the basis of their socioeconomic effects, all of the seasonal alternatives were analyzed for their biological efficacy in controlling total mortality of overfished species.

Comment 26: The EA does not consider potential cumulative effects of the rule, as required by the NEPA criteria for determination of an action's significance (40 CFR 1508.37(b)(7)).

Response: NMFS agrees that the cumulative effects analysis in the EA/RIR/IRFA needs to be expanded. Therefore, the EA/RIR/IRFA was modified prior to the publication of this final rule to include a discussion of the cumulative effects of the 2002 specifications and management measures. The final EA/RIR/IRFA is available from the Council (See **ADDRESSES**).

Changes from the Proposed Rule

In the 2002 specifications and management measures proposed rule, NMFS described changes to the primary sablefish season at Section III, ''Management Measures,'' under ''Limited Entry Fixed Gear.'' As discussed in that proposed rule, the final rule to implement Amendment 14 (August 7, 2001, 66 FR 41152) in 2001 did not include some of the more complex provisions of Amendment 14, such as a limited entry fixed gear permit stacking program. NMFS prepared a proposed and final rule to implement Amendment 14 as swiftly as possible in 2001 after receiving the amendment from the Council. However, due to the timing of the receipt of Amendment 14 from the Council, NMFS was unable to implement an April 1 through October 31 primary sablefish season as recommended by Amendment 14. Thus, the agency set the 2001 primary sablefish season as August 15 through October 31, with the expectation that the 2002 season would be held from April 1 through October 31.

As discussed in the proposed rule for the 2002 specifications and management measures, NMFS expected to publish a proposed rule to implement the remaining portions of Amendment 14 to the FMP for 2002 and beyond before April 1, 2002. The agency began drafting that proposed rule in January 2002, at which time the agency realized that several of the regulatory recommendations that the Council had made in association with Amendment 14 could be considered unnecessarily complex and burdensome to the public. These recommendations concern permit transferability and permit owner

restrictions and became apparent to the agency during implementation of the new permit stacking program in 2001. As a result of its experiences with permit stacking and its re-evaluation of these more complex provisions of Amendment 14, the agency has decided to bring several provisions back before the Council at its March and April 2002 meetings.

The length of the primary sablefish season is not linked to the issues that NMFS plans to bring before the Council this spring. In the proposed rule for the 2002 specifications and management measures, the agency proposed an April 1 through October 31 primary sablefish season at Section IV.B.(2)(b)(i). With this final rule, the agency is setting this April 1 through October 31 primary sablefish season in both Section IV.B.(2)(b)(i) of this document and amending Federal regulations at 50 CFR 660.323(a)(2)(ii). NMFS would have proposed these changes to Federal regulations in the specifications proposed rule if it had known at the time of the publication of that proposed rule that it would need to bring the more complex Amendment 14 provisions back to the Council. By finalizing this change to Federal regulations with this final rule, NMFS ensures that the season dates announced in the season management measures are compatible with those announced in Federal regulations. This change is not expected to affect the sablefish resource, but is intended to improve safety and planning convenience for the limited entry fixed gear sablefish fleet. Without this change, the August 15 through October 31 season would remain in place, which is contrary to both the long-term goals of the FMP and to the public interest.

In the proposed rule for the 2002 specifications and management measures, NMFS did not provide a proposed ABC or OY for Pacific whiting, because the whiting assessment was not expected to be complete until early 2002. At its March 11–15, 2002, meeting in Sacramento, CA, the Council will finalize its recommendation for a whiting ABC and OY. NMFS will then publish the whiting ABC and OY as an emergency rule to amend this final rule. In the interim, the whiting ABC and OY from 2001 remain in place and are set out in Table 1a.

During its February 4–7, 2002, meeting, the GMT commented to NMFS that it thought that the 1,000 lb (454 kg) per month limit for nearshore rockfish in the limited entry trawl fisheries, for May through October was unnecessarily high and may have been accidentally transposed from the shelf rockfish limit recommendation of 1,000 lb (454 kg) per month. While the GMT considered 1,000 lb (454 kg) an appropriate shelf rockfish limit, it did not consider that limit appropriate for nearshore rockfish taken in the trawl fisheries. Nearshore rockfish are usually only caught incidentally in limited entry trawl fisheries and higher limits could encourage targeting for nearshore rockfish. The GMT therefore recommended, and NMFS has implemented through this final rule, continuing the current 300 lb (136 kg) per month nearshore rockfish limit throughout the year for the limited entry trawl fisheries.

I. Specifications

Fishery specifications include ABCs, the designation of OYs, which may be represented by harvest guidelines (HGs) or quotas for species that need individual management, and the allocation of commercial OYs between the open access and limited entry segments of the fishery. These specifications include fish caught in state ocean waters (0–3 nautical miles (nm) offshore) as well as fish caught in the EEZ (3–200 nm offshore). The OYs and ABCs recommended by the Council and finalized in this document are consistent with the Magnuson-Stevens Act and the groundfish FMP.

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Table 1a. 2002 Specifications of Acceptable Biological Catch (ABC), Optimum Yields (OYs), and Limited Entry and Open Access Allocations, by International North Pacific Fisheries Commission (INPFC) Areas (weights in metric tons).

	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total catch)	Allocations (Total catch)			
Species	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROUNDFISH												
Lingcod b/	745					745	577	251	203	81.0	48	19.0
Pacific Cod	3,200		c/			3,200	na	3,200	--	--	--	--
Pacific Whiting d/	190,400					190,400	190,400	162,900	--	--	--	--
Sablefish e/ (north of 36°)	4,644				--	4,644	4,367	3,906	3,539	90.6	367	9.4
Sablefish f/ (south of 36°)	--				333	333	229	229	--	--	--	--
FLATFISH												
Dover sole g/	8,510					8,510	7,440	7,368	--	--	--	--
English sole	2,000		1,100			3,100	na	–	–	–	–	–
Petrale sole h/	1,262		500	800	200	2,762	na	–	–	–	–	–
Arrowtooth flounder	5,800					5,800	na	–	–	–	–	–
Other flatfish i/	700	3,000	1,700	1,800	500	7,700	na	–	–	–	–	–

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total catch)	Allocations (Total catch)			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROCKFISH:												
Pacific Ocean Perch j/	640			--		640	350	350	--	--	--	--
Shortbelly k/	13,900					13,900	13,900	13,900	--	--	--	--
Widow l/	3,727					3,727	856	853	827	97.0	26	3.0
Canary m/	228					228	93	44	39	87.7	5	12.3
Chilipepper n/	c/			2,700		2,700	2,000	1,985	1,106	55.7	879	44.3
Bocaccio o/	c/			122		122	100	44	25	55.7	19	44.3
Splitnose p/	c/			615		615	461	461	--	--	--	--
Yellowtail q/	3,146			c/		3,146	3,146	3,131	2,871	91.7	260	8.3
Shortspine thornyhead r/	1,004					1,004	955	948	945	99.73	3	0.27
Longspine thornyhead s/ (north of 36°)	2,461				--	2,461	2,461	2,455	--	--	--	--
Longspine thornyhead t/ (south of 36°)	--				390	390	195	195	--	--	--	--
Cowcod u/	c/			19	--	19	2.4	0	--	--	--	--
	c/			--	5	5	2.4	0	--	--	--	--
Yelloweye w/	22			5	--	27	13.5	3.69	--	--	--	--
Darkblotched v/	187					187	168	168	163	--	5	–

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total Catch)	Allocations (Total catch)			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
Minor Rockfish North x/	4,795			--		4,795	3,115	2,442	2,239	91.7	203	8.3
Minor Rockfish South y/	--			3,506		3,506	2,015	1,283	714	55.7	569	44.3
Remaining Rockfish	2,727			854		--	--	--	--	--	--	--
bank z/	c/			350		350	--	--	--	--	--	--
black aa/	615		500			1,115	--	--	--	--	--	--
blackgill bb/	c/			75	268	343	--	--	--	--	--	--
bocaccio - (north)	318					318	--	--	--	--	--	--
chilipepper- (north)	32					32	--	--	--	--	--	--
redstripe	576			c/		576	--	--	--	--	--	--
sharpchin	307			45		352	--	--	--	--	--	--
silvergrey	38			c/		38	--	--	--	--	--	--
splitnose	242			c/		242	--	--	--	--	--	--
yellowmouth	99			c/		99						
yellowtail- (south)				116		116						
Other rockfish cc/	2,068			2,652		--	--	--	--	--	--	--
OTHER FISH dd/	2,500	7,000	1,200	2,000	2,000	14,700	na	–	–	–	–	–

Table 1b. 2002 OYs for minor rockfish by depth sub-groups (weights in metric tons).

Species	Total Catch ABC	OY (Total catch)			Harvest Guidelines (Total catch)			
		Total Catch OY	Recreational Estimate	Commercial OY	Limited Entry		Open Access	
					Mt	%	Mt	%
Minor Rockfish North x/	4,795	3,115	673	2,442	2,239	91.7	203	8.3
Nearshore		987	663	324	161	na	163	na
Shelf		968	10	958	928	na	30	na
Slope		1,160	0	1,160	1,150	na	10	na
Minor Rockfish South y/	3,506	2,015	732	1,283	714	55.7	569	44.3
Nearshore		662	532	130	23	na	107	na
Shelf		714	200	514	194	na	320	na
Slope		639	0	639	497	na	142	na

a/ ABC applies to the U.S. portion of the Vancouver area, except as noted under individual species.

b/ Lingcod was designated as overfished in 1999. Coastwide, lingcod is estimated to be at 15 percent of its unfished biomass. An assessment was conducted in 2000 and updated for 2001. The stock assessment included parts of Canadian waters, therefore the U.S. portion of the ABC for the Vancouver area was set at 44 percent of the total for that area. The ABC of 745 mt was calculated using an Fmsy proxy of F45%. The total catch OY of 577 mt is based on a 60 percent probability of rebuilding the stock to Bmsy by the year 2009. The total catch OY is reduced by 326 mt, the amount that is estimated to be taken by the recreational fishery, resulting in a commercial OY of 251 mt. The open access total catch allocation is 48 mt (19 percent of the commercial OY) and the open access landed catch value is 38 mt. The limited entry total catch allocation is 203 mt and the landed catch value is 163 mt. The landed catch value is based on a discard mortality rate of 20 percent. Tribal vessels are expected to land a small amount of lingcod (4-5 mt), but do not have a specific allocation at this time.

c/ "Other species" - These species are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly for convenience, Pacific cod is included in the "other fish" category for the areas footnoted and rockfish species are included in either "other rockfish" or "remaining rockfish" for the areas footnoted only.

d/ The 2001 ABC and OY remain in effect in the interim because final values are not yet available. A new stock assessment has been prepared with preliminary indication of a lower ABC and OY. The final ABC and OY will be recommend by the Council at its March 2001 meeting, and will be implemented late in March.

e/ Sablefish north of 36° N lat. - A new sablefish assessment was done in 2001 for the area north of Point Conception (34°27'N lat.). Sablefish north of 34°27'N lat. is estimated to be between 27 percent and 38 percent of its unfished biomass. The ABC for the surveyed area (4,786 mt) is based on an environmentally driven model with an Fmsy proxy of F45%. The ABC for the management area north of 36° N lat. is 4,644 mt (97.04 percent of the ABC from the surveyed area). The total catch OY for the area north of 36° N lat is 4,367 mt, which is based on the application of the 40-10 harvest rate policy, and is 97.04 percent of the OY from the surveyed area. The total catch OY is reduced by 10 percent for the tribal set aside (437 mt) and by 24.7 mt for

compensation to vessels that conducted resource surveys. The remainder (3,906 mt) is the commercial total catch OY. The open access allocation of 9.4 percent of the commercial OY, results in an open access total catch OY of 367 mt. The limited entry total catch OY is 3,539 mt, 90.6 percent of the commercial OY. The limited entry total catch OY is further divided with 58 percent (2,052 mt) allocated to the trawl fishery and 42 percent (1,486 mt) allocated to the non-trawl fishery. Discard rates will be applied as follows: 22 percent for limited entry trawl, 8 percent for limited entry fixed gear and open access, and 3 percent for the tribal fisheries. The resulting landed catch values are: 1,601 mt for limited entry trawl, 1,367 mt for limited entry fixed gear, 338 mt for open access, and 424 mt for the tribal fisheries.

f/ Sablefish south of 36° N lat. - The ABC of 333 mt is the sum of 142 mt (2.96 percent of the ABC from the new 2001 survey based assessment) and 191 mt (based on historical landings). The total catch OY (229 mt) is the sum of 133 mt (2.96 percent of the OY from the new 2001 survey based assessment with the application of the 40-10 harvest rate policy) and 96 mt (that portion of the ABC based on historical landings south of Pt. Conception that was reduced by 50 percent to address uncertainty due to limited information). There are no limited entry or open access allocations in the Conception area at this time. The assumed discard value is 8 percent, resulting in a landed catch value of 211 mt.

g/ Dover sole north of 34°27'N lat. was assessed as a unit in 2001 and is estimated to be at 29% of its unfished biomass. The ABC (8,510 mt) is based on an Fmsy proxy of F40%. Because the biomass is estimated to be in the precautionary zone, the total catch OY of 7,440 mt is based on the application of the 40-10 harvest rate policy. The OY is reduced by 71.6 mt for compensation to vessels that conducted resource surveys, resulting in a commercial OY of 7,368 mt. Discards are assumed to be 5 percent, resulting in a landed catch value of 7,000 mt.

h/ Petrale sole was estimated to be at 42 percent of its unfished biomass following a 1999 assessment. For 2002, the final ABC for the Vancouver-Columbia area (1,262 mt) is based on an F40% Fmsy proxy. The ABCs for the Eureka, Monterey, and Conception areas (1,500 mt) continue at the same level as 2001.

i/ "Other flatfish" are those species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, sand sole, and starry flounder. The ABC is based on historical catch levels.

j/ Pacfic ocean perch (POP) was designated as overfished in 1999. The ABC (640 mt) is based on the 2000 assessment which was updated for 2001. The total catch OY (350 mt) is based on a 70 percent probability of rebuilding the stock to Bmsy by the year 2042. The landed catch value is 294 mt. The landed catch value is based on a discard rate of 16 percent. Tribal vessels are expected to land only trace amounts of POP in 2002 and do not have a specific allocation at this time.

k/ Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. The 1989 assessment provided 2 alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY therefore are set at 13,900 mt, the low end of the range in the assessment.

l/ Widow rockfish was assessed in 2000 and is estimated to be at 24 percent of its unfished biomass. Therefore, it was declared overfished in 2001. The ABC (3,727 mt) is based on an F50% Fmsy proxy. The OY (856 mt) is based on a 60 percent probability of rebuilding the stock to Bmsy within 37 years. The OY is reduced by 3 mt for the amount estimated to be taken as recreational catch, resulting in a commercial OY of 853 mt. The commercial OY is divided with open access receiving 3 percent (26 mt) and limited entry receiving 97 percent (827 mt). The landed catch equivalent for the open access fishery is 21 mt. The limited entry allocation is reduced by 150 mt for anticipated bycatch in the at-sea whiting fishery and an additional 40 mt for anticipated bycatch in the shore-based sector of the whiting fishery. The remainder of the limited entry allocation is reduced by 16 percent to account for discards in the trip limit fisheries. The landed catch equivalent, excluding the at-sea whiting fishery, is 575 mt. Tribal vessels are expected to land about 27 mt of widow rockfish in 2002, but do not have a specific allocation at this time.

m/ Canary rockfish is estimated to be at 22 percent of its unfished biomass in the north (north of Cape Blanco) and 8 percent of its unfished biomass in the south (south of Cape Blanco). Canary rockfish was declared overfished in 2000. The coastwide ABC (228 mt) is based on an Fmsy proxy of F50%. The coastwide OY of 93 mt (the sum of 73 mt for the northern area, plus 20 mt for the southern area) is based on a 52 percent

probability of rebuilding the stock to Bmsy by the year 2056. The OY is reduced by 5 mt for research surveys and 44 mt for the estimated recreational catch, resulting in a commercial OY of 44 mt. The commercial OY is divided with open access receiving 12.3 percent (5 mt) and limited entry receiving 87.7 percent (39 mt). The landed catch value for the open access fishery is 4.5 mt. The 39 mt limited entry allocation is further reduced by 3 mt for anticipated bycatch in the offshore whiting fishery. The limited entry landed catch value is 30 mt. The landed catch value is based on a discard rate of 16 percent. However, the specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are expected to land about 2.5 mt of canary rockfish in 2002, but do not have a specific allocation at this time.

n/ Chilipepper rockfish - The ABC (2,700 mt) for the Monterey-Conception area is based on the 1998 stock assessment with the application of an F50% Fmsy proxy. Because the unfished biomass is estimated to be above 40 percent, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt, near the recent average landed catch, to discourage effort on chilipepper, which is known to have bycatch of overfished bocaccio rockfish. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,985 mt. Of the commercial OY, open access is allocated 44.3 percent (879 mt) and limited entry is allocated 55.7 percent (1,106 mt). The assumed discard is 16 percent, resulting in a open access landed catch value of 739 mt and a limited entry landed catch value of 929 mt. In the north, chilpepper is included in the minor shelf rockfish OY.

o/ Bocaccio rockfish is estimated to be at 2 percent of its unfished biomass and was designated as overfished in 1999. The ABC of 122 mt for the Monterey and Conception areas are based on an F50% Fmsy proxy. The OY (100 mt) is based on the rebuilding plan, which has a 67% probability of rebuilding the stock to Bmsy by the year 2033. The OY is reduced by 56 mt for the amount estimated to be taken as recreational harvest, resulting in a 44 mt commercial OY. Open access is allocated 44.3 percent (19 mt) of the commercial OY and limited entry is allocated 55.7 percent (25 mt) of the commercial OY. The open access landed catch value is 16 mt and the limited entry landed catch value is 21 mt. The landed catch value is based on a discard rate of 16 percent. In the north, bocaccio is included in the minor shelf rockfish OY.

p/ Splitnose rockfish - The 2001 ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt total catch OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous assessment for this stock. In the north, splitnose is included in the minor slope rockfish OY. The assumed discard is 16 percent for a landed catch value of 387 mt.

q/ Yellowtail rockfish is estimated to be at 63 percent of its unfished biomass. The ABC of 3,146 mt is based on a 2000 stock assessment for the Vancouver-Columbia-Eureka areas with an Fmsy proxy of F50%. The OY (3,146 mt) was set equal to the ABC. To derive the commercial OY (3,131 mt) the total catch OY is reduced by 15 mt, the amount estimated to be taken in the recreational fishery. The open access allocation (260 mt) is 8.3 percent of the commercial OY. The limited entry allocation (2,871 mt) is 91.7 percent the commercial OY. For anticipated bycatch in the at-sea whiting fishery, 400 mt is subtracted from the limited entry allocation. An additional 150 mt is deducted for the shore-based whiting fishery. The remainder (2,471 mt) is further reduced by 20 percent for assumed discard. The limited entry landed catch equivalent, excluding the at-sea whiting fishery, is 2,007 mt. The open access landed catch equivalent is 218 mt, given the assumed discard of 16 percent. Tribal vessels are expected to land about 300 mt of yellowtail rockfish outside their directed whiting fishery in 2002, but do not have a specific allocation at this time.

r/ Shortspine thornyhead - A new assessment was done for shortspine thornyhead in 2001 and the stock is estimated to be between 25 and 50 percent of its unfished biomass. The ABC (1,004 mt) for the area north of Pt. Conception (34°27'N lat.) is based on a F50% Fmsy proxy. The OY of 955 mt is based on the new survey with the application of the 40-10 harvest policy, resulting in a commercial OY of 948 mt. Open access is allocated 0.27 percent (3 mt) of the commercial OY and limited entry is allocated 99.73 percent (945 mt) of the commercial OY. A 20 percent rate of discard is applied to obtain a limited entry landed catch value of 757 mt. There is no ABC or OY for the southern Conception area. Tribal vessels are expected to land about 1 mt of shortspine thornyheads, but do not have a specific allocation at this time.

s/ Longspine thornyhead is estimated to be above 40 percent of its unfished biomass. The ABC (2,461 mt) in the north (Vancouver-Columbia-Eureka-Monterey) is based on the average of the 3-year individual ABCs at an F50% Fmsy proxy. The total catch OY (2,461 mt) is set equal to the ABC. The OY is further reduced by 6 mt for compensation to vessels that conducted resource surveys, resulting in a commercial OY

of 2,455 mt. To derive the landed catch equivalent of 2,037 mt, the limited entry allocation is reduced by 17 percent for estimated discards.

t/ Longspine thornyhead - A separate ABC (390 mt) is established for the northern Conception area and is based on historical catch for the portion of the Conception area north of 34°27' N. lat. (Point Conception). The ABC was reduced by 50 percent to obtain the OY (195 mt), this reduction addresses uncertainty in the stock assessment due to limited information. There is no ABC or OY for the southern Conception Area.

u/ Cowcod in the Conception area was assessed in 1999 and is estimated to be at less than 10 percent of its unfished biomass. Therefore cowcod was declared overfished in 2000. The ABC in the Conception area (5 mt) is based on the 1999 assessment, while the ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. An OY of 4.8 mt (2.4 mt in each area) is based on a 55 percent probability of rebuilding the stock to Bmsy by the year 2094. Cowcod retention will not be permitted in 2002.

v/ Darkblotched rockfish was assessed in 2000 and estimated to be at 22 percent of its unfished biomass. The stock was declared overfished in 2001. An update to the assessment which incorporated new data indicates that the stock may be at 12 percent of the unfished biomass. The ABC of 187 mt is based on the updated assessment with an Fmsy proxy of F50%. The OY of 168 mt is based on a 70 percent probability of rebuilding the stock to Bmsy by 2034. For anticipated bycatch in the at-sea whiting fishery, 5 mt is subtracted from the limited entry allocation. The landed catch value for the remaining limited entry fisheries is 130 mt. The landed catch value is based on a discard rate of 20 percent. Specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are expected to land minimal amounts of darkblotched rockfish in 2002, but do not have a specific allocation at this time.

w/ Yelloweye rockfish was assessed in 2001 and is estimated to be at 7 percent of its unfished biomass off northern California and at 13 percent of its unfished biomass off Oregon, indicating that it is overfished at this time. The 27 mt coastwide ABC (5 mt for the Monterey area and 22 mt for the areas north of 40°10'N lat.) is based on an Fmsy proxy of F50%. As a precautionary measure, until rebuilding measures can be adopted, the coastwide ABC has been reduced by 50 percent to obtain the OY of 13.5 mt (2.5 mt for the Monterey area and 11 mt for the areas north of 40°10'N lat.) The OY is reduced by 8.81 mt for the amount estimated to be taken as recreational harvest, and 1 mt for the amount expected to be taken in the tribal fishery, resulting in a commercial OY of 3.69 mt. Specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

x/ Minor rockfish north includes the "remaining rockfish" and "other rockfish" categories in the Vancouver, Columbia, and Eureka areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish" which includes species that do not have quantifiable assessments. The ABC (4,795 mt) is the sum of the individual "remaining rockfish" ABCs (2,727 mt) plus the "other rockfish" ABCs (2,068 mt). The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY (3,115 mt) the remaining rockfish ABCs are further reduced by 25 percent with the exception of black rockfish (see footnote aa/), and other rockfish ABCs are reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 673 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 2,442 mt. Open access is allocated 8.3 percent (203 mt) of the commercial OY and limited entry is allocated 91.7 percent (2,239 mt) of the commercial OY. The discard is assumed to be 5 percent for nearshore rockfish, 16 percent for shelf rockfish, and 20 percent for slope rockfish, resulting in a an open access landed catch value of 188 mt and a limited entry landed catch value of 1,852 mt. Tribal vessels are expected to land about 10 mt of minor rockfish (2 mt of minor nearshore rockfish, 4 mt of shelf rockfish, and 4 mt of slope rockfish) in 2002, but do not have a specific allocation at this time.

y/ Minor rockfish south includes the "remaining rockfish" and "other rockfish" categories in the Monterey and Conception areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish" which includes species that do not have quantifiable assessments. The ABC (3,506 mt) is the sum of the individual "remaining rockfish" ABCs (854 mt) plus the "other rockfish" ABCs (2,652). The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain total catch OY (2,015 mt), the remaining rockfish

ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote bb/), and the other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 732 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,283 mt. Open access is allocated 44.3 percent (569 mt) of the commercial OY and limited entry is allocated 55.7 percent (714 mt) of the commercial OY. The discard is assumed to be 5 percent for nearshore rockfish, 16 percent for shelf rockfish, and 20 percent for slope rockfish, resulting in an open access landed catch value of 484 mt and a limited entry landed catch value of 582 mt.

z/ Bank rockfish - The ABC of 350 mt is based on a 2000 assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

aa/ Black rockfish - The ABC (1,115 mt) which is based on a 2000 assessment, is the sum of the assessment area (615 mt) plus the average catch in the unassessed area (500 mt). To obtain the OY for the southern portion of this area, the ABC has been reduced by 50 percent as a precautionary measures due to limited information. For the assessed area the OY was set equal to the ABC. This stock contributes 865 mt towards the minor rockfish OY in the north.

bb/ Blackgill rockfish is estimated to be at 51 percent of its unfished biomass. The ABC (343 mt) is the sum of the Conception area ABC of 268 mt, based on the 1998 assessment with an Fmsy proxy of F50%, and the Monterey area ABC of 75 mt. This stock contributes 306 mt towards minor rockfish south (268 mt for the Conception area ABC and 38 mt for the Monterey area). The OY for the Monterey area is the ABC reduced by 50 percent for precautionary measures because of lack of information.

cc/ "Other rockfish" includes rockfish species listed in 50 CFR 660.302 and California scorpionfish. The ABC is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been quantifiably assessed. Beginning in 2002, an ABC and OY have been specified for yelloweye rockfish, in the Monterey and Conception areas. Therefore, it has been removed from the "other rockfish" category.

dd/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, and other groundfish species noted above in footnote c/.

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II. Limited Entry and Open Access Fisheries

Since 1994, the non-tribal commercial groundfish fishery has been divided into limited entry and open access sectors, each with its own set of allocations and management measures. Species or species group allocations between the two sectors are based on the relative amounts of a species or species group taken by each component of the fishery during the 1984–1988 limited entry permit qualification period (50 CFR 660.332). The FMP allows suspension of this allocation formula for overfished species when changes to the traditional allocation formula are needed to better protect overfished species (Section 5.3.2).

Groundfish species or species group allocations between the limited entry and open access sectors are detailed in Tables 1a and 1b. All OYs, and all limited entry and open access allocations are expressed in terms of total catch. The limited entry/open access allocations for canary, darkblotched, and yelloweye rockfish are suspended to allow the Council to better develop management measures that provide harvest of healthy stocks while protecting overfished stocks. Estimates of trip-limit induced discards are taken ''off the top'' before setting the limited entry and open access allocations, except for estimates of sablefish discards as explained in the footnotes to Table 1a. Landed catch equivalents are the harvest goals used when adjusting trip limits and other management measures for target species during the season. Estimated bycatch of yellowtail, widow, canary, and darkblotched rockfish in the offshore whiting fishery is also deducted from the limited entry allocations before determining the landed catch equivalents for the target fisheries for widow and yellowtail rockfish.

III. 2002 Management Measures

Management measures for the limited entry fishery are found in Section IV. Most cumulative trip limits, size limits, and seasons for the limited entry fishery are set out in Tables 3 and 4. However, the limited entry nontrawl sablefish fishery, the midwater trawl fishery for whiting, and the hook-and-line fishery for black rockfish off Washington are managed separately from the majority of the groundfish species and are not fully addressed in the tables. The management structure for these fisheries has not changed since 2001, except for the level of trip limits for sablefish and whiting and for the primary sablefish season dates, and is described in paragraphs IV.B.(2) through (4). Similarly, management measures for the open access exempted trawl fisheries (California halibut, sea cucumber, pink shrimp, spot and ridgeback prawns) are described in paragraph IV.C.(2), separately from the open access fisheries trip limits set out in Table 5.

IV. NMFS Actions

For the reasons stated above, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), concurs with the Council's recommendations and announces the following management actions for 2002, including measures that are unchanged from 2001 and new measures.

A. General Definitions and Provisions

The following definitions and provisions apply to the 2002 management measures, unless otherwise specified in a subsequent **Federal Register** document:

(1) *Trip limits.* Trip limits are used in the commercial fishery to specify the amount of fish that may legally be taken and retained, possessed, or landed, per vessel, per fishing trip, or cumulatively per unit of time, or the number of landings that may be made from a vessel in a given period of time, as follows:

(a) A per trip limit is the total allowable amount of a groundfish species or species group, by weight, or by percentage of weight of legal fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip.

(b) A daily trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours l.t. Only one landing of groundfish may be made in that 24–hour period. Daily trip limits may not be accumulated during multiple day trips.

(c) A weekly trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week includes days within two different months, a vessel is not entitled to two separate weekly limits during that week.

(d) A cumulative trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in a specified period of time without a limit on the number of landings or trips, unless otherwise specified. The cumulative trip limit periods for limited entry and open access fisheries, which start at 0001 hours l.t. and end at 2400 hours l.t., are as follows, unless otherwise specified:

(i) The 2–month periods are: January 1–February 28, March 1–April 30, May 1–June 30, July 1–August 31, September 1–October 31, and November 1–December 31.

(ii) One month means the first day through the last day of the calendar month.

(iii) One week means 7 consecutive days, Sunday through Saturday.

(2) *Fishing ahead.* Unless the fishery is closed, a vessel that has landed its cumulative or daily limit may continue to fish on the limit for the next period, so long as no fish (including, but not limited to, groundfish with no trip limits, shrimp, prawns, or other nongroundfish species or shellfish) are landed (offloaded) until the next period. As stated at 50 CFR 660.302 (in the definition of ''landing''), once the offloading of any species begins, all fish aboard the vessel are counted as part of the landing. Fishing ahead is not allowed during or before a closed period (see paragraph IV.A.(7)). See paragraph IV.A.(9) for information on inseason changes to limits.

(3) *Weights.* All weights are round weights or round-weight equivalents unless otherwise specified.

(4) *Percentages.* Percentages are based on round weights, and, unless otherwise specified, apply only to legal fish on board.

(5) *Legal fish.* Legal fish means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 660, the Magnuson-Stevens Act, any document issued under part 660, and any other regulation promulgated or permit issued under the Magnuson-Stevens Act.

(6) *Size limits and length measurement.* Unless otherwise specified, size limits in the commercial and recreational groundfish fisheries apply to the ''total length,'' which is the longest measurement of the fish without mutilation of the fish or the use of force to extend the length of the fish. No fish with a size limit may be retained if it is in such condition that its length has been extended or cannot be determined by these methods. For conversions not listed here, contact the state where the fish will be landed.

(a) *Whole fish.* For a whole fish, total length is measured from the tip of the snout (mouth closed) to the tip of the tail in a natural, relaxed position.

(b) *''Headed'' fish.* For a fish with the head removed (''headed''), the length is measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the

upper lobe of the tail; the dorsal fin and tail must be left intact.

(c) *Filets.* A filet is the flesh from one side of a fish extending from the head to the tail, which has been removed from the body (head, tail, and backbone) in a single continuous piece. Filet lengths may be subject to size limits for some groundfish taken in the recreational fishery off California (see paragraph IV. D.(1)). A filet is measured along the length of the longest part of the filet in a relaxed position; stretching or otherwise manipulating the filet to increase its length is not permitted.

(d) *Sablefish weight limit conversions.* The following conversions apply to both the limited entry and open access fisheries when trip limits are effective for those fisheries. For headed and gutted (eviscerated) sablefish, the conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (The conversion factor currently is 1.6 in Washington, Oregon, and California. However, the state conversion factors may differ; fishers should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.)

(e) *Lingcod size and weight conversions.* The following conversions apply in both limited entry and open access fisheries.

(i) *Size conversion.* For lingcod with the head removed, the minimum size limit is 19.5 inches (49.5 cm), which corresponds to 24 inches (61 cm) total length for whole fish.

(ii) *Weight conversion.* The conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (The states' conversion factors may differ, and fishers should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.) If a state does not have a conversion factor for headed and gutted lingcod, or lingcod that is only gutted; the following conversion factors will be used. To determine the round weight, multiply the processed weight times the conversion factor.

(A) *Headed and gutted.* The conversion factor for headed and gutted lingcod is 1.5.

(B) *Gutted, with the head on.* The conversion factor for lingcod that has only been gutted is 1.1.

(7) Closure. ''Closure,'' when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited. (See 50 CFR 660.302.) Unless otherwise announced in the **Federal Register**, offloading must begin before the time the fishery closes. The provisions at paragraph IV.A.(2) for fishing ahead do not apply during a closed period. It is unlawful to transit through a closed area with the prohibited species on board, no matter where that species was caught, except as provided for in the CCA at IV. A.(20).

(8) *Fishery management area.* The fishery management area for these species is the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico. All groundfish possessed between 0–200 nm offshore or landed in Washington, Oregon, or California are presumed to have been taken and retained from the EEZ, unless otherwise demonstrated by the person in possession of those fish.

(9) *Routine management measures.* Most trip, bag, and size limits in the groundfish fishery have been designated ''routine,'' which means they may be changed rapidly after a single Council meeting. (See 50 CFR 660.323(b).) Council meetings in 2002 will be held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the **Federal Register**. Information concerning changes to routine management measures is available from the NMFS Northwest and Southwest Regional Offices (see **ADDRESSES**). Changes to trip limits are effective at the times stated in the **Federal Register**. Once a change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the **Federal Register**, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect.

(10) *Limited entry limits.* It is unlawful for any person to take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish (50 CFR 660.306(p)).

(11) *Operating in both limited entry and open access fisheries.* The open access trip limit applies to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. A vessel that operates in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit cannot be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(12) *Operating in areas with different trip limits.* Trip limits for a species or a species group may differ in different geographic areas along the coast. The following ''crossover'' provisions apply to vessels operating in different geographical areas that have different cumulative or ''per trip'' trip limits for the same species or species group. Such crossover provisions do not apply to species that are subject only to daily trip limits, or to the trip limits for black rockfish off Washington (see 50 CFR 660.323(a)(1)). In 2002, the cumulative trip limit periods for the limited entry and open access fisheries are specified in paragraph IV.A(1)(d), but may be changed during the year if announced in the **Federal Register**.

(a) *Going from a more restrictive to a more liberal area.* If a vessel takes and retains any groundfish species or species group of groundfish in an area where a more restrictive trip limit applies before fishing in an area where a more liberal trip limit (or no trip limit) applies, then that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(b) *Going from a more liberal to a more restrictive area.* If a vessel takes and retains a groundfish species or species group in an area where a higher trip limit or no trip limit applies, and takes and retains, possesses or lands the same species or species group in an area where a more restrictive trip limit applies, that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(c) *Minor rockfish.* Several rockfish species are designated with species-specific limits on one side of the 40°10′ N. lat. management line, and are included as part of a minor rockfish complex on the other side of the line.

(i) If a vessel takes and retains minor slope rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land splitnose rockfish

up to its cumulative limit south of 40°10′ N. lat., even if splitnose rockfish were a part of the landings from minor slope rockfish taken and retained north of 40°10′ N. lat. [Note: A vessel that takes and retains minor slope rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor slope rockfish during that period.]

(ii) If a vessel takes and retains minor slope rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land POP up to its cumulative limit north of 40°10′ N. lat., even if POP were a part of the landings from minor slope rockfish taken and retained south of 40°10 N. lat. [Note: A vessel that takes and retains minor slope rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor slope rockfish during that period.]

(iii) If a vessel takes and retains minor shelf rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land chilipepper rockfish and bocaccio up to their respective cumulative limits south of 40°10′ N. lat., even if either species is part of the landings from minor shelf rockfish taken and retained north of 40°10′ N. lat. [Note: A vessel that takes and retains minor shelf rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor shelf rockfish during that period.]

(iv) If a vessel takes and retains minor shelf rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land yellowtail rockfish up to its respective cumulative limits north of 40°10′ N. lat., even if yellowtail rockfish is part of the landings from minor shelf rockfish taken and retained south of 40°10′ N. lat. [Note: A vessel that takes and retains minor shelf rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor shelf rockfish during that period.]

(d) *''DTS complex.''* For 2002, there are differential trip limits for the ''DTS complex'' (Dover sole, shortspine thornyhead, longspine thornyhead, sablefish) north and south of the management line at 40°10′ N. lat. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph IV.A.(12) when making landings that include any one of the four species in the ''DTS complex.''

(13) *Sorting.* It is unlawful for any person to fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or harvest guideline, if the vessel fished or landed in an area during a time when such trip limit, size limit, harvest guideline, or quota applied. This provision applies to both the limited entry and open access fisheries. (See 50 CFR 660.306(h).) The following species must be sorted in 2002:

(a) For vessels with a limited entry permit:

(i) Coastwide--widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, rex sole, petrale sole, other flatfish, lingcod, sablefish, and Pacific whiting [Note: Although both yelloweye and darkblotched rockfish are considered minor rockfish managed under the minor shelf and minor slope rockfish complexes, respectively, they have separate OYs and therefore must be sorted by species.]

(ii) North of 40°10′ N. lat.--POP, yellowtail rockfish, and, for fixed gear, black rockfish and blue rockfish;

(iii) South of 40°10′ N. lat.--chilipepper rockfish, bocaccio rockfish, splitnose rockfish, and Pacific sanddabs (trawl only.)

(b) For open access vessels (vessels without a limited entry

permit):

(i) Coastwide--widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, arrowtooth flounder, other flatfish, lingcod, sablefish, Pacific whiting, and Pacific sanddabs;

(ii) North of 40°10′ N. lat. -black rockfish, blue rockfish, POP, yellowtail rockfish;

(iii) South of 40°10′ N. lat.--chilipepper rockfish, bocaccio rockfish, splitnose rockfish;

(iv) South of Point Conception--thornyheads.

(14) *Limited Entry Trawl Gear Restrictions.* Limited entry trip limits may vary depending on the type of trawl gear that is on board a vessel during a fishing trip: large footrope, small footrope, or midwater trawl gear.

(a) *Types of trawl gear.* (i) Large footrope trawl gear is bottom trawl gear, as specified at 50 CFR 660.302 and 660.322(b), with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope).

(ii) Small footrope trawl gear is bottom trawl gear, as specified at 50 CFR 660.302 and 660.322(b), with a footrope diameter 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope), except chafing gear may be used only on the last 50 meshes of a small footrope trawl, measured from the terminal (closed) end of the codend. Other lines or ropes that run parallel to the footrope may not be augmented or modified to violate footrope size restrictions.

(iii) Midwater trawl gear is pelagic trawl gear, as specified at 50 CFR 660.302 and 660.322(b)(5). The footrope of midwater trawl gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended with chains or other materials.

(b) *Cumulative trip limits and prohibitions by trawl gear type*--(i) *Large footrope trawl.* It is unlawful to take and retain, possess or land any species of shelf or nearshore rockfish (defined at IV.A.(21) and Table 2 except chilipepper rockfish south of 40°10′ N. lat. (as specified in Table 3) from a fishing trip if large footrope gear is on board; this restriction applies coastwide from January 1 to December 31. It is unlawful to take and retain, possess or land petrale sole, rex sole, or arrowtooth flounder from a fishing trip if large footrope gear is onboard and the trip is conducted at least in part between May 1 and October 31; cumulative limits for ''all other flatfish'' (all flatfish except those with cumulative trip limits in Table 3 to section IV) are lower for vessels with large footrope gear on board throughout the year (See Table 3). It is unlawful for any vessel with large footrope gear on board to exceed large footrope gear limits for any species, regardless of which type of trawl gear was used to catch those fish. If a species is subject to a large footrope gear per trip limit, it is unlawful for a vessel fishing with large footrope gear under the per trip limit to exceed the small footrope gear cumulative limit during the applicable cumulative limit period. The presence of rollers or bobbins larger than 8 inches (20 cm) in diameter on board the vessel, even if not attached to a trawl, will be considered to mean a large footrope trawl is on board. Dates are adjusted for the ''B'' platoon (See IV.A.(16)).

(ii) *Small footrope or midwater trawl gear.* Cumulative trip limits for canary rockfish, widow rockfish, yellowtail rockfish, bocaccio, minor shelf rockfish, minor nearshore rockfish, and lingcod,

and higher cumulative trip limits for chilipepper rockfish and flatfish, as indicated in Table 3 are allowed only if small footrope gear or midwater trawl gear is used, and if that gear meets the specifications in paragraph IV.A.(14)(a).

(iii) *Midwater trawl gear.* Higher cumulative trip limits are available for limited entry vessels using midwater trawl gear to harvest widow or chilipepper rockfish. Each landing that contains widow or chilipepper rockfish is attributed to the gear on board with the most restrictive trip limit for those species. Landings attributed to small footrope trawl must not exceed the small footrope limit, and landings attributed to midwater trawl must not exceed the midwater trawl limit. If a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the midwater gear limit is higher than the small footrope gear limit, the small footrope gear limit may not be exceeded with small footrope gear and counts toward the midwater gear limit. Conversely, if a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the small footrope gear limit is higher than the midwater gear limit, the midwater gear limit may not be exceeded with midwater gear and counts toward the small footrope gear limit.

(iv) *More than one type of trawl gear on board.* The cumulative trip limits in Table 3 must not be exceeded. A fisher may have more than one type of limited entry trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear. [Example: If a vessel has large footrope gear on board, it cannot land yellowtail rockfish, even if the yellowtail rockfish is caught with a small footrope trawl. If a vessel has both small footrope trawl and midwater trawl gear on board, the landing is attributed to the most restrictive gear-specific limit, regardless of which gear type was used.]

(c) *Measurement.* The footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(d) *State landing receipts.* Washington, Oregon, and California will require the type of trawl gear on board with the most restrictive limit to be recorded on the State landing receipt(s) for each trip or an attachment to the State landing receipt.

(e) *Gear inspection.* All trawl gear and trawl gear components, including unattached rollers or bobbins, must be readily accessible and made available for inspection at the request of an authorized officer. No trawl gear may be removed from the vessel prior to offloading. All footropes shall be uncovered and clearly visible except when in use for fishing.

(15) *Permit transfers.* Limited entry permit transfers are to take effect no earlier than the first day of a major cumulative limit period following the day NMFS receives the transfer form and original permit (50 CFR 660.335(e)(3)). Those days in 2002 are January 1, March 1, May 1, July 1, September 1, and November 1, and are delayed by 15 days (starting on the 16th of a month) for the ''B'' platoon.

(16) *Platooning--limited entry trawl vessels.* Limited entry trawl vessels are automatically in the ''A'' platoon, unless the ''B'' platoon is indicated on the limited entry permit. If a vessel is in the ''A'' platoon, its cumulative trip limit periods begin and end on the beginning and end of a calendar month as in the past. If a limited entry trawl permit is authorized for the ''B'' platoon, then cumulative trip limit periods will begin on the 16th of the month (generally 2 weeks later than for the ''A'' platoon), unless otherwise specified.

(a) For a vessel in the ''B'' platoon, cumulative trip limit periods begin on the 16th of the month at 0001 hours, l.t., and end at 2400 hours, l.t., on the 15th of the month. Therefore, the management measures announced herein that are effective on January 1, 2002, for the ''A'' platoon will be effective on January 16, 2002, for the ''B'' platoon. The effective date of any inseason changes to the cumulative trip limits also will be delayed for 2 weeks for the ''B'' platoon, unless otherwise specified.

(b) A vessel authorized to operate in the ''B'' platoon may take and retain, but may not land, groundfish from January 1, 2002, through January 15, 2002.

(c) A vessel authorized to operate in the ''B'' platoon will have the same cumulative trip limits for the November 16, 2002, through December 31, 2002, period as a vessel operating in the ''A'' platoon has for the November 1, 2002, through December 31, 2002 period.

(17) *Exempted fisheries.* U.S. vessels operating under an exempted fishing permit issued under 50 CFR part 600 are also subject to these restrictions, unless otherwise provided in the permit.

(18) *Application of requirements.* Paragraphs IV.B. and IV.C. pertain to the commercial groundfish fishery, but not to Washington coastal tribal fisheries, which are described in section V. The provisions in paragraphs IV.B. and IV.C. that are not covered under the headings ''limited entry'' or ''open access'' apply to all vessels in the commercial fishery that take and retain groundfish, unless otherwise stated. Paragraph IV.D. pertains to the recreational fishery.

(19) *Commonly used geographic coordinates.*

(a) Cape Falcon, OR--45°46′ N. lat.

(b) Cape Lookout, OR--45°20′15″ N. lat.

(c) Cape Blanco, OR--42°50′ N. lat.

(d) Cape Mendocino, CA--40°30′ N. lat.

(e) North/South management line--40°10′ N. lat.

(f) Point Arena, CA--38°57′30″ N. lat.

(g) Point Conception, CA--34°27′ N. lat.

(h) International North Pacific Fisheries Commission (INPFC) subareas (for more precise coordinates for the Canadian and Mexican boundaries, see 50 CFR 660.304):

(i) Vancouver--U.S.-Canada border to 47°30′ N. lat.

(ii) Columbia--47°30′ to 43°00′ N. lat.

(iii) Eureka--43°00′ to 40°30′ N. lat.

(iv) Monterey--40°30′ to 36°00′ N. lat.

(v) Conception--36°00′ N. lat. to the U.S.-Mexico border.

(20) *Cowcod Conservation Areas.* Recreational and commercial fishing for groundfish is prohibited within the Cowcod Conservation Areas (CCAs), except that recreational and commercial fishing for rockfish and lingcod is permitted in waters inside 20 fathoms (36.9 m). It is unlawful to take and retain, possess, or land groundfish inside the CCAs, except for rockfish and lingcod taken in waters inside the 20–fathom (36.9 m) depth contour, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00′30″ N. lat., and bounded on the south by the latitude line at 32°59′30″ N. lat.

(a) The Western CCA is an area south of Point Conception that is bound by straight lines connecting all of the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°30′ W. long.;

and connecting back to 33°50′ N. lat., 119°30′ W. long.

(b) The Eastern CCA is a smaller area west of San Diego that is bound by

straight lines connecting all of the following points in the order listed:

32°40′ N. lat., 118°00′ W. long.;
32°40′ N. lat., 117°50′ W. long.;
32°36′42'' N. lat., 117°50′ W. long.;
32°30′ N. lat., 117°53′30'' W. long.;
32°30′ N. lat., 118°00′ W. long.;
and connecting back to 32°40′ N. lat., 118°00′ W. long.;

(21) *Rockfish categories.* Rockfish (except thornyheads) are divided into categories north and south of 40°10′ N. lat., depending on the depth where they most often are caught: nearshore, shelf, or slope. (Scientific names appear in Table 2.) Trip limits are established for ''minor rockfish'' species according to these categories (see Tables 3–5).

(a) Nearshore rockfish consists entirely of the minor nearshore rockfish species listed in Table 2.

(b) Shelf rockfish consists of canary rockfish, shortbelly rockfish, widow rockfish, yelloweye rockfish, yellowtail rockfish, bocaccio, chilipepper, cowcod, and the minor shelf rockfish species listed in Table 2.

(c) Slope rockfish consists of POP, splitnose rockfish, darkblotched rockfish, and the minor slope rockfish species listed in Table 2.

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Table 2 – Minor Rockfish Species (excludes thornyheads)

North of 40°10' N. lat.	South of 40°10' N. lat.
NEARSHORE	
black, Sebastes melanops	black, Sebastes melanops
black and yellow, S. chrysolmelas	black and yellow, S. chrysolmelas
blue, S. mystinus	blue, S. mystinus
brown, S. auriculatus	brown, S. auriculatus
calico, S. dallii	calico, S. dallii
China, S. nebulosus	California scorpionfish, Scorpaena guttata
copper, S. caurinus	China, Sebastes nebulosus
gopher, S. carnatus	copper, S. caurinus
grass, S. rastrelliger	gopher, S. carnatus
kelp, S. atrovirens	grass, S. rastrelliger
olive, S. serranoides	kelp, S. atrovirens
quillback, S. maliger	olive, S. serranoides
treefish, S. serriceps	quillback, S. maliger
	treefish, S. serriceps
SHELF	
bronzespotted, S. gilli	bronzespotted, S. gilli
bocaccio, S. paucispinis	chameleon, S. phillipsi
chameleon, S. phillipsi	dwarf-red, S. rufianus
chilipepper, S. goodei	flag, S. rubrivinctus
cowcod, S. levis	freckled, S. lentiginosus
dwarf-red, S. rufianus	greenblotched, S. rosenblatti
flag, S. rubrivinctus	greenspotted, S. chlorostictus
freckled, S. lentiginosus	greenstriped, S. elongatus
greenblotched, S. rosenblatti	halfbanded, S. semicinctus
greenspotted, S. chlorostictus	honeycomb, S. umbrosus
greenstriped, S. elongatus	Mexican, S. macdonaldi
halfbanded, S. semicinctus	pink, S. eos
honeycomb, S. umbrosus	pinkrose, S. simulator
Mexican, S. macdonaldi	pygmy, S. wilsoni
pink, S. eos	redstripe, S. proriger
pinkrose, S. simulator	rosethorn, S. helvomaculatus
pygmy, . wilsoni	rosy, S. rosaceus
redstripe, S. proriger	silvergrey, S. brevispinus
rosethorn, S. helvomaculatus	speckled, S. ovalis
rosy, S. rosaceus	squarespot, S. hopkinsi
silvergrey, S. brevispinis	starry, S. constellatus
speckled, S. ovalis	stripetail, S. saxicola
squarespot, S. hopkinsi	swordspine, S. ensifer
starry, S. constellatus	tiger, S. nigorcinctus
stripetail, S. saxicola	vermilion, S. miniatus
swordspine, S. ensifer	yelloweye, S. ruberrimus
tiger, S. nigorcinctus	yellowtail, S. flavidus
vermilion, S. miniatus	
yelloweye, S. ruberrimus	
SLOPE	
aurora, S. aurora	aurora, S. aurora
bank, S. rufus	bank, S. rufus
blackgill, S. melanostomus	blackgill, S. melanostomus
darkblotched, S. crameri	darkblotched, S. crameri
redbanded, S. babcocki	Pacific ocean perch (POP), S. alutus
rougheye, S. aleutianus	redbanded, S. babcocki
sharpchin, S. zacentrus	rougheye, S. aleutianus
shortraker, S. borealis	sharpchin, S. zacentrus
splitnose, S. diploproa	shortraker, S. borealis
yellowmouth, S. reedi	yellowmouth, S. reedi

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B. Limited Entry Fishery

(1) *General.* Most species taken in limited entry fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d),) size limits (see paragraph IV.A.(6)), and seasons (see paragraph IV.A.(7)). The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board (see paragraph IV.A.(14)). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(20)). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Most of the management measures for the limited entry fishery are listed previously and in Tables 3 and 4, and may be changed during the year by announcement in the **Federal Register**. However, the management regimes for several fisheries (nontrawl sablefish, Pacific whiting, and black rockfish) do not neatly fit into these tables and are addressed immediately following Tables 3 and 4.

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Table 3. Trip Limits[1/] and Gear Requirements[2/] for Limited Entry Trawl Gear

Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,800 lb/ 2 months					
3	South	50,000 lb/ 2 months					
4	**Splitnose - South**	25,000 lb/ 2 months					
5	**Pacific ocean perch - North[6/]**	2,000 lb/ month		4,000 lb/ month			2,000 lb/ month
6	**Chilipepper - South[6/]**						
7	mid-water trawl	25,000 lb/ 2 months					
8	small footrope trawl	7,500 lb/ 2 months					
9	large footrope trawl	500 lb/ trip, not to exceed small footrope cumulative 2-month limits at any time during the year					
10	**DTS complex - North**						
11	Sablefish	6,000 lb/ 2 months		3,500 lb/ 2 months	6,000 lb/ 2 months	3,500 lb/ 2 months	2,500 lb/ 2 months
12	Longspine thornyhead	10,000 lb/ 2 months		6,000 lb/ 2 months	3,000 lb/ 2 months	10,000 lb/ 2 months	2,000 lb/ 2 months
13	Shortspine thornyhead	2,600 lb/ 2 months		2,000 lb/ 2 months	2,600 lb/ 2 months	2,600 lb/ 2 months	1,500 lb/ 2 months
14	Dover sole	30,000 lb/ 2 months	28,000 lb/ 2 months	14,000 lb/ 2 months	28,000 lb/ 2 months	20,000 lb/ 2 months	14,000 lb/ 2 months
15	**DTS complex - South**						
16	Sablefish	4,500 lb/ 2 months					
17	Longspine thornyhead	10,000 lb/ 2 months					
18	Shortspine thornyhead	2,600 lb/ 2 months					
19	Dover sole	22,000 lb/ 2 months					
20	**Flatfish - North**						
21	All other flatfish [3/]	Small footrope required: 15,000 lb/ month	Small footrope required: 35,000 lb/ month	30,000 lb/ month, no more than 10,000 of which may be petrale sole	40,000 lb/ month, no more than 15,000 of which may be petrale sole	50,000 lb/ month, no more than 20,000 of which may be petrale sole	Small footrope required: 50,000 lb/ month
22	Petrale sole	Not limited					Not limited
23	Rex sole	Not limited					Not limited
24	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
25	**Flatfish - South**						
26	All other flatfish [3/]	Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs		Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs. Of the species other than Pacific sanddabs, no more than 15,000 lb may be petrale sole			Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs
27	Petrale sole	Not limited					Not limited
28	Rex sole	Not limited					Not limited
29	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
30	**All other flatfish [3/] - North and South**	Large footrope: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits at any time during the year					
31	**Whiting shoreside [4/]**	20,000 lb/ trip		Primary Season			20,000 lb/ trip
32	**USE OF SMALL FOOTROPE BOTTOM TRAWL[5/] OR MIDWATER TRAWL REQUIRED FOR LANDING ALL OF THE FOLLOWING SPECIES:**						
33	**Minor shelf rockfish**						
34	North	300 lb/ month		1,000 lb/ month			300 lb/ month
35	South	500 lb/ month		1,000 lb/ month			500 lb/ month
36	**Canary rockfish**	200 lb/ 2 months		600 lb/ 2 months			200 lb/ 2 months
37	**Widow rockfish**						
38	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month			CLOSED[7/]
39	small footrope trawl	1,000 lb/ month					
40	**Yellowtail - North[6/]**						
41	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month			CLOSED[7/]
42	small footrope trawl	Without flatfish, 1,000 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 30,000 lb/ 2 months					
43	**Bocaccio - South[6/]**	600 lb/ 2 months		1,000 lb/ 2 months			600 lb/ 2 months
44	**Cowcod**	**CLOSED[7/]**					
45	**Minor nearshore rockfish**						
46	North	300 lb/ month					
47	South	300 lb/ month					
48	**Lingcod[8/]**	800 lb/ 2 months					

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ Gear requirements and prohibitions are explained above. See IV.A.(14).

3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with species specific management measures, including trip limits.

4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies before and after the primary season.

5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. Midwater gear also may be used; the footrope must be bare. See above.

6/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

7/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

8/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4. Trip Limits[1/] for Limited Entry Fixed Gear
Other Limits and Requirements Apply – Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,000 lb/ month		5,000 lb/ 2 months			2,000 lb/ 2 months
3	South	25,000 lb/ 2 months					
4	**Splitnose - South**	25,000 lb/ 2 months					
5	**Pacific ocean perch - North[5/]**	2,000 lb/ month	4,000 lb/ month				2,000 lb/ month
6	**Sablefish**						
7	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
9	**Longspine thornyhead**	9,000 lb/ 2 months					
10	**Shortspine thornyhead**	2,000 lb/ 2 months					
11	**Dover sole**	5,000 lb/ month (all flatfish)					
12	**Arrowtooth flounder**						
13	**Petrale sole**						
14	**Rex sole**						
15	**All other flatfish[2/]**						
16	**Whiting[3/]**	20,000 lb/ trip					
17	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish[5/]**						
18	North	200 lb/ month					
19	South						
20	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]		200 lb/ month	CLOSED[4/]	
21	South of 34°27' N. lat.	CLOSED[4/]	1,000 lb/ month				CLOSED[4/]
22	**Canary rockfish**	CLOSED[4/]					
23	**Yelloweye rockfish**	CLOSED[4/]					
24	**Cowcod**	CLOSED[4/]					
25	**Bocaccio - South[5/]**						
26	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]		200 lb/ month	CLOSED[4/]	
27	South of 34°27' N. lat.	CLOSED[4/]	200 lb/ month				CLOSED[4/]
28	**Chilipepper - South[5/]**						
29	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[4/]		500 lb/ month	CLOSED[4/]	
30	South of 34°27' N. lat.	CLOSED[4/]	2,500 lb/ month				CLOSED[4/]
31	**Minor nearshore rockfish**						
32	North	5,000 lb/ month, no more than 2,000 lb of which may be species other than black or blue rockfish[6/]					
33	South						
34	40°10' - 34°27' N. lat.	1,600 lb/ 2 months	CLOSED[4/]	Shoreward of 20 ftm depth, 1,600 lb/ 2 months, otherwise CLOSED[4/]	1,600 lb/ 2 months	Shoreward of 20 ftm depth, 1,600 lb/ 2 months, otherwise CLOSED[4/]	CLOSED[4/]
35	South of 34°27' N. lat.	CLOSED[4/]	2,000 lb/ 2 months				CLOSED[4/]
36	**Lingcod[7/]**						
37	North	CLOSED[4/]		400 lb/ month			CLOSED[4/]
38	South						
39	40°10' - 34°27' N. lat.	CLOSED[4/]		Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	400 lb/ month	Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	CLOSED[4/]
40	South of 34°27' N. lat.	CLOSED[4/]		400 lb/ month			CLOSED[4/]

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with species specific management measures, including trip limits.

3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies.

4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

5/ Yellowtail rockfish and widow rockfish coastwide and bocaccio and chilipepper rockfishes in the north are included in the trip limits for shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

6/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

7/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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(2) Sablefish. The limited entry sablefish allocation is further allocated 58 percent to trawl gear and 42 percent to nontrawl gear. See footnote e/ of Table 1a.

(a) *Trawl trip and size limits.* Management measures for the limited entry trawl fishery for sablefish are listed in Table 3.

(b) *Nontrawl (fixed gear) trip and size limits.* To take, retain, possess, or land sablefish during the primary season for the limited entry fixed gear sablefish fishery, the owner of a vessel must hold a limited entry permit for that vessel, affixed with both a gear endorsement for longline or trap (or pot) gear, and a sablefish endorsement. (See 50 CFR 663.323(a)(2)(i).) A sablefish endorsement is not required to participate in the limited entry daily trip limit fishery.

(i) *Primary season.* The primary season begins at 12 noon l.t. on April 1, 2002, and ends at 12 noon l.t. on October 31, 2002. There are no pre-season or post-season closures. During the primary season, each vessel with at least one limited entry permit with a sablefish endorsement that is registered for use with that vessel may land up to the cumulative trip limit for each of the sablefish-endorsed limited entry permits registered for use with that vessel, for the tier(s) to which the permit(s) are assigned. For 2002, the following limits are in effect: Tier 1, 36,000 lb (16,329 kg); Tier 2, 16,500 lb (7,484 kg); Tier 3, 9,500 lb (4,309 kg). All limits are in round weight. If a vessel is registered for use with a sablefish-endorsed limited entry permit, all sablefish taken after April 1, 2002, count against the cumulative limits associated with the permit(s) registered for use with that vessel. A vessel that is eligible to participate in the primary sablefish season may participate in the daily trip limit fishery for sablefish once that vessel's primary season sablefish limit(s) have been taken or after October 31, 2001, whichever occurs first. No vessel may land sablefish against both its primary season cumulative sablefish limits and against the daily trip limit fishery limits within the same 24 hour period of 0001 hour l.t. to 2400 hours l.t. [For example, if a vessel lands the last of its primary sablefish season tier limit at 1100 hours on a Tuesday, that vessel may not take, retain, possess or land sablefish against the daily or weekly trip limits until after 0001 hours on Wednesday.]

(ii) *Daily trip limit.* Daily and/or weekly sablefish trip limits listed in Table 4 apply to any limited entry fixed gear vessels not participating in the primary sablefish season described in paragraph (i) of this section. North of 36° N. lat., the daily and/or weekly trip limits apply to fixed gear vessels that are not registered for use with a sablefish-endorsed limited entry permit, and to fixed gear vessels that are registered for use with a sablefish-endorsed limited entry permit when those vessels are not fishing against their primary sablefish season cumulative limits. South of 36° N. lat., the daily and/or weekly trip limits for taking and retaining sablefish that are listed in Table 4 apply throughout the year to all vessels registered for use with a limited entry fixed gear permit.

(3) *Whiting.* Additional regulations that apply to the whiting fishery are found at 50 CFR 660.306 and at 50 CFR 660.323(a)(3) and (a)(4). All allocations described in this section and in the tribal fisheries allocation description at paragraph V. will not be finalized until the Council finalizes the 2002 whiting ABC and OY at its March 2002 meeting.

(a) *Allocations.* Whiting allocations will be based on the percentages detailed in 50 CFR 660.323 (a)(4)(i), and will be announced inseason when the final OY is announced.

(b) *Seasons.* The 2002 primary seasons for the whiting fishery start on the same dates as in 2001, as follows (see 50 CFR 660.323(a)(3)):

(i) *Catcher/processor sector*--May 15;

(ii) *Mothership sector*--May 15;

(iii) *Shore-based sector*--June 15 north of 42° N. lat.; April 1 between 42°-40°30′ N. lat.; April 15 south of 40°30′ N. lat.

(c) *Trip limits*—(i) *Before and after the regular season.* The ''per trip'' limit for whiting before and after the regular season for the shore-based sector is announced in Table 3, as authorized at 50 CFR 660.323(a)(3) and (a)(4). Any whiting caught shoreward of 100 fathoms (183 m) in the Eureka area counts towards this limit.

(ii) *Inside the Eureka 100 fm (183 m) contour.* No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area.

(4) *Black rockfish.* The regulations at 50 CFR 660.323(a)(1) state: ''The trip limit for black rockfish (Sebastes melanops) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09′30'' N. lat.) and between Destruction Island (47°40′00'' N. lat.) and Leadbetter Point (46°38′10'' N. lat.), is 100 lb (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip.'' These ''per trip'' limits apply to limited entry and open access fisheries, in conjunction with the cumulative trip limits and other management measures listed in Tables 4 and 5 of Section IV. The crossover provisions at paragraphs

IV.A.(12) do not apply to the black rockfish per-trip limits.

C. Trip Limits in the Open Access Fishery

(1) *General.* Open access gear is gear used to take and retain groundfish from a vessel that does not have a valid limited entry permit for the Pacific Coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), set net and trammel net (south of 38° N. lat. only), and exempted trawl gear (trawls used to target non-groundfish species: pink shrimp or prawns, and, south of Pt. Arena, CA (38°57′30'' N. lat.), California halibut or sea cucumbers). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d),) size limits (see paragraph IV.A.(6)), and seasons (see paragraph IV.A.(7)). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(20)). Yelloweye rockfish retention is prohibited in all open access fisheries. The trip limits, size limits, seasons, and other management measures for open access groundfish gear, except exempted trawl gear, are listed in Table 5. The trip limit at 50 CFR 660.323(a)(1) for black rockfish caught with hook-and-line gear also applies. (The black rockfish limit is repeated at paragraph IV.B.4.)

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Table 5. Trip Limits[1/] for Open Access Gears
Other Limits and Requirements Apply – Read Sections IV. A. and C. NMFS Actions before using this table
Exceptions for exempted gears at Section IV.C.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	Per trip, no more than 25% of weight of the sablefish landed					
3	South	10,000 lb/ 2 months					
4	**Splitnose - South**	200 lb/ month					
5	**Pacific ocean perch - North**[4/]	100 lb/ month					
6	**Sablefish**						
7	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
9	**Thornyheads**						
10	North of 34° 27' N. lat.	CLOSED[3/]					
11	South of 34° 27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months					
12	**Dover sole**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs					
13	**Arrowtooth flounder**						
14	**Petrale sole**						
15	**Rex sole**						
16	**All other flatfish**[2/]						
17	**Whiting**	300 lb/ month					
18	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish**[4/]						
19	North	200 lb/ month					
20	South						
21	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[3/]	200 lb/ month	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]
22	South of 34°27' N. lat.	CLOSED[3/]	500 lb/ month				CLOSED[3/]
23	**Canary rockfish**	CLOSED[3/]					
24	**Yelloweye rockfish**	CLOSED[3/]					
25	**Cowcod**	CLOSED[3/]					
26	**Bocaccio - South**[4/]						
27	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]		200 lb/ month	CLOSED[3/]	
	South of 34°27' N. lat.	CLOSED[3/]	200 lb/ month				CLOSED[3/]
28	**Chilipepper - South**[4/]						
29	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[3/]		500 lb/ month	CLOSED[3/]	
30	South of 34°27' N. lat.	CLOSED[3/]	2,500 lb/ month				CLOSED[3/]
31	**Minor nearshore rockfish**						
32	North	3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish[5/]		4,000 lb/ 2 months, no more than 1,600 lb of which may be species other than black or blue rockfish[5/]			3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish[5/]
33	South						
34	40°10' - 34°27' N. lat.	1,200 lb/ 2 months	CLOSED[3/]	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	1,200 lb/ 2 months	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	CLOSED[3/]
35	South of 34°27' N. lat.	CLOSED[3/]	1,200 lb/ 2 months				CLOSED[3/]
36	**Lingcod**[6/]						
37	North	CLOSED[3/]		300 lb/ month			CLOSED[3/]
38	South						
39	40°10' - 34°27' N. lat.	CLOSED[3/]		Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	300 lb/ month	Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]
40	South of 34°27' N. lat.	CLOSED[3/]		300 lb/ month			CLOSED[3/]

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40o10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 5 with species specific management measures, including trip limits.

3/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

4/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

5/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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(2) *Groundfish taken with exempted trawl gear by vessels engaged in fishing for spot and ridgeback prawns, California halibut, or sea cucumbers.*–(a) *Trip limits.* The trip limit is 300 lb (136 kg) of groundfish per fishing trip. Limits in Table 5 also apply and are counted toward the 300 lb (136 kg) groundfish limit. In any landing by a vessel engaged in fishing for spot and ridgeback prawns, California halibut, or sea cucumbers with exempted trawl gear, the amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish (Squalas acanthias) landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb (136 kg) per trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish ''per trip'' limit may not be multiplied by the number of days of the fishing trip. The closures listed in table 5 also apply, except for the species subsequently listed in subparagraphs (i) through (v). The following sublimits also apply and are counted toward the overall 300 lb (136 kg) per trip groundfish limit:

(i) Shelf rockfish (including minor shelf rockfish, widow and yellowtail)-

(A) Between 40°10′ N. lat. and 34°27′ N. lat.: 200 lb (91 kg) per month.

(B) South of 34°27′ N. lat.: 500 lb (227 kg) per month.

(ii) Bocaccio south of 40 deg. 10′ N. lat. - 200 lb (91 kg) per month.

(iii) Chilipepper--

(A) Between 40°10′ N. lat. and 34°27′ N. lat.: 500 lb (227 kg) per month.

(B) South of 34°27′ N. lat.: 2,500 lb (1,134 kg) per month.

(iv) Minor nearshore rockfish south of 40 deg. 10′ N. lat.: 1,200 lb (544 kg) per 2 months.

(v) Lingcod south of 40 deg. 10′ N. lat. - May 1 through October 31, 2002: 300 lb (136 kg) per month, otherwise closed.

(b) *State law.* These trip limits are not intended to supersede any more restrictive state laws relating to the retention of groundfish taken in shrimp or prawn pots or traps.

(c) *Participation in the California halibut fishery.* A trawl vessel will be considered participating in the California halibut fishery if:

(i) It is not fishing under a valid limited entry permit issued under 50 CFR 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena; and

(iii) The landing includes California halibut of a size required by California Fish and Game Code section 8392(a), which states: ''No California halibut may be taken, possessed or sold which measures less than 22 inches (56 cm) in total length, unless it weighs 4 lbs (1.8144 kg) or more in the round, 3 and one-half lbs (1.587 kg) or more dressed with the head on, or 3 lbs (1.3608 kg) or more dressed with the head off.'' Total length means ''the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.''

(d) *Participation in the sea cucumber fishery.* A trawl vessel will be considered to be participating in the sea cucumber fishery if:

(i) It is not fishing under a valid limited entry permit issued under 50 CFR 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena; and

(iii) The landing includes sea cucumbers taken in accordance with California Fish and Game Code, section 8396, which requires a permit issued by the State of California.

(3) *Groundfish taken with exempted trawl gear by vessels engaged in fishing for pink shrimp.* (a) The trip limit is 500 lb (227 kg) of groundfish per day, multiplied by the number of days of the fishing trip, but not to exceed 1,500 lb (680 kg) of groundfish per trip. The following sublimits also apply and are counted toward the overall 500 lb (227 kg) per day and 1,500 lb (680 kg) per trip groundfish limits:

(i) Canary rockfish--

(A) April 1 through 30, 2002: 50 lb (23 kg) per month

(B) Starting May 1, 2002 through October 31, 2002: 200 lb (91 kg) per month

(ii) Lingcod--April 1 through October 31, 2002: 400 lb (181 kg) per month, with a minimum size limit (total length) of 24 inches (61 cm).

(iii) Sablefish--April 1, 2002 through October 31, 2002: 2,000 lb (907 kg) per month.

(iv) Thornyheads--Closed north of Pt. Conception (34°27′ N. lat.)

(b) All other groundfish species taken with exempted trawl gear by vessels engaged in fishing for pink shrimp are managed under the overall 500 lb (227 kg) per day and 1,500 lb (680 kg) per trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits.

(c) In any trip in which pink shrimp trawl gear is used, the amount of groundfish landed may not exceed the amount of pink shrimp landed.

(d) Operating in pink shrimp and other fisheries during the same cumulative trip limit period. Notwithstanding section IV.A.(11), a vessel that takes and retains pink shrimp and also takes and retains groundfish in either the limited entry or another open access fishery during the same applicable cumulative limit period that it takes and retains pink shrimp (which may be 1 month or 2 months, depending on the fishery and the time of year), may retain the larger of the two limits, but only if the limit(s) for each gear or fishery are not exceeded when operating in that fishery or with that gear. The limits are not additive; the vessel may not retain a separate trip limit for each fishery.

D. Recreational Fishery

(1) *California.* (Note: California law provides that, in times and areas when the recreational fishery is open, there is a 20–fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person.) For each person engaged in recreational fishing seaward of California, the following seasons and bag limits apply:

(a) *Rockfish.* (i) Cowcod Conservation Areas. Recreational fishing for groundfish is prohibited within the CCAs, as described above at IV.A.(20), except that fishing for rockfish is permitted in waters inside the 20–fathom (37 m) depth contour within the CCAs from March 1 through October 31, 2002, subject to the bag limits in paragraph (iii) of this section.

(ii) *Seasons.* North of 40°10′ N. lat., recreational fishing for rockfish is open from January 1 through December 31. South of 40°10′ N. lat. and north of Point Conception (34°27′ N. lat.), recreational fishing for rockfish is closed from March 1 through April 30, and from November 1 through December 31. This area is also closed to recreational rockfish fishing from May 1 through June 30 and from September 1 through October 31, except that fishing for rockfish is permitted inside the 20 fathom (37 m) depth contour, subject to the bag limits in paragraph (iii) of this section, except that bocaccio, canary rockfish and yelloweye rockfish retention is prohibited. South of Point Conception (34°27′ N. lat.), recreational fishing for rockfish is closed from January 1 through February 28 and from November 1 through December 31. Recreational fishing for cowcod is prohibited all year in all areas.

(iii) *Bag limits, boat limits, hook limits.* In times and areas when the recreational season for rockfish is open, there is a 2–hook limit per fishing line,

and the bag limit is 10 rockfish per day, of which no more than 2 may be bocaccio, no more than 1 may be canary rockfish, and no more than 1 may be yelloweye rockfish. No more than 2 yelloweye rockfish may be retained per vessel. Cowcod may not be retained. Bocaccio, canary rockfish, and yelloweye rockfish may not be retained, and no more than 2 shelf rockfish may be retained, in the area between 40°10′ N. lat. and Point Conception (34°27′ N. lat.) from May 1 through June 30, or September 1 through October 31. (Note: California scorpionfish, are subject to California's 10 fish bag limit per species, but are not counted toward the 10 rockfish bag limit.) Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(iv) *Size limits.* The following rockfish size limits apply: bocaccio may be no smaller than 10 inches (25 cm), and California scorpionfish may be no smaller than 10 inches (25 cm).

(v) *Dressing/Fileting.* Rockfish skin may not be removed when fileting or otherwise dressing rockfish taken in the recreational fishery. The following rockfish filet size limits apply: bocaccio filets may be no smaller than 5 inches (12.8 cm); California scorpionfish filets may be no smaller than 5 inches (12.8 cm); and brown-skinned rockfish filets may be no smaller than 6.5 inches (16.6 cm). ''Brown-skinned'' rockfish include the following species: brown, calico, copper, gopher, kelp, olive, speckled, squarespot, and yellowtail.

(b) *Roundfish* (Lingcod, cabezon, kelp greenling)–(i) *Cowcod Conservation Areas.* Recreational fishing for groundfish is prohibited within the CCAs, as described above at section IV.A.(20), except that fishing for lingcod is permitted in waters inside the 20 fathom (37 m) depth contour within the CCAs from March 1 through October 31, 2002, subject to the bag limits in paragraph (iii) of this section. Fishing for cabezon and kelp greenling is allowed in waters inside the 20 fathom (37 m) depth contour within the CCAs year round.

(ii) *Seasons.* North of 40°10′ N. lat., recreational fishing for lingcod is open from January 1 through December 31. South of 40°10′ N. lat. and north of Point Conception (34°27′ N. lat.), recreational fishing for lingcod is closed from March 1 through April 30, and from November 1 through December 31. This area is also closed to recreational lingcod fishing from May 1 through June 30 and from September 1 through October 31, except that fishing for lingcod is permitted inside the 20 fathom (36.9 m) depth contour, subject to the bag limits in paragraph (iii) of this section. South of Point Conception (34°27′ N. lat.), recreational fishing for lingcod is closed from January 1 through February 28 and from November 1 through December 31.

(iii) *Bag limits, boat limits, hook limits.* In times and areas when the recreational season for lingcod is open, there is a 2–hook limit per fishing line, and the bag limit is 2 lingcod per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(iv) *Size limits.* The following roundfish size limits apply: lingcod may be no smaller than 24 inches (61 cm) total length, cabezon may be no smaller than 15 inches (38 cm); and kelp greenling may be no smaller than 12 inches (30 cm).

(v) *Dressing/Fileting.* Cabezon and kelp greenling taken in the recreational fishery may not be fileted at sea. Lingcod filets may be no smaller than 15 inches (38.1 cm).

(2) *Oregon.* The bag limits for each person engaged in recreational fishing seaward of Oregon are 1 lingcod per day, which may be no smaller than 24 inches (61 cm) total length; and 10 rockfish per day, of which no more than 1 may be canary rockfish and no more than 1 may be yelloweye rockfish. During the all-depth recreational fisheries for Pacific halibut (Hippoglossus stenolopis), vessels with halibut on board may not take, retain, possess or land yelloweye rockfish.

(3) *Washington.* For each person engaged in recreational fishing seaward of Washington, the following seasons and bag limits apply:

(a) *Rockfish.* There is a rockfish bag limit of no more than 10 rockfish per day, of which no more than 2 may be canary rockfish. Taking and retaining yelloweye rockfish is prohibited off the Coast of Washington.

(b) *Lingcod.* Recreational fishing for lingcod is closed between January 1 and April 15, and between October 16 and December 31. When the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day, which may be no smaller than 24 inches (61 cm) total length.

V. Washington Coastal Tribal Fisheries

The Assistant Administrator (AA) announces the following tribal allocations for 2002, including those that are the same as in 2001. Trip limits for certain species were recommended by the tribes and the Council and are specified here with the tribal allocations.

A. Sablefish

The tribal allocation is 424 mt, 10 percent of the total catch OY, less 3 percent estimated discard mortality.

B. Rockfish

(1) For the commercial harvest of black rockfish off Washington State, a harvest guideline of: 20,000 lb (9,072 kg) north of Cape Alava (48°09′30'' N. lat.) and 10,000 lb (4,536 kg) between Destruction Island (47°40′00'' N. lat.) and Leadbetter Point (46°38′10'' N. lat.).

(2) Thornyheads are subject to a 300 lb (136 kg) trip limit.

(3) Canary rockfish are subject to a 300 lb (136 kg) trip limit.

(4) Yelloweye rockfish are subject to a 100 lb (45 kg) trip limit.

(5) Yellowtail rockfish taken in the tribal mid-water trawl fisheries are subject to a cumulative limit of 30,000 lb (13,608 kg) per two-month period. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed in any two-month period. These limits may be adjusted by an individual tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish.

(6) Other rockfish, including minor nearshore, minor shelf, and minor slope rockfish groups are subject to a 300 lb (136 kg) trip limit per species or species group, or to the non-tribal limited entry trip limit for those species if those limits are less restrictive than 300 lb (136 kg) per trip.

(7) Rockfish taken during open competition tribal commercial fisheries for Pacific halibut will not be subject to trip limits.

C. Lingcod

Lingcod are subject to a 300 lb (136 kg) daily trip limit and a 900 lb (408 kg) weekly limit.

D. Pacific whiting

Whiting allocations will be announced when the final OY is announced.

Classification

These final specifications and management measures for 2002 are issued under the authority of, and are in accordance with, the Magnuson-Stevens Act, the FMP, and 50 CFR parts 600 and 660 subpart G (the regulations implementing the FMP).

This package of specifications and management measures is intended to protect overfished and depleted groundfish stocks while also allowing as much harvest of healthy stocks as

possible over the course of the year. A 30–day delay in effectiveness for these rules would in fact be a 60–day delay, because most of the trip limits are two-month limits, so most fishers could land the entire two month limit before the rules went into effect in 30 days. Delay in implementation of these regulatory measures could cause harm to some stocks, as fishing would continue using the less restrictive March-December 2001 management measures until the implementation of these 2002 regulations. For example, limits for dover sole are substantially larger for March and April in 2001 than during March and April in 2002. Also, the 2002 regulations allow no mid-water fishing for widow rockfish above the small footrope limit, but the 2001 regulations allow 20,000 lb in March and April. Delay in publishing these measures could also require unnecessarily restrictive measures, including possible closures, later in the year to make up for the excessive harvest allowed by late implementation of these regulations, causing economic harm to the fishing industry and fishing communities. For these reasons, there is good cause under 5 U.S.C. 553(d)(3) to determine that delaying the effectiveness of this rule for 30 days would be contrary to the public interest.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a final regulatory flexibility analysis (FRFA) describing the impact of this action on small entities. The IRFA was summarized in the proposed rule published on January 11, 2002 (67 FR 1555). The following is the summary of the FRFA. The need for and objectives of this final rule are contained in the SUMMARY and Background section of the preamble. NMFS did not receive any comments on the IRFA or on the proposed rule regarding the economic effects of this final rule.

Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered with limited entry permits issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10–20 of those vessels are considered small businesses by the Small Business Administration. There are also about 700 groundfish buyers on the West Coast, approximately 250 of which annually purchased at least $33,000 of groundfish in 2000. In the 2001 recreational fisheries, there were 106 charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

In developing the 2002 specifications and management measures, the Council considered three issues, each with several alternatives and sub-options, and ultimately recommended a management package that balanced the conservation and socioeconomic risks and benefits associated with all aspects of the 2002 Pacific Coast groundfish fishery. The three issues were harvest levels, bycatch and discard rate assumptions, and season structuring. Each issue had several alternatives with varying degrees of potential risks and benefits to the groundfish fishery, as described in the EA/RIR/IRFA. Less restrictive alternatives tend to buffer, but not necessarily ameliorate, the continued downward trend in economic benefits and fishing opportunities. However, the short term benefits of less restrictive alternatives were weighed against longer term stock conservation risks. The Council adopted alternatives modeled in the EA/RIR/IRFA that encompass a reasonable range of options for the 2002 groundfish fishery, given anticipated short and long term risks and benefits.

Alternative harvest levels were developed for the seven stocks that were subject to new stock assessments or rebuilding strategies in 2001: sablefish, Pacific ocean perch (POP), widow rockfish, shortspine thornyhead, darkblotched rockfish, yelloweye rockfish, and Dover sole. Four alternatives were considered: the status quo, a low level of acceptable biological catch (ABC) and OY, high levels of ABC/OY, and the recommended action. The recommended action sets ABCs/OYs between the high and low levels, with the ABCs/OYs of the seven stocks at lower levels than the status quo alternative except for shortspine thornyheads and darkblotched rockfish, and represents a 21–percent reduction in commercial exvessel value from the status quo and a commensurate reduction in recreational catch. Neither the status quo alternative nor the high level alternative were recommended because they were not considered to sufficiently reduce the effects of incidental catches of overfished species in fisheries targeting healthy stocks. The low level alternative would reduce commercial exvessel value by 34 percent of the value of the status quo fishery, with a commensurate reduction in recreational catch. While this alternative would have provided more risk averse stock protection, it was rejected because its effects on the fishery would likely have caused even more severe economic disruptions, particularly in the limited entry trawl and fixed gear fisheries.

The bycatch and discard rate estimation issue arose from the need to accurately account for total groundfish mortality and from recent legal challenges of past bycatch and discard rate assumptions. The Council used a synthesis of several scientific studies to provide a low-to-high range of bycatch rates for lingcod, bocaccio, canary rockfish, darkblotched rockfish, and POP for the limited entry trawl fishery. Four alternatives were considered, the status quo, a low end range of bycatch rates, a high end range of bycatch rates, and species-specific bycatch rates, which were low-, mid-, or high, depending on the data availability and analytical fit for the relationship between each target fishery and bycatch species. The Council chose the individual species bycatch rates that were best supported by the available data. In choosing the preferred alternative the Council considered the legal requirements and the biological and economic consequences of over- or underestimating the bycatch rates. The Council rejected using the status quo bycatch and discard rate assumptions of 2001 because the new analysis required by the Court provided a better basis for bycatch and discard management. Applying the low end alternative would not have been as constraining on the fishery, but represented a greater risk of overfishing depleted stocks if bycatch rates and total mortality were underestimated. Applying the high end alternative would have entailed less risk of overfishing, but would have been the most constraining on the fishery and would have incurred unnecessary economic losses if the total mortality were overestimated and for some species did not appear to use the best available data.

The alternative season options considered area and time closures to allow higher trip limits and lessen regulatory discard of groundfish during open times and areas. Six alternatives were considered for the commercial seasons: the status quo, a year-round GMT recommended season, a coastwide 6–month season, a year-round Groundfish Advisory Panel (GAP) recommended season based on the preferred OYs, a year-round GAP recommended season based on the high end OYs, and the recommended action, which shaped seasons based on allowing harvest of the preferred OYs of healthy stocks during times and in areas

when bycatch of overfished stocks would be reduced. The status quo alternative was rejected because it would not have used the best available science (i.e., new stock assessments,) and would have violated the legal mandate to reconsider bycatch and discard mortality rate assumptions. The year-round GMT recommended season was rejected because it did not consider the restrictions needed for managing overfished species. The coastwide 6–month season was rejected because of the potential of processors and vessels to lose skilled workers, loss of markets, and weather constraints leading to inequitable fishing opportunities for different fishing sectors. The two year-round GAP recommended seasons were rejected because the landing limits for these seasons would have resulted in a higher bycatch of constraining stocks than would have been allowed under the range of harvest levels considered, possibly exceeding the OYs for those stocks.

The fisheries agencies of the states of Oregon, Washington, and California presented several options for recreational fisheries off their respective states. In each case the Council adopted a preferred alternative that considered the preferred ABC/OY level and the bycatch constraints for their state- and area-specific fisheries.

Allowable commercial catches of many groundfish are even lower than in 2001, but the Council has tried to restructure the timing of differential trip limits to provide commercial fisheries with greater flexibility in their fishing patterns while not increasing the overall catches. This restructuring is intended to limit the extent to which businesses such as tackle suppliers and gear shops that supply and support the fishing industry would suffer. Many commercial groundfish fishers have other fishing opportunities during the year, and these opportunities were taken into account. For example, the small-scale commercial fishers (and recreational fishers) in southern California would (under state regulations) still be able to fish for certain species in nearshore waters while the shelf is closed to protect overfished species. Nonetheless, the effects of these 2002 management measures on some fishers and communities will be severe, particularly for those without other opportunities. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This rule does not propose any new reporting and recordkeeping requirements; however, the proposed rule was used in part as a vehicle to announce exempted fishing permits (EFPs) for 2002, which include reporting and recordkeeping requirements. Permit requirements relevant to the EFPs discussed in the proposed rule have been approved by OMB under control number 0648–0203 for Federal fisheries permits. The public reporting burden for applications for exempted fishery permits is estimated at 1 hour per response; the burden for reporting by exempted fishing permittees is estimated at 30 minutes per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information. EFP permittees would be owners or captains of West Coast groundfish fishing vessels, most of which are classified as small entities. No professional skills are needed for any of the reporting requirements of the EFP programs.

A copy of this analysis is available from NMFS (see **ADDRESSES**).

The Small Business Regulatory Enforcement Act of 1996 requires a plain language guide to assist small entities in complying with this rule. In order to comply with this requirement, NMFS has produced a public notice labeled a Small Business Entity Compliance Guide for the 2002 fishing season that includes trip limit tables and descriptions of 2002 management measures. Contact NMFS to request a copy of this public notice (see **ADDRESSES**) or see the NMFS Northwest Region's groundfish website at *http://www.nwr.noaa.gov/ 1sustfsh/gdfsh01.htm.*

Pursuant to Executive Order 13175, this rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the FMP request new allocation or regulations specific to the tribes, in writing, before the first of the two autumn groundfish meetings of the Council. The regulation at 50 CFR 660.324(d) further states ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The tribal management measures in this final rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the tribal management measures, which was passed by the Council, and those management measures, which were developed and proposed by the tribes, are included in this final rule.

NMFS issued Biological Opinions (BOs) under the Endangered Species Act on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, northern California, southern California). NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. NMFS has re-initiated consultation on the Pacific whiting fishery associated with the (whiting BO) issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the BO's incidental take statement's incidental take estimates, 11,000 fish, by approximately 500 fish. In the 2001 whiting season, however, the whiting fishery's chinook bycatch was well below the 11,000 fish incidental take estimates. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS is gathering data from the 2001 whiting fisheries and expects that the re-initiated whiting BO will be complete by April 2002. During the reinitiation, fishing under the FMP is within the scope of the December 15, 1999, BO, so long as the annual incidental take of chinook stays under the 11,000 fish bycatch limit. NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the

continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: March 1, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660--FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

l. The authority citation for part 660 continues to read as follows:

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

2. In § 660.323, paragraph (a)(2)(ii) is revised to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(2) * * *

(ii) *Primary season–limited entry, fixed gear sablefish fishery*–(A) *Season dates.* North of 36° N. lat., the primary sablefish season for limited entry, fixed gear vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, unless otherwise announced by the Regional Administrator.

* * * * *

[FR Doc. 02–5302 Filed 3–1–02; 2:36 pm]

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Thursday,
March 7, 2002

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No.011231309-2090-03;I.D. 121301A]

RIN 0648–AO69

Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the 2002 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California. Final specifications include the levels of the acceptable biological catch (ABC) and optimum yields (OYs). Commercial OYs (the total catch OYs reduced by tribal allocations and by amounts expected to be taken in recreational and compensation fisheries) described herein are allocated between the limited entry and open access fisheries. Management measures for 2002 are intended to prevent overfishing; rebuild overfished species; minimize incidental catch and discard of overfished and depleted stocks; provide equitable harvest opportunity for both recreational and commercial sectors; and, within the commercial fisheries, achieve harvest guidelines and limited entry and open access allocations to the extent practicable.

DATES: Effective 0001 hours local time (l.t.) March 1, 2002 until the 2003 annual specifications and management measures are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**. Section 660.323, paragraph (a)(2)(ii) is effective 0001 hours l.t. March 1, 2002.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) for this action are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220. Copies of the final regulatory flexibility analysis (FRFA) and the Small Entity Compliance Guide are available from D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to the Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736; and e-mail: *yvonne.dereynier@noaa.gov*, *becky.renko@noaa.gov* or Svein Fougner (Southwest Region, NMFS), phone: 562–980–4000; fax: 562–980–4047; and e-mail: *svein.fougner@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule also is accessible via the Internet at the Office of the **Federal Register**'s website at *http://www.access.gpo.gov/ su--docs/aces/aces140.htm*. Background information and documents are available at the NMFS Northwest Region website at *http:// www.nwr.noaa.gov/ 1sustfsh/gdfsh01.htm* and at the Council's website at *http://www.pcouncil.org*.

Background

A proposed rule to implement the 2002 specifications and management measures for Pacific Coast groundfish was published on January 11, 2002 (67 FR 1555). NMFS requested public comment on the proposed rule through February 11, 2002. During the comment period on the proposed rule, NMFS received 5 letters of comment, which are addressed later in the preamble of this final rule. Background information on the Pacific Coast groundfish fishery is found in the preamble to the proposed rule and is not repeated here.

The FMP requires that fishery specifications for groundfish be annually evaluated and revised, as necessary, that OYs be specified for species or species groups in need of particular protection, and that management measures designed to achieve the OYs be published in the **Federal Register** and made effective by January 1, the beginning of the fishing year. To ensure that new 2002 fishery management measures were effective January 1, 2002, NMFS published an emergency rule announcing final management measures for January–February 2002 (67 FR 1540, January 11, 2002). Annual specifications for 2002 and management measures for March–December 2002 were proposed in a separate rule, also published on January 11, 2002.

Specifications and management measures announced in this rule for 2002 are designed to rebuild overfished stocks through constraining direct and incidental mortality, to prevent overfishing, and to achieve as much of the OYs as practicable for healthier groundfish stocks managed under the FMP.

NMFS and the Council are preparing three new stock assessments in 2002. These stock assessments use data from the 2001 resource surveys and will not be ready until April 2002 when they will be reviewed by the standard Stock Assessment Review (STAR) Panels scheduled for April 2002. The first Council meeting after the STAR panels is in June 2002, with the next meeting in September 2002. The Council needs at least two meetings during which it reviews the data, takes public comment, and adopts preliminary and then final specifications and management measures. NMFS then needs 5 months to review and implement these measures through a proposed and final rule. Because of the timing of the preparation and review of the stock assessments, the necessity for at least two Council meetings and the time necessary for Federal rulemaking to implement the specifications and management measures for 2003, it is likely that the rulemaking cannot be completed by January 1, 2003. In that case, the specifications and management measures for 2002 would remain in effect for the first two months of 2003, until the new measures are implemented.

Comments and Responses

During the comment period for the 2002 specifications and management measures, which ended on February 11, 2002, NMFS received 5 letters of comment. Three letters were received opposing different portions of the rule: one from a non-governmental organization representing environmental interests, one from an association of seafood processors, and one from a central California longline fisherman. A trawl gear manufacturer wrote a letter of comment requesting clarification on a portion of the gear regulations. The Washington Fish and Wildlife Commission also sent a notice during the comment period on changes to Washington State recreational fishing regulations on yelloweye rockfish, along with a request from the Washington Department of Fish and Wildlife (WDFW) to make regulations in Federal

waters compatible with the Commission's recommendations.

Comments on Harvest Specifications and Overfished Species Rebuilding

Comment 1: The proposed specifications would dramatically lengthen the period of time it will take to rebuild darkblotched rockfish. The increased darkblotched harvest associated with this lengthened rebuilding period would violate the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to prevent overfishing and to rebuild overfished species as quickly as possible. NMFS has also failed to consider the effects of lengthening the rebuilding periods on darkblotched rockfish and on species that may co-occur with darkblotched rockfish. Additionally, NMFS has not explained why the tables of trip limits do not include darkblotched rockfish.

Response: The goals of rebuilding programs are to achieve the population size and structure that will support the maximum sustainable yield (MSY) within a specified time period. The statute requires this time period to be ''as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, * * * and the interaction of the overfished stock of fish within the marine ecosystem.'' The period shall not exceed 10 years, ''except in cases where the biology of the stock of fish, other environmental conditions * * * dictate otherwise.'' NMFS has further interpreted this in its National Standard Guidelines found at 50 CFR 600.310(e)(iv)(2). Under these guidelines, if the minimum possible time to rebuild is 10 years or greater, as is the case with darkblotched rockfish, then the specified time period for rebuilding may be adjusted upward to address the needs of fishing communities and recommendations from international organizations, providing the maximum time to rebuild does not exceed the minimum time to rebuild plus one mean generation time. The minimum possible time to rebuild a stock in the absence of fishing is determined by the status and biology of the stock and its interaction with other components of the ecosystem. NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild is the elapsed time until the MSY biomass level would be achieved with a 50 percent probability. (Technical Guidance On the Use of Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Act NOAA Technical Memorandum NMFS-F/SPO-## July 17, 1998) For darkblotched rockfish the minimum time to rebuild is 14 years (2014). The mean generation time for darkblotched rockfish is 33 years, therefore the maximum allowable time to rebuild would be 47 years (2047).

A draft rebuilding analysis was prepared in May 2001 and presented to the Council at its June 2001 meeting. This draft analysis was revised by NMFS in August 2001 and was adopted by the Council at its September 2001 meeting. The Council's SSC reviewed the revised rebuilding analysis and concluded that it was technically sound. Unlike the preliminary analysis, the final analysis incorporated survey data from 2000 and addressed assessment concerns identified by the author of the draft analysis. The new analysis indicated that the stock was more depleted than originally estimated (12 percent of virgin biomass vs 22 percent of virgin biomass). It also indicated that the stock could not be rebuilt within 10 years, even in the absence of all fishing mortality. Therefore, based on the new analysis, and consistent with the National Standard Guidelines, the rebuilding period could be lengthened from what had originally been anticipated, within the constraints set by the statute and the National Standard Guidelines. The Council recommended a rebuilding period longer than the minimum, but shorter than the maximum period allowed under the Guidelines, because of the severe adverse economic impacts to the fishing communities, described below, that would result from a lower OY for darkblotched rockfish.

The 2002 OY of 168 mt, based on the revised rebuilding analysis, is expected to provide a high probability of preventing further stock declines while maintaining a high probability (70 percent) of rebuilding the stock within the maximum allowable time period. The target rebuilding time associated with an OY of 168 mt can be expressed as a 70 percent probability of rebuilding the stock within the maximum allowable time or as 50 percent probability of rebuilding to the target level in the target rebuilding time of 34 years (2034).

Fishing communities have suffered severe declines in groundfish revenue over the past several years. Although the fishing communities are not heavily dependent on revenue from darkblotched rockfish directly, they have a strong dependence on revenue from species with which darkblotched rockfish co-occur. The DTS (Dover sole-thornyheads-sablefish) fishery, which targets Dover sole, and the deep-water flatfish fishery, comprise the major sources of estimated darkblotched bycatch. Bycatch modeling conducted as part of the 2002 specification process addressed the bycatch interaction between these species and darkblotched rockfish. In order to constrain the projected bycatch of darkblotched rockfish to remain within the adopted total catch OY of 168 mt, trawl landing limits for these species were shifted substantially to periods of the year in which bycatch of darkblotched rockfish was expected to be relatively low.

The Council and NMFS also considered the likely financial effects on the trawl fleet and these communities that would be associated with lowering the darkblotched rockfish OY from 168 mt to the 130 mt specified for 2001. Darkblotched rockfish bycatch rates in the DTS fishery that were used in the bycatch modeling of the preferred suite of management alternatives range from 1.5 percent to 2.65 percent, depending on the season. Using these endpoints to bound the effect on the DTS fishery, achieving a reduction of 38 mt of darkblotched from the 168 mt level would require foregoing between 1,400 mt (18 percent) and 2,500 mt (31 percent) of projected DTS landings. Since DTS targeting opportunities were already shifted substantially away from the highest bycatch periods, it is unlikely that the effect on DTS landings would fall towards the low end of this range. This loss would amount to between $1.9 million and $3.3 million in ex-vessel revenues. Because of the importance of these species to the processing sector, this loss could accelerate the rate of plant closures and unemployment in the region.

On August 20, 2001, the Federal magistrate ruled in *National Resources Defense Council, Inc.* v. *Evans* (N.D. Cal. 2001) that rebuilding plans under the Pacific Coast Groundfish Fishery Management Plan (FMP) must be in the form of plan amendments or proposed regulations, as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at 16 U.S.C. 1854 (e)(3). As a result of the magistrate's decision, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. The rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

The effects on co-occurring species of the 2002 OY for darkblotched rockfish were considered in both the supporting analytical documents for the annual

specifications and management measures.

As set out in IV.A.(21)(c), darkblotched rockfish is considered a slope rockfish and is listed as a minor slope rockfish in both the northern and southern areas on Table 2. Trip limits for commercial fisheries are set out in Tables 3–5, including trip limits for minor slope rockfish. This information, the minor rockfish table, and the trip limit tables were all published in the proposed rule. The separation of minor rockfish species into nearshore, shelf, and slope groups was first implemented in 2000, as documented in that year's annual specifications and management measures (65 FR 221, January 4, 2000). The total harvest of darkblotched rockfish in 2002 will be constrained by management measures designed to limit the directed and incidental harvest of minor slope rockfish as a complex and of darkblotched rockfish in particular.

Comment 2: The OYs associated with lingcod, Pacific ocean perch (POP), widow rockfish, bocaccio, and darkblotched rockfish, are based on overfished species rebuilding analysis and provide too high of probabilities (60 percent or greater) of rebuilding these stocks to the MSY biomass within the maximum allowable time periods. The Federal courts have twice ruled that the probability of rebuilding need only be 50 percent.

Response: As explained above in the response to Comment 1, the Magnuson-Stevens Act requires overfished stocks to be rebuilt in as short a time as possible, ''taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem.'' NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild is the elapsed time until the MSY biomass level is achieved with a 50 percent probability. If the minimum possible time to rebuild is 10 years or greater, as is the case with POP, widow rockfish, and bocaccio, then the time period for rebuilding may be adjusted upward to address the needs of fishing communities and recommendations from international organizations, providing the maximum time to rebuild does not exceed the minimum time to rebuild plus one mean generation time. In determining the target rebuilding time period for a species with a minimum rebuilding time of 10 years or greater, NMFS guidance recommends that the target fishing time be shorter than the maximum allowable time.

The target rebuilding time associated with an OY can be expressed as a probability of rebuilding the stock within the maximum allowable time or as a target rebuilding time based on the median time to rebuild with a 50 percent probability. Setting the OYs at the 50 percent level would be equivalent to setting the rebuilding period to the maximum allowable time and is therefore not consistent with the NMFS technical guidance. Only under special circumstances detailed in 50 CFR 600.310 (e)(4) of the National Standards Guidelines, can the target rebuilding time period be set equal to the maximum allowable rebuilding time. Because of the extreme economic hardship on commercial and recreational fishing industries associated with the rebuilding measures for canary rockfish, the Council recommended a target rebuilding period that was slightly less than the maximum allowable rebuilding time with a 52 percent probability of rebuilding the canary rockfish stock to the MSY biomass within the maximum allowable rebuilding time.

Because the minimum rebuilding time for lingcod was less than 10 years, the Magnuson-Stevens Act requires that target rebuilding time period be 10 years or less. The 2002 OY of 577 mt is based on a constant fishing mortality rate rebuilding strategy recommended by the Council which is approximately 6 percent of the population per year (See Council documents: Revised Rebuilding Plan for West Coast lingcod Exhibit C.10 Attachment 5, June 2001). As noted in the response to Comment 1, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. The rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

Comment 3: NMFS has failed to justify and analyze increasing POP harvest levels; the proposed harvest level will not prevent overfishing and will fail to rebuild POP.

Response: NMFS disagrees; the proposed harvest level is not expected to result in overfishing of POP. Overfishing is a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield (MSY) on a continuing basis. When setting the 2002 ABCs, the Council maintained a policy of using a default harvest rate as a proxy (also referred to as an MSY control rule) for the fishing mortality rate that is expected to achieve the MSY. The default harvest rate proxies used by the Council for rockfish, including POP, are fully described in the preamble to the 2001 annual specifications and management measures (66 FR 2338, January 11). The 2002 OY for POP was then set at a level that is expected to prevent overfishing, substantially less than the ABC. In addition, the OYs for all overfished species were set at levels that are intended to rebuild those species.

The original POP rebuilding analysis prepared in October, 1999 was based on a 1997 stock assessment. As stated above in the responses to Comments 1 and 2, the NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild in the absence of fishing is the elapsed time until the MSY biomass level is achieved with a 50 percent probability. The minimum time to rebuild POP to the MSY biomass level in the absence of fishing, with a 50 percent probability, was calculated to be 18 years (2017) in the original rebuilding analysis. The mean generation time was estimated to be 29 years. This resulted in the maximum allowable time being estimated at 47 years (2046). The rebuilding measures recommended by the Council beginning in 2000 (65 FR 221, January 4, 2000) were expected to provide a high probability of preventing further stock declines while maintaining a high probability (79 percent) of rebuilding the stock within the maximum allowable time period. The target rebuilding time recommended in 2000 can also be expressed as 43 years (2042) for the median time (50 percent level) to rebuild.

In 2001, the POP rebuilding analysis was updated with more recent scientific information. As a result of the new analysis, the minimum time to rebuild POP to the MSY biomass level in the absence of fishing, with a 50 percent probability, was 13 years (2014). The preferred POP OY of 350 mt for 2002, reflects a 70 percent probability of rebuilding by the year 2042. The target rebuilding time associated with the 350 mt OY for 2002 can also be expressed as 27 years (2028) for the median time (50 percent level) to rebuild. Therefore, the 2002 OY of 350 mt based on the revised rebuilding analysis is estimated to result in the stock being rebuilt 15 years earlier than originally estimated. The Council's SSC reviewed the revised rebuilding analysis and concluded that it was technically sound. A constant fishing mortality rate rebuilding strategy, where a constant proportion of the stock is removed over time, was recommended for POP rebuilding. In short, as the overfished stock biomass increases, the amount of fish harvested

(including landed catch and discard) also increases, while still allowing overall the stock biomass to increase.

Comment 4: The OYs for minor rockfish both north and south of 40°10′ N. lat. have been reduced by 50 percent as a precautionary measure. There is no scientific justification for a reduction of this magnitude. This large reduction could exacerbate discard of minor rockfish caught incidentally in fisheries targeting other species. We recommend that the precautionary reduction be no more than 25 percent.

Response: As described in footnotes x/ and y/ to Table 1a, minor rockfish include the ''remaining rockfish'' and ''other rockfish'' categories combined. The ''remaining rockfish'' category generally includes species that have been assessed by less rigorous methods than stock assessments, and the ''other rockfish'' category includes species that do not have quantifiable assessments. The Council's policy for setting ABCs and OYs for rockfish generally and for these minor rockfish in particular are based largely on the conclusions of the March 2000 West Coast Groundfish Harvest Policy Rate Workshop, which was sponsored by the Council's SSC. The panel report from that workshop, authored by several noted stock assessment scientists, recommended that the Council ''establish F= 0.75M as the default, risk-neutral policy for (setting ABCs for) the remaining rockfish management category.'' This policy reduces the remaining rockfish ABCs by 25 percent from the natural mortality rate (M) to derive a sustainable fishing mortality rate (F). To derive remaining rockfish total catch OYs, the remaining rockfish ABCs at F=0.75M are reduced by 25 percent. To derive other rockfish total catch OYs, the other rockfish ABCs are based on recent catch levels reduced by 50 percent. The Council first adopted these adjustments to minor rockfish ABCs and OYs for the 2001 fishing years and based its recommendations on the advice of the Harvest Rate Policy Workshop's panel report and on the advice of its SSC. NMFS believes that these adjustments are appropriately precautionary and reasonable given the level of uncertainty associated with the stock assessments for these species and the practice of setting ABCs for some species based on historical landings levels.

Comment 5: NMFS has considered only one harvest level per species for canary rockfish, bocaccio and cowcod. The National Environmental Policy Act (NEPA) requires an analysis of a range of alternatives.

Response: NMFS believes that the ABC/OY alternatives presented in the NEPA document represent a reasonable range of alternatives. Under each alternative, a full suite of ABC/OYs for all managed species were considered. For species such as canary, bocaccio and cowcod, where no new stock assessment information was available, the outcome and projections from the previous assessments and rebuilding analyses (the best available scientific information) were carried over into the new fishing year. (See Council documents: Appendix to the Status of Pacific Coast Groundfish Fishery Through 1997 and Recommended Acceptable Biological Catches for 1998, Appendix to the Status of Pacific Coast Groundfish Fishery Through 1998 and Recommended Acceptable Biological Catches for 1999, and Appendix to the Status of Pacific Coast Groundfish Fishery Through 1999 and Recommended Acceptable Biological Catches for 2000.)

It is not possible for NMFS and the Council to prepare a new stock assessment for every species each year. Therefore, a stock assessment is prepared with the anticipation that it will be used for a few years. A stock assessment will project the stock condition three years ahead under various harvests. Without new scientific information, there is no reason to reconsider the results of prior stock assessments and the harvest levels based on those assessments every year. The OYs for canary rockfish and bocaccio are based on rebuilding measures that include constant catch strategies for the initial OYs, where catch is held constant over time, and are established for multiple year periods. (For further information on the most recent stock assessments for these species see Council documents: Revised Rebuilding Plan for West Coast Canary Rockfish, September 2001, Exhibit C.5, Attachment 2; Revised Rebuilding Plan for West Coast Bocaccio Rockfish, September 2001, Exhibit C.5, Attachment 4.) The cowcod OY is based on a constant fishing mortality rate rebuilding strategy that is approximately 1 percent of the population (See Council document: Revised Rebuilding Plan for West Coast Cowcod, June 2001, Exhibit C.10, Attachment 3). These OYs are consistent with the long-term rebuilding goals defined for the individual species and recommended by the Council. As noted earlier in the response to Comment 1, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. As noted in the responses to Comments 1 and 2, rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

Comment 6: A decision in Midwater Trawlers Cooperative v. Daley by the 9th Circuit Court of Appeals is pending. We contend that the use of the ''sliding scale'' to determine whiting allocations is arbitrary and capricious and is not based on the scientific recommendations of NMFS' own scientists.

Response. NMFS agrees that the Court has heard oral argument in the case of *Midwater Trawlers Cooperative* v. *Daley*, and a decision is pending. NMFS does not, however, agree that using the sliding scale to determine the tribal whiting allocation is arbitrary and capricious. In *U.S.* v. *Washington*, 143 F.Supp.2d 1218 (W.D. Wash., Order on Summary Judgment Motions, April 5, 2001) the Court held that ''the sliding scale allocation method advocated by the Secretary and Makah shall govern the United States aspect of the Pacific whiting fishery until the Secretary finds just cause for alteration or abandonment of the plan, the parties agree to a permissible alternative, or further order issues from this court.''

Comments on Bycatch

Comment 7: NMFS has failed to adequately account for bycatch and discard mortality in setting the harvest limits for overfished species and targeted stocks in the Pacific groundfish fishery. For five of the eight overfished species, NMFS has performed a new bycatch analysis that concludes that discard mortality is lower than NMFS has previously assumed for these species. Based on this analysis, NMFS has proposed to adopt the same discard-rate assumptions it has used previously, 16 percent of landed catch for most species. NMFS has failed to consider whether this traditional discard rate assumption is adequately precautionary. NMFS has also failed to consider more protective discard rate assumptions. We have numerous disagreements with the validity of the underlying assumptions in the bycatch analysis and with the validity of the data analyzed.

Response: The Magnuson-Stevens Act defines bycatch as ''fish which are harvested in a fishery, which are not sold or kept for personal use, and include economic discards and regulatory discards.'' By contrast, Pacific Coast groundfish fishery management and many other fishery management regimes commonly use the term bycatch to describe non-targeted species that are caught in common with (co-occur with) target species, some of which are landed and sold or otherwise

used and some of which are discarded. The term ''discard'' is used to describe those fish harvested that are neither landed nor used. For the purposes of this rule, the term ''bycatch'' is used to describe a species' co-occurrence with a target species, regardless of that first species' disposition.

In managing the groundfish fishery to ensure the timely rebuilding of an overfished stock, NMFS must ensure that the total catch (landed catch plus discard) of that stock does not exceed its rebuilding OY. While the National Standards call for the minimization of discard and discard mortality to the extent practicable, it makes no difference to stock health or productivity whether discard mortality comprises 0 percent, 10 percent, 50 percent, or 100 percent of the total allowable catch. Discard, where avoidable, is undesirable from economic and social perspectives, and is discouraged by the statute. However, management measures that are needed to limit the total harvest of overfished groundfish species and to discourage the targeting of these overfished, but economically valuable, groundfish species may result in discard.

NMFS' approach to bycatch management in the 2002 specifications and management measures is a radical departure from historic bycatch management practices. The primary emphasis of the bycatch modeling that NMFS used in the development of the 2002 management measures is the estimation of the total amounts of bycatch species that will be caught coincidentally with available target species. The new management approach structures the amount and timing of cumulative landings limits for target species so that the expected total catch of the five overfished species (canary rockfish, POP, lingcod, boccacio and darkblotched rockfish) will not exceed their allowable annual harvests. This new approach better accounts for the total mortality of the overfished stocks taken as bycatch than the previous method of applying estimated discard rates to the annual OY to calculate landed catch harvest guidelines.

In the past, NMFS would assume that a certain percent of a species' total catch OY would be dead from fishery discard, rather than dead because it was caught and landed. This percent of assumed dead discarded fish would be deducted from a species annual OY at the beginning of the fishing year in order to calculate the species' landed catch OY for the year. The fishery would be managed throughout the year so that actual landings would not exceed the landed catch OY for each species. This approach can result in the annual OY for the bycatch species being exceeded if the amount of discards is not accurately estimated, and it may not account for the actual ratio of co-occurrence of target and bycatch species in the catch. Thus, NMFS believes that setting cumulative landing limits for both target and bycatch species based on their co-occurrence in the catch is a superior first line of defense in ensuring that annual OYs for bycatch species are not exceeded.

Although no longer the first line of defense, calculating landed catch OYs based on estimated discard rates is still a strong second line of defense. NMFS' new modeling approach for 2002 provided insight into the expected level of discards that are associated with total amounts of catch. Results from the modeling were drawn upon as described later in this response to estimate landed catch OYs for the five overfished species in the commercial fishery. Should landings of any species progress at a pace that threatens to exceed its landed catch OY, inseason action will be taken to reduce fishing effort for one or more of the target species.

The third line of defense is the revision of the procedures used for evaluating inseason progress of the fishery and for making management adjustments for the target species. In previous years, when inseason monitoring had revealed that landings of a target species, or complex, were progressing at a rate that was too fast or too slow, adjustments were made to the cumulative landings limits based primarily on achieving the annual OY for the target species with little consideration of the bycatch implications of changing those limits. For 2002 inseason actions, the bycatch model will be used to evaluate the bycatch consequences of deviations from the projected target fishery landings that have occurred, and of any proposed changes in target species limits during the remainder of the year. Target species landings limits will not be adjusted upwards if an adjustment means that an associated bycatch species total catch OY will be exceeded, even if the annual OY for the target species will not be achieved. As in the 2000 and 2001 fisheries, trip limits for overfished species that are intended to provide for minimal bycatch retention of these species will not be increased during the year even if it appears that their landings will be less than their landed catch OYs.

Since the early 1990s, discard estimates for West Coast groundfish have been derived from several different data sources. Recent rockfish discard estimates of 16 percent of a total catch OY were initially derived from a 1985–87 observed trawl study, commonly known as ''the Pikitch study'' for its principal investigator. Some discard estimates were updated with data from the 1995–1998 Experimental Data Collection Program (EDCP). NMFS began a significant new effort to quantify total catch and discards in the groundfish fishery in August 2001, when it introduced a mandatory observer program. Data from the new coastwide observer program will not be available for use until after the program has been operational for at least a full year. For the 2002 specifications and management measures, NMFS new bycatch analysis and modeling compared data from the Pikitch study, the EDCP, and trawl logbooks in greater depth and more comprehensively than in the past.

The NMFS bycatch modeling for 2002 provided an assessment of the amount of regulatory-induced discards (i.e., the amounts of catch that must be discarded because they exceed a vessel's cumulative landing limit). The model provided this assessment by applying uniform bycatch rates to projected target landings. The resulting implied discard rates are thought to underestimate the amount of discard that would occur with less uniform distributions of bycatch. However, the bycatch analysis also included additional simulation modeling intended to provide insight on the extent of this underestimation. It is important to note, however, that as long as the average bycatch rate applied to the target landings accurately reflects the overall average rate of bycatch in that fishery/region/time-period, the distribution of discard rates for individual tows or vessels around that average will not affect the accurate calculation of total bycatch. Because several different approaches were used in conducting the bycatch analysis, it was possible to compare bycatch rates under sets of assumptions that reflected both the bycatch uniformity of the model and a much more realistic non-uniform distribution of bycatch. Consequently NMFS reported a range of expected discards that is explained in more detail in the preamble to the proposed rule (67 FR 1570–71). In all cases, except darkblotched rockfish, the upper ends of the ranges estimated for regulatory-induced discards were below the discard rates applied by NMFS in prior years. For darkblotched rockfish, the upper end was at the 16 percent rate applied in prior years.

NMFS decided to continue to use the 16 percent discard estimate from prior years for canary rockfish, bocaccio, and

POP. For lingcod, NMFS used the 20 percent rate used in prior years, and for darkblotched rockfish, NMFS used a higher rate of 20 percent as explained in the preamble to the proposed rule. All of these discard rates are higher than the ranges estimated from the new bycatch and discard analysis, as a precautionary measure for two basic reasons. First, the bycatch analysis which yielded lower discard rates is new and not yet validated by actual data from the new observer program. Second, the analysis does not take into account size- or market-related discards for which there is little existing data. Thus, NMFS believes that using the 16 percent and 20 percent discard estimates described above for the five overfished species covered by the new analysis in 2002 is appropriately conservative and precautionary.

Comment 8: The total catch OY for chilipepper rockfish has been artificially reduced to 2,000 mt to reflect alleged incidental catch of bocaccio rockfish. The data being used to support this reduction do not reflect changes in fishing gear and patterns. An OY reduction of this magnitude is unnecessary and additional harvest of chilipepper should be allowed.

Response: As described in footnote n/ of Table 1a, the chilipepper rockfish ABC of 2,700 mt for the Monterey-Conception area is based on the 1998 chilipepper stock assessment with the application of an F50% Fmsy proxy. Because the unfished biomass is estimated to be above 40 percent, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt, near the recent average landed catch, to discourage effort on chilipepper, which is known to have bycatch of overfished bocaccio rockfish. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,985 mt.

Reducing the chilipepper rockfish OY to protect co-occurring bocaccio is one of several measures the Council has recommended to protect and rebuild bocaccio. Bocaccio and chilipepper management measures for 2002 were based on the Council's initial adoption of bocaccio rebuilding measures in November 1999. (See Council documents: Draft Bocaccio Rebuilding Plan, November 1999, Attachment G.2.c.; Final Groundfish Management Team ABC and OY Recommendations for 2000, November 1999, Groundfish Management Team (GMT) Report G.3.(1); Scientific and Statistical Committee Report on Final Harvest Levels for 2000, November 1999, Supplemental SSC Report G.3). During its November 1999 meeting, the Council and its advisory entities discussed rebuilding measures for bocaccio rockfish and determined that reducing the chilipepper harvest target from an F50% OY of 2,700 mt to 2,000 mt would provide a measure of protection for bocaccio rockfish. This same adjustment was carried through into 2001 and 2002, based on the Council's adopted rebuilding measures for bocaccio. (Bocaccio rebuilding plan updated at: Revised Rebuilding Plan for Southern West Coast Bocaccio, *Sebastes paucispinis*, September 2001, Exhibit C.5., Supplemental Attachment 4). The Council will likely re-consider this adjustment to the chilipepper rockfish OY when it re-considers overall bocaccio rebuilding measures as part of its FMP amendment for rebuilding plans, scheduled for Council consideration in April and June of 2002. For the 2002 specifications and management measures, NMFS notes that this adjustment to the chilipepper OY is based on the best available scientific information. Reducing fisheries effort on and harvest levels of healthy stock that co-occur with depleted stocks is one of the hallmarks of the Council's overall strategy for rebuilding overfished groundfish species.

Comment 9: NMFS has failed to perform any bycatch analysis for widow rockfish, proposing instead to use the 16 percent discard rate assumption. NMFS has failed to consider whether the cumulative limits for widow rockfish and co-occurring species that have been lowered over time have resulted in an increase in the discard rate over time. In considering only this single bycatch rate for widow rockfish, NMFS has also violated NEPA.

Response: NMFS's bycatch analysis for 2002 focused on lingcod, bocaccio, canary rockfish, darkblotched rockfish, and POP. NMFS has not, however, failed to consider the bycatch of widow rockfish in the groundfish fisheries. Historically, widow rockfish has been a target species, not a bycatch species. The 16 percent discard rate assumption for widow rockfish is based on a 1985–1987 observed trawl study of widow rockfish discard in trawl fisheries targeting widow rockfish as well as numerous other rockfish and non-rockfish species, commonly known as ''the Pikitch study'' for its principal investigator. NMFS's bycatch analysis for 2002 used data from the Pikitch study, the 1995–1998 Experimental Data Collection Program (EDCP) and trawl logbooks. Preliminary evaluation of data from the EDCP and Pikitch studies in preparation for the bycatch analysis showed widow rockfish as having a discard rate in fisheries where it was a bycatch species that was far enough below the 16 percent assumed by the Pikitch study to conclude that the 16 percent discard rate assumption was reasonably conservative and precautionary. (See Draft Summary Minutes for August 6–10, 2001 GMT meeting).

Directed fishing opportunities for widow rockfish have been eliminated in 2002. Directed fishing opportunities for yellowtail rockfish, which like widow rockfish can be targeted by mid-water trawl and often co-occurs with widow rockfish, have also been eliminated. In 2002, widow rockfish retention will be permitted only in the mid-water trawl fisheries for whiting, which are full-retention fisheries and in small footrope trawl fisheries for flatfish and DTS species, where a 1,000 lb (454 kg) per month limit is provided. Modest amounts of widow rockfish may also be taken in the hook-and-line fisheries for shelf rockfish; however, limits for the shelf rockfish group as a whole are set at incidental catch levels.

Comment 10: The proposed rule does not account for bycatch of yelloweye rockfish and cowcod. For cowcod, the agency has only proposed setting the landed catch OY at zero, prohibiting cowcod retention, and closing certain waters off southern California to groundfish fishing. The agency does not discuss whether the proposed closures constrain discard mortality to the necessary levels. NMFS has violated NEPA in not considering alternative closed areas.

Response: NMFS disagrees. As discussed in the preamble to the proposed rule (see 67 FR 1572, 1574, and 1575), the 2002 management measures include several regulations intended to minimize yelloweye rockfish interception and retention. Yelloweye rockfish is not often intercepted in the trawl fisheries. Thus, yelloweye rockfish management focuses on eliminating commercial hook-and-line interception and reducing recreational fisheries opportunities for interception. Modest amounts of yelloweye rockfish retention are permitted in the trawl fisheries to ensure that if it is encountered, it will be available for scientific sampling. Yelloweye rockfish is caught incidentally in hook-and-line sablefish fisheries and probably directly targeted in hook-and-line rockfish fisheries. Yelloweye rockfish tend to sell for a higher price per pound than other co-occurring rockfish species, which makes them a likely target rockfish species. Thus, yelloweye rockfish retention has been prohibited entirely in the limited

entry fixed gear fisheries. Sablefish hook-and-line fishing has been structured with weekly limits to provide higher limits that are expected to encourage vessels to take the time to travel to continental slope waters, where yelloweye rockfish is less frequently encountered, for the larger and more valuable sablefish. Washington State has recommended prohibiting all yelloweye rockfish in recreational fisheries. Oregon State has recommended a 1–fish bag limit for yelloweye rockfish and prohibiting yelloweye rockfish retention when halibut are on board to discourage anglers on halibut fishing trips from targeting yelloweye rockfish as part of their fishing trips. All of these yelloweye rockfish protection measures are new in 2002.

Cowcod management measures for 2002 were based on the Council's initial adoption of cowcod rebuilding measures in November 2000. (See Council documents: GMT Comments on Cowcod Management Measures for 2001, November 2000, Exhibit C.9.c., Supplemental GMT Report 2; Enforcement Consultants Comments on Cowcod Management Measures for 2001, Exhibit C.9.c., Supplemental Enforcement Consultants Report). During its November 2000 meeting, the Council and its advisory entities discussed alternative cowcod closed areas based on prime cowcod habitat described in the Council's November 2000 draft ''Initial Rebuilding Plan for West Coast Cowcod, Sebastes levis,'' Exhibit C.1., Attachment 2 (Later updated in May 2001, available as the Council's June 2001 Exhibit C.10., Attachment 3). The Council will likely re-consider these closed areas when it re-considers overall cowcod rebuilding measures as part of its FMP amendment for rebuilding plans, scheduled for Council consideration in April and June of 2002. If the Council again adopts closed areas to protect cowcod, it is unlikely that the Council would recommend an annual process of considering new changes to the dimensions of those closed areas.

Comment 11: The proposed rule fails to provide a mechanism for accurately assessing bycatch in the groundfish fishery because the specifications do not provide for an observer program. By failing to consider inclusion of an adequate observer program (one that produces sufficient data to accurately assess the amount and type of bycatch occurring in the fishery), NMFS has violated the NEPA requirement to consider a reasonable range of alternatives.

Response: The annual specifications and management measures regulations package is not intended to, and in fact does not, provide annual revisions to all of the Federal regulations and management programs that affect the West Coast groundfish fisheries. Observer program regulations for the West Coast groundfish fishery are found at 50 CFR 660.360. An observer coverage plan describing the goals of and methodology used in the West Coast Groundfish Observer Program was announced in the **Federal Register** on January 10, 2002 at 67 FR 1329 and is available online at: http://www.nwfsc.noaa.gov/ fram/Observer/ ObserverSamplingPlan.pdf or from the NMFS Northwest Fisheries Science Center, 2725 Montlake Blvd., E., Seattle, WA 98112. Further information on the observer program is also available in the Small Entity Compliance Guide for the observer program regulations, found online at: http://www.nwr.noaa. gov/ 1sustfsh/ groundfish/ public2002/ compliance.pdf or from the Northwest Region (See **ADDRESSES**). Any future changes to observer program regulations or to the observer program coverage plan will continue to be developed and considered outside of the context of the annual specifications and management measures regulatory package.

Comment 12: NMFS has not assessed the effect of the proposed increase in shortspine thornyhead harvest levels on the bycatch of co-occurring overfished species.

Response: NMFS disagrees. Shortspine thornyhead is part of the DTS complex. As discussed earlier in the response to Comment 1, the cumulative limits for each of the species in that complex were primarily governed by the rates at which overfished species could be intercepted by the fishery targeting DTS.

Comment 13: NMFS new bycatch analysis assumes that all fish caught by a trawl vessel are retained and landed until the vessel reaches its trip limit for that species, at which point (and only at which point) discard commences for that species. We disagree with this assumption. Fishers may begin discarding well before approaching a cumulative landing limit because of size- or market-related reasons or because they fear that landing a species with a very low OY will cause that OY to be exceeded early in the fishing year and result in closure of the fishery. Thus NMFS bycatch analysis underestimates discards.

Response: As noted by the commenter, the new bycatch analysis does not quantitatively address the issue of size- or market-related discards. The two available sources of discard information that incorporated scientific observers (Pikitch study and EDCP) do not reliably identify the different reasons why discard occurred. NMFS has conducted an analysis of discard in the DTS fishery, based on data from EDCP, which correlates observed discard with the remaining trip limit for the vessel and its total catch of related species. However, the agency did not have enough time to conduct a similar analysis of these species in time for setting the 2002 specifications. As stated in the response to Comment 7, the agency adopted more precautionary landed catch OYs, by using the higher overfished species discard rates of 2001, rather than the discard estimates generated by the new bycatch analysis. The only exception to this use of the more conservative 2001 rates was darkblotched rockfish, for which NMFS used a 20 percent discard rate based on higher observed rates of discard for slope rockfish from EDCP observations. It should also be noted that the generally poor recruitments observed for these overfished stocks during the late 1990s suggest that the likelihood of encountering unmarketable small fish is probably lower now than it was in the past.

In addition to the issue of size- or market-related discards, the commenter suggests that strategic behavior will lead fishers to discard species with low OYs prior to attaining their trip limits, so as to increase the likelihood of a full season for other species. For such a decision to make economic sense, individual fishers, would need to have considerable certainty that all or most other fishery participants will make the same choice, which is unlikely. If they do not, then the fisher will lose fishing time and the value of the catch that has been unnecessarily discarded. Given the high unit-value of these fish and the significant recent declines in fleet revenue, it is speculative to assume that this type of behavior would occur. With the NMFS observer program beginning trawl observation in September 2001, NMFS should be able to begin assessing the likelihood of such behavior by 2003. Until then, even in the unlikely event that all of the catch of these species were discarded, the estimated total amount of bycatch in the fishery will continue to be driven not by the lack of landed catch, but by estimates derived from the bycatch model, thus assuring that the annual OY for the bycatch species is not exceeded.

Comment 14: NMFS new bycatch analysis considers only the limited entry commercial trawl fishery and omits all consideration of bycatch occurring in other portions of the

commercial fishery, in the open access fishery, and in the recreational fishery. The agency has failed to consider or address adequately how these omissions may affect both its bycatch analysis and the amount of bycatch that actually is occurring in the entire groundfish fishery. The shrimp trawl fishery alone has potential to cause substantial bycatch.

Response: Quantitative estimates of bycatch occurring in other commercial, as well as sport, fisheries were not included in the quantitative bycatch modeling because there is little or no data available for bycatch rates in remaining target fisheries. For example, in line gear fisheries, landings receipts may reveal that certain species were landed together, but there is no counterpart to trawl logbooks in these fisheries to confirm that they were actually caught together.

The potential bycatch effects of these other fishery sectors were not ignored in crafting of management recommendations for 2002. Because line gears are better suited for use in rocky habitat than is small footrope trawl gear, more restrictive trip limits for shelf rockfish species were set for these gears to discourage fishing in areas where bycatch of overfished species would most likely occur. Additionally, substantial time and area closures were set for shelf species in the southern management area for all sectors of the fishery except limited entry trawl. Recreational bag limits for combined rockfish have also been lowered coastwide in recent years, in conjunction with sublimits on overfished species, in order to reduce fishing effort in rockfish habitat on the shelf when these fisheries are open.

Recreational and commercial fixed gear fleets have had only minor participation in slope rockfish fisheries. Since 1994, the minor slope rockfish landings of all non-trawl commercial gears in the northern area have amounted to less than 10 percent of the groundfish trawl landings, and line gears have contributed most of that. Since 1995, darkblotched rockfish has not comprised more than 2.5 percent or 2 mt of all northern minor slope rockfish landed by line gears. Only 0.6 mt of darkblotched rockfish has been landed during the entire 1999–2001 period. Similarly, annual landings of POP by line gears have been less than 1 mt since 1996.

NMFS and the Council do not have direct control over fishing practices in the West Coast pink shrimp trawl fishery. However, they have encouraged the three states to implement requirements that will limit the bycatch of rockfish in general and canary rockfish in particular during prosecution of that fishery. During the 2001 fishery, Oregon and Washington implemented mandatory use of finfish excluders. This action was triggered on August 1 when a limit of 2.5 mt of canary landings was reached and remained in effect throughout the remaining three months of the fishery. The same protocol for implementing this requirement will be in place for 2002. For procedural reasons, California was unable to implement similar requirements during the 2001 fishery, but will be requiring the use of finfish excluders in its pink shrimp fishery from the beginning of its 2002 season on April 1.

Comment 15: NMFS' assertion that the new cumulative limits requiring small footropes have reduced bycatch is unsubstantiated. NMFS also fails to adequately consider changes that have occurred since the data were generated that would tend to increase the amount of discard currently occurring in the fishery. Those changes include: the ever lower trip limits that tend to cause discard rates to go up, and the incentive fishers have to discard species earlier once those species are overfished.

Response: The new bycatch analysis is not based on the presumption that small-footrope gear is more effective at avoiding rockfish. It uses bycatch data from fisheries where small-footrope gear was used because that is the gear that trawlers may now use to take and retain shelf groundfish species. There must be correspondence between the gear that is used in the current fishery and the gear that was used when data were collected for the studies that form the basis of the bycatch rates included in the modeling. Small footrope gear need be no more effective at avoiding bycatch in 2002 than it has been in the past for the analysis to be sound.

There are, however, several reasons for believing that the requirement for small footrope usage has altered the distribution of aggregate fishing effort among locations and strategies on the shelf, and that this has had a beneficial effect on the fleet bycatch rates of overfished species. First, rockfish are so named because they frequent rocky habitat. This habitat can be extremely destructive to trawl gear that is not designed for use in such areas. Before implementation of the small footrope requirement, fishers were allowed to and did target this rocky habitat using gear configured with 2–3 ft (6096–9144 m)diameter truck tires protecting the trawl footropes. This style of footrope allows the net to be towed through very rocky areas with far less chance of damaging, snagging, or losing the net completely, along with trawls doors and cables. Nets in this fishery typically cost about $5,000, with doors and cables costing about $7,000. Even minor damage to a net may result in hundreds of dollars in repair costs. A fisher trawling an 8–inch (20.3–cm)footrope through rocky habitat would be wagering the potential for thousands of dollars of gear repair or replacement against the limited economic returns afforded by the current groundfish limits. In the northern management area, the maximum return from the small footrope 2–month limits for widow, yellowtail, canary, minor shelf rockfish, and lingcod range from $1,850 in the winter to $2,350 in the summer.

From a more empirical perspective, WDFW conducted a comparison of trawl fishing locations off Oregon and Washington, as reported in logbooks between 1999 and 2000—before and after implementation of the small footrope requirement. These data are limited in that they only identify the starting position of each tow. However, these logbooks represent the only comprehensive source of fishing locations for any West Coast groundfish fleet, commercial or sport. The analysis found substantial changes in fishing locations and in particular, a shift in trawl effort from areas of higher to lower canary rockfish bycatch.

The commenter also criticized the lack of consideration given to ''countervailing factors that could have increased bycatch in particular, the lower landing limits that have been established for various species since then.'' While lower trip limits may in some cases result in higher discards, there is no logical connection between lower retention limits and higher rates of bycatch. The dynamics by which the sizes of trip limits may affect the rate of discard are discussed on pages A–4 and A–5 of the EA/RIR/IRFA.

Comment 16: We disagree with the NMFS assertion that the decrease in landings limits in recent years for all shelf rockfish species has resulted in fewer incentives for fishers to target those species than there were at the time of the Pikitch study and a decrease in the amount of bycatch in the fishery. What matters is not the absolute amount of fishing opportunity that is available for a given species, but the relative amount of fishing opportunity for co-occurring species. So long as there are fishing harvest limits for co-occurring species that are higher than the limits for one or more overfished species, there will be incentive for fishers to fish in a manner likely to result in bycatch and discard of the overfished species. We

also note that NMFS assumes that all overfished species are located on the shelf, which is not the case. Dark-blotched rockfish and POP are both slope species. Finally, there is still substantial fishing effort occurring on the shelf, as shown by Oregon Department of Fish and Wildlife data. NMFS has failed to address this data and has failed to point to adequate data indicating that significant fishing is no longer occurring on the shelf.

Response: The major reductions in trip limits for continental shelf species that have occurred over the past 10–15 years are well-documented in the **Federal Register** and the Council's SAFE reports. These reductions have in turn led to major decreases in landings for shelf rockfish species. As an illustration, consider the combined landings of lingcod, yellowtail, chilipepper, widow, canary, bocaccio, and minor shelf rockfishes, along with flatfish other than Dover sole. Dover sole and other DTS species are not included, because significant amounts of these species are caught on the continental slope. In 1997, during the Pikitch study, landings of these species amounted to 34,000 mt. By 1996, during the EDCP study, they had fallen to 22,800 mt. The largely complete data from the 2001 fishery show 10,800 mt of landings for these species.

While it is true that much of this decline is attributable to species that are now under rebuilding plans, these trends are also apparent in the declining landings of healthy species for which limits have been reduced to afford greater protection to depleted stocks. For example, the species now assigned to the minor shelf rockfish group accounted for more than 1,200 mt of landings in 1987—and no less than 900 mt from that year through 1996. Landings of these species had dropped to less than 100 mt by 2000. More than 12,000 mt of flatfish species other than Dover sole were landed in 1991, but less than 7,500 mt by 2000. Landings of chilipepper rockfish, which co-occurs with bocaccio, have fallen from over 2,100 mt annually between 1989 and 1991, to roughly 400 mt annually since 2000. Landings of yellowtail rockfish, often associated with canary rockfish, averaged 4,300 mt between 1987 and 1996 and fell to less than 2,800 mt in 2000 and 1,700 mt in 2001. During the summer months, a significant percentage of fishing for Dover sole, shortspine thornyhead, and sablefish typically occurs on the shelf. Based on the 1999 logbook data for Oregon and Washington, roughly 60 percent of trawl sablefish and 70 percent of Dover sole were caught in shelf depths between July and September, as opposed to less than 5 percent of each during the first quarter. During the months from May through October, landings of these three species averaged 13,000 mt annually, from 1987 to 1993. During 2000 and 2001, their landings in these months have fallen to less than 5,500 mt.

NMFS is well aware that darkblotched and POP are continental slope species, as indicated in IV.A.(21)(c) and Table 2 of the proposed rule and this final rule. NMFS has taken numerous actions to reduce overall trawl effort on the slope. For instance, trip limits for minor slope rockfish in the northern area, a complex that includes darkblotched rockfish, have been lowered for the express purpose of constraining darkblotched rockfish catch. During the 2001 fishery, only 203 mt of the 975 mt harvest guideline for these other slope rockfish were landed as a result of these restrictions. Similarly, 2001 landings of another slope species—longspine thornyhead—represented only 1,159 mt of its 2,043 mt landed catch OY, due to trip limit reductions to protect other species.

As in the shelf examples, trawl effort and catch of northern slope target species has declined significantly over the past decade. Landings of all slope rockfish in the northern area averaged over 3,200 mt from 1991 to 1993. By 2001, that amount had fallen to just over 400 mt. Removing darkblotched rockfish and POP from this group, landings of the remaining slope species fell from an average of 1,100 mt in 1991–93 to 130 mt in 2001. Additionally, the deep-water harvest of DTS species during the winter months in the northern area has also dropped, from an average of 11,000 mt during 1988–93 to 4,100 mt in 2001.

Finally, the commenter's assertion that ''so long as there exist fishing harvest limits for co-occurring species which are higher than the limits for one or more overfished species, there will be incentive for fishers to fish in a manner likely to result in bycatch and discard of the overfished species'' disregards the structure of the fisheries management regime, which allows the harvest of healthy target species while restraining the bycatch of overfished species to their annual OYs. The OYs of overfished stocks are set to rebuild those overfished stocks to their MSY levels within the constraints set by the national standard guidelines. Certainly, bycatch would be less if target species landing limits were no greater than the limits on bycatch species, but the fishery would forfeit millions of dollars of revenue derived from the harvest of healthy target species and likely suffer economic collapse. The structure of the 2002 fisheries management regime is to set the limits for target and bycatch species based on their actual ratio of co-occurrence in the catch, and at a level that ensures the total catch of the bycatch species does not exceed the annual catch OY.

Comment 17: NMFS' new bycatch analysis fails to address adequately the limitations of the logbook data, particularly logbook data for fishing south of Cape Mendocino and for bocaccio. NMFS has failed to consider adequately and to correct for the inherent limitations of logbook data, most serious of which is that the fishers compiling the data have an incentive to skew the data. NMFS also fails to adequately address the fact that the logbook data do not include discard estimates and could, therefore, yield underestimates of total bycatch.

Response: The NMFS analysis clearly acknowledges the limitations of reliance on logbook data as the sole source of southern bycatch information that captures only landings of bycatch species and not total catch (p. A–8 of the EA). However, until sufficient data are compiled by the NMFS observer program, this is the only available source of bycatch information from the trawl fishery in this region. Although the tow-level retained catches in logbooks are self-reported, as noted in the comments, these ''hailed'' weights are adjusted so that the total poundage corresponds to the amounts recorded on each trip's fish ticket. Additionally, all of the logbook data included in the analysis were screened so that only tows occurring prior to a vessel reaching its limit for a species were included in the calculation of a bycatch rate. This screening eliminates the downward bias in bycatch rates that would result from including tows where discard was necessitated by trip limits. The commenter also questions the use of these southern logbook rates as the midpoints of the considered bycatch range rather than the low end. This expectation that the bycatch rates from the 1999 logbook must represent the low end of the range is not supported by comparison of rates from all three sources where they are available in the northern area (Table 4a, pp A–17 to A–19 in EA).

Comments on Management Measures

Comment 18: The Washington State Fish and Wildlife Commission met on February 9, 2002, and recommended that the Washington State yelloweye rockfish bag limit be reduced from 1 yelloweye rockfish to zero yelloweye rockfish, basically prohibiting yelloweye rockfish retention in all

Washington recreational fisheries. In general, the Council manages recreational fisheries through the recommendations of the individual states. We ask that NMFS implement the Commission's new and more protective recommendation for yelloweye rockfish taken in Federal waters off Washington State to ensure that state and Federal regulations are compatible and equally protective of yelloweye rockfish.

Response: NMFS agrees and has revised paragraph IV.D.(3)(a) for rockfish taken in recreational fisheries off Washington State to comport with these new recommendations of the State's Fish and Wildlife Commission.

Comment 19: Why is the California coastline divided into three management sectors for commercial hook-and-line gears and only two management sectors for commercial trawl gear? And, why is fishing most restricted for commercial hook-and-line vessels operating between 40°10′ N. lat. and Point Conception?

Response: Management measures for West Coast commercial hook-and-line fisheries are set for three different sub-areas: north of 40°10′ N. lat. (near Cape Mendocino), between 40°10′ N. lat. and Point Conception (34°27′ N. lat.), and south of Point Conception. Management measures for West Coast commercial trawl fisheries are set for two different sub-areas: north and south of 40°10′ N. lat. These division lines, 40°10′ N. lat. and Point Conception, were chosen because they represent approximate divisions in marine ecosystems, with different groundfish species mixes found north and south of the division lines. The main reason that there are only two sub-areas for trawlers is that there are very few groundfish trawl vessels operating south of Point Conception. Commercial hook-and-line fishing for rockfish between 40°10′ N. lat. and Point Conception is more restricted than fishing in the northern and southern areas because there is a relatively large number of commercial hook-and-line vessels targeting rockfish in that central area and there are several overfished rockfish found in the central area. Some overfished rockfish species, like darkblotched rockfish, are concentrated in the northern area, but also occur in the central area. Some overfished rockfish species, like bocaccio, are concentrated in the southern and central areas. This overlap between northern and southern species mixes, combined with the many vessels participating in that area, results in a need for more restrictive management measures for vessels operating in that central area.

Comment 20: Why are commercial trawl vessels and recreational vessels allowed to retain canary rockfish when commercial hook-and-line vessels are not allowed to retain canary rockfish?

Response: Commercial trawl vessels and recreational hook-and-line vessels are allowed a minimal amount of canary rockfish retention, so that canary rockfish that is taken incidentally in fisheries targeting other species may be retained. For the commercial hook-and-line fisheries, however, canary rockfish tend to be either directly targeted or caught in combination with yelloweye rockfish, another overfished species. To protect both canary rockfish and yelloweye rockfish, fishing for canary rockfish has been prohibited for those commercial hook-and-line fisheries.

Comment 21: Why is widow rockfish included in minor shelf rockfish for commercial hook-and-line trip limits while it is regulated separately from other rockfish for trawl vessels and not regulated at all for recreational vessels?

Response: For 2002, widow rockfish has been included in overall shelf rockfish limits for both limited entry fixed gear and open access fisheries. The overall shelf rockfish limits apply to widow and yellowtail rockfish as well as to the minor shelf rockfish listed in Table 2. The main reason that these major and minor shelf rockfish have been grouped together for commercial hook-and-line fisheries management is that several shelf rockfish species are overfished (bocaccio, canary rockfish, cowcod, widow, yelloweye rockfish) and commercial hook-and-line vessels have historically been successful at targeting shelf rockfish species. Although hook-and-line vessels are restricted from going out to target shelf rockfish, a small limit for shelf rockfish has been allowed in order to permit retention of the shelf species that are incidentally harvested when the vessels are targeting other species.

Trawl fisheries and recreational hook-and-line fisheries are restricted to shelf rockfish limits that are intended to allow some retention of shelf rockfish caught incidentally to fisheries targeting other species. However, the primary mechanism for restricting shelf rockfish catch in the trawl fisheries, as discussed earlier in the Response to Comment 7, is the constraint of limits for target species such as flatfish and DTS complex species. Recreational fisheries, which are more likely to target nearshore rockfish, have a 1–fish canary rockfish limit to allow some retention of canary rockfish for anglers who may be targeting other rockfish species. Widow rockfish is seldom taken in the recreational fishery.

Comment 22: Why do commercial trawl vessels have a 12–month season and much higher shelf rockfish limits than commercial hook-and-line vessels? It is unfair to restrict California commercial hook-and-line vessels to the same seasons as the recreational vessels. Limited entry fixed gear limits and seasons should be the same as those for limited entry trawlers.

Response: As discussed earlier in the response to Comment 21, shelf rockfish limits for limited entry trawlers are set only high enough to allow the minimum retention of shelf rockfish caught incidentally in fisheries targeting other species, such as the flatfish fisheries. Similarly, shelf rockfish limits for limited entry fixed gear and open access fisheries are set at levels that should allow retention of some incidentally-caught shelf rockfish. Shelf and nearshore rockfish fishing opportunities are closed for commercial hook-and-line fisheries south of 40°10′ N. lat. during some months of the year both to discourage all fishing that might incidentally take shelf and nearshore rockfish during the closed months and to allow higher shelf and nearshore rockfish limits during the open months.

Comment 23: Paragraph IV.A.(14)(b)(iii) states in part, ''If a vessel has landings attributed to both types of trawl (midwater and small footrope) during a cumulative limit period, all landings are counted toward the most restrictive gear specific cumulative limit.'' The wording of this regulation does not match the Council's intent, which was to allow trawlers to fish with both small footrope gear and midwater trawl gear in a single cumulative limit period as long as neither the gear-specific nor the larger of the two limits were exceeded.

Response: NMFS agrees. That sentence has been corrected to read as follows: ''If a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the midwater gear limit is higher than the small footrope gear limit, the small footrope gear limit may not be exceeded with small footrope gear and counts toward the midwater gear limit. Conversely, if a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the small footrope gear limit is higher than the midwater gear limit, the midwater gear limit may not be exceeded with midwater gear and counts toward the small footrope gear limit.'' NMFS has additionally clarified a sentence in paragraph IV.A.(14)(b)(i) that read in the proposed rule, ''It is unlawful for any

vessel using large footrope gear to exceed large footrope gear limits for any species or to use large footrope gear to exceed small footrope gear or midwater gear limits for any species.'' This sentence has been clarified as follows: ''It is unlawful for any vessel with large footrope gear on board to exceed large footrope gear limits for any species, regardless of which type of trawl gear was used to catch those fish. If a species is subject to a large footrope gear per trip limit, it is unlawful for a vessel fishing with large footrope gear under the per trip limit to exceed the small footrope gear cumulative limit during the applicable cumulative limit period.''

Comments on the EA/RIR/IRFA

Comment 24: The EA as a whole is insufficient to support a finding of no significant impact and fails to adequately consider the significant criteria established by the NEPA's implementing regulations. The EA acknowledges that there is uncertainty about the effects of the specifications and management measures on the human environment and that some of the effects of this action are unknown.

Response: The precautionary approach in fisheries management is multi-faceted and broad in scope. In a fisheries context, the precautionary approach implements conservation measures even in the absence of scientific certainty. The EA/RIR/IRFA acknowledges the scientific uncertainty in setting specifications and management measures and discloses the precautionary measures taken to address the inherent uncertainty in fisheries management. For example, the EA's discussion on setting the POP total catch OY reads in part, ''While Alternatives 1.1 [290 mt total catch OY] and 1.3 [350 mt total catch OY] are lower and higher than the no action alternative [303 mt total catch OY,] respectively, the magnitude of difference between the numbers is small. However, the degree to which that difference might affect the POP stock is unknown.'' As discussed above in the response to Comment 3, the selected Alternative 1.3 has a 70 percent probability of rebuilding the POP stock within the time allowed. Precautionary measures to protect POP through constraining directed and incidental harvest are discussed in the EA under the evaluation of alternative bycatch and discard rate assumptions and under the evaluation of alternative fishery management measures.

Although greater scientific certainty can improve management decisions, scientific uncertainty is an inherent part of fisheries management. Uncertainties must be acknowledged, as they are in the EA, and the agency must implement measures to protect the fishery resources against the harm that could result from those uncertainties. NMFS and the Council have taken action to protect groundfish stocks against harm from uncertainty in numerous policies, for example: the protective ABC policies, setting harvest as conservative as F55% for rockfish; the precautionary ''40–10'' OY policy, which reduces total catch for stocks that are below Fmsy but not overfished; the 2002 bycatch management program for overfished species. These policies and many other overfished species rebuilding measures are intended to acknowledge scientific uncertainty in fisheries management and to guard against potential negative effects of that uncertainty.

Comment 25: NMFS has violated NEPA by failing to consider alternative management techniques beyond trip limit management. The only season closure alternative considered by NMFS was a 6–month season wherein all fisheries would be shut down for 6 months. The agency has not considered staggering season closures, which could optimize landed catch OYs for more cleanly targeted stocks, nor has the agency considered closures shorter than 6 months. Further, the EA considers only the socio-economic effects of different season structures and not the biological effects of those structures.

Response: A primary focus of the EA in specifying management measures for considered season alternatives were areal and temporal variations in the co-occurrence of overfished species in a host of directed fisheries targeting healthy stocks. Trip limits and closures for all season alternatives were designed to minimize the bycatch of these overfished groundfish species and to constrain the fisheries so that the landed catch OYs of these species would not be exceeded. (See the EA/RIR/IRFA at pages T–6 through T–16.) Using the preferred alternative as an example, constraints to control the fishing-related mortality associated with the Pacific Coast groundfish fisheries include: (1) Elimination of midwater trawl opportunities that would target widow and yellowtail rockfish to reduce mortality of widow and canary rockfish,(2) elimination of commercial line fisheries opportunities and seasonal closures for continental shelf fisheries that target shelf rockfish and prohibition of canary and yelloweye rockfish retention, and (3) seasonal closures of recreational and commercial hook-and-line groundfish fisheries off California to reduce the mortality of bocaccio, canary rockfish, and yelloweye rockfish. While the coastwide six month season alternative and other commercial season variations of that alternative were rejected on the basis of their socioeconomic effects, all of the seasonal alternatives were analyzed for their biological efficacy in controlling total mortality of overfished species.

Comment 26: The EA does not consider potential cumulative effects of the rule, as required by the NEPA criteria for determination of an action's significance (40 CFR 1508.37(b)(7)).

Response: NMFS agrees that the cumulative effects analysis in the EA/RIR/IRFA needs to be expanded. Therefore, the EA/RIR/IRFA was modified prior to the publication of this final rule to include a discussion of the cumulative effects of the 2002 specifications and management measures. The final EA/RIR/IRFA is available from the Council (See **ADDRESSES**).

Changes from the Proposed Rule

In the 2002 specifications and management measures proposed rule, NMFS described changes to the primary sablefish season at Section III, ''Management Measures,'' under ''Limited Entry Fixed Gear.'' As discussed in that proposed rule, the final rule to implement Amendment 14 (August 7, 2001, 66 FR 41152) in 2001 did not include some of the more complex provisions of Amendment 14, such as a limited entry fixed gear permit stacking program. NMFS prepared a proposed and final rule to implement Amendment 14 as swiftly as possible in 2001 after receiving the amendment from the Council. However, due to the timing of the receipt of Amendment 14 from the Council, NMFS was unable to implement an April 1 through October 31 primary sablefish season as recommended by Amendment 14. Thus, the agency set the 2001 primary sablefish season as August 15 through October 31, with the expectation that the 2002 season would be held from April 1 through October 31.

As discussed in the proposed rule for the 2002 specifications and management measures, NMFS expected to publish a proposed rule to implement the remaining portions of Amendment 14 to the FMP for 2002 and beyond before April 1, 2002. The agency began drafting that proposed rule in January 2002, at which time the agency realized that several of the regulatory recommendations that the Council had made in association with Amendment 14 could be considered unnecessarily complex and burdensome to the public. These recommendations concern permit transferability and permit owner

restrictions and became apparent to the agency during implementation of the new permit stacking program in 2001. As a result of its experiences with permit stacking and its re-evaluation of these more complex provisions of Amendment 14, the agency has decided to bring several provisions back before the Council at its March and April 2002 meetings.

The length of the primary sablefish season is not linked to the issues that NMFS plans to bring before the Council this spring. In the proposed rule for the 2002 specifications and management measures, the agency proposed an April 1 through October 31 primary sablefish season at Section IV.B.(2)(b)(i). With this final rule, the agency is setting this April 1 through October 31 primary sablefish season in both Section IV.B.(2)(b)(i) of this document and amending Federal regulations at 50 CFR 660.323(a)(2)(ii). NMFS would have proposed these changes to Federal regulations in the specifications proposed rule if it had known at the time of the publication of that proposed rule that it would need to bring the more complex Amendment 14 provisions back to the Council. By finalizing this change to Federal regulations with this final rule, NMFS ensures that the season dates announced in the season management measures are compatible with those announced in Federal regulations. This change is not expected to affect the sablefish resource, but is intended to improve safety and planning convenience for the limited entry fixed gear sablefish fleet. Without this change, the August 15 through October 31 season would remain in place, which is contrary to both the long-term goals of the FMP and to the public interest.

In the proposed rule for the 2002 specifications and management measures, NMFS did not provide a proposed ABC or OY for Pacific whiting, because the whiting assessment was not expected to be complete until early 2002. At its March 11–15, 2002, meeting in Sacramento, CA, the Council will finalize its recommendation for a whiting ABC and OY. NMFS will then publish the whiting ABC and OY as an emergency rule to amend this final rule. In the interim, the whiting ABC and OY from 2001 remain in place and are set out in Table 1a.

During its February 4–7, 2002, meeting, the GMT commented to NMFS that it thought that the 1,000 lb (454 kg) per month limit for nearshore rockfish in the limited entry trawl fisheries, for May through October was unnecessarily high and may have been accidentally transposed from the shelf rockfish limit recommendation of 1,000 lb (454 kg) per month. While the GMT considered 1,000 lb (454 kg) an appropriate shelf rockfish limit, it did not consider that limit appropriate for nearshore rockfish taken in the trawl fisheries. Nearshore rockfish are usually only caught incidentally in limited entry trawl fisheries and higher limits could encourage targeting for nearshore rockfish. The GMT therefore recommended, and NMFS has implemented through this final rule, continuing the current 300 lb (136 kg) per month nearshore rockfish limit throughout the year for the limited entry trawl fisheries.

I. Specifications

Fishery specifications include ABCs, the designation of OYs, which may be represented by harvest guidelines (HGs) or quotas for species that need individual management, and the allocation of commercial OYs between the open access and limited entry segments of the fishery. These specifications include fish caught in state ocean waters (0–3 nautical miles (nm) offshore) as well as fish caught in the EEZ (3–200 nm offshore). The OYs and ABCs recommended by the Council and finalized in this document are consistent with the Magnuson-Stevens Act and the groundfish FMP.

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Table 1a. 2002 Specifications of Acceptable Biological Catch (ABC), Optimum Yields (OYs), and Limited Entry and Open Access Allocations, by International North Pacific Fisheries Commission (INPFC) Areas (weights in metric tons).

	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total catch)	Allocations (Total catch)			
Species	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROUNDFISH												
Lingcod b/	745					745	577	251	203	81.0	48	19.0
Pacific Cod	3,200		c/			3,200	na	3,200	--	--	--	--
Pacific Whiting d/	190,400					190,400	190,400	162,900	--	--	--	--
Sablefish e/ (north of 36°)	4,644				--	4,644	4,367	3,906	3,539	90.6	367	9.4
Sablefish f/ (south of 36°)	--				333	333	229	229	--	--	--	--
FLATFISH												
Dover sole g/	8,510					8,510	7,440	7,368	--	--	--	--
English sole	2,000		1,100			3,100	na	–	–	–	–	–
Petrale sole h/	1,262		500	800	200	2,762	na	–	–	–	–	–
Arrowtooth flounder	5,800					5,800	na	–	–	–	–	–
Other flatfish i/	700	3,000	1,700	1,800	500	7,700	na	–	–	–	–	–

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total catch)	Allocations (Total catch)			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROCKFISH:												
Pacific Ocean Perch j/	640			--		640	350	350	--	--	--	--
Shortbelly k/	13,900					13,900	13,900	13,900	--	--	--	--
Widow l/	3,727					3,727	856	853	827	97.0	26	3.0
Canary m/	228					228	93	44	39	87.7	5	12.3
Chilipepper n/	c/			2,700		2,700	2,000	1,985	1,106	55.7	879	44.3
Bocaccio o/	c/			122		122	100	44	25	55.7	19	44.3
Splitnose p/	c/			615		615	461	461	--	--	--	--
Yellowtail q/	3,146			c/		3,146	3,146	3,131	2,871	91.7	260	8.3
Shortspine thornyhead r/	1,004					1,004	955	948	945	99.73	3	0.27
Longspine thornyhead s/ (north of 36°)	2,461				--	2,461	2,461	2,455	--	--	--	--
Longspine thornyhead t/ (south of 36°)	--				390	390	195	195	--	--	--	--
Cowcod u/	c/			19	--	19	2.4	0	--	--	--	--
	c/			--	5	5	2.4	0	--	--	--	--
Yelloweye w/	22			5	--	27	13.5	3.69	--	--	--	--
Darkblotched v/	187					187	168	168	163	--	5	–

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total Catch)	Allocations (Total catch)			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
Minor Rockfish North x/	4,795			--		4,795	3,115	2,442	2,239	91.7	203	8.3
Minor Rockfish South y/	--			3,506		3,506	2,015	1,283	714	55.7	569	44.3
Remaining Rockfish	2,727			854		--	--	--	--	--	--	--
bank z/	c/			350		350	--	--	--	--	--	--
black aa/	615		500			1,115	--	--	--	--	--	--
blackgill bb/	c/			75	268	343	--	--	--	--	--	--
bocaccio - (north)	318					318	--	--	--	--	--	--
chilipepper- (north)	32					32	--	--	--	--	--	--
redstripe	576			c/		576	--	--	--	--	--	--
sharpchin	307			45		352	--	--	--	--	--	--
silvergrey	38			c/		38	--	--	--	--	--	--
splitnose	242			c/		242	--	--	--	--	--	--
yellowmouth	99			c/		99						
yellowtail- (south)				116		116						
Other rockfish cc/	2,068			2,652		--	--	--	--	--	--	--
OTHER FISH dd/	2,500	7,000	1,200	2,000	2,000	14,700	na	–	–	–	–	–

Table 1b. 2002 OYs for minor rockfish by depth sub-groups (weights in metric tons).

Species	Total Catch ABC	OY (Total catch)			Harvest Guidelines (Total catch)			
		Total Catch OY	Recreational Estimate	Commercial OY	Limited Entry		Open Access	
					Mt	%	Mt	%
Minor Rockfish North x/	4,795	3,115	673	2,442	2,239	91.7	203	8.3
Nearshore		987	663	324	161	na	163	na
Shelf		968	10	958	928	na	30	na
Slope		1,160	0	1,160	1,150	na	10	na
Minor Rockfish South y/	3,506	2,015	732	1,283	714	55.7	569	44.3
Nearshore		662	532	130	23	na	107	na
Shelf		714	200	514	194	na	320	na
Slope		639	0	639	497	na	142	na

a/ ABC applies to the U.S. portion of the Vancouver area, except as noted under individual species.

b/ Lingcod was designated as overfished in 1999. Coastwide, lingcod is estimated to be at 15 percent of its unfished biomass. An assessment was conducted in 2000 and updated for 2001. The stock assessment included parts of Canadian waters, therefore the U.S. portion of the ABC for the Vancouver area was set at 44 percent of the total for that area. The ABC of 745 mt was calculated using an Fmsy proxy of F45%. The total catch OY of 577 mt is based on a 60 percent probability of rebuilding the stock to Bmsy by the year 2009. The total catch OY is reduced by 326 mt, the amount that is estimated to be taken by the recreational fishery, resulting in a commercial OY of 251 mt. The open access total catch allocation is 48 mt (19 percent of the commercial OY) and the open access landed catch value is 38 mt. The limited entry total catch allocation is 203 mt and the landed catch value is 163 mt. The landed catch value is based on a discard mortality rate of 20 percent. Tribal vessels are expected to land a small amount of lingcod (4-5 mt), but do not have a specific allocation at this time.

c/ "Other species" - These species are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly for convenience, Pacific cod is included in the "other fish" category for the areas footnoted and rockfish species are included in either "other rockfish" or "remaining rockfish" for the areas footnoted only.

d/ The 2001 ABC and OY remain in effect in the interim because final values are not yet available. A new stock assessment has been prepared with preliminary indication of a lower ABC and OY. The final ABC and OY will be recommend by the Council at its March 2001 meeting, and will be implemented late in March.

e/ Sablefish north of 36° N lat. - A new sablefish assessment was done in 2001 for the area north of Point Conception (34°27'N lat.). Sablefish north of 34°27'N lat. is estimated to be between 27 percent and 38 percent of its unfished biomass. The ABC for the surveyed area (4,786 mt) is based on an environmentally driven model with an Fmsy proxy of F45%. The ABC for the management area north of 36° N lat. is 4,644 mt (97.04 percent of the ABC from the surveyed area). The total catch OY for the area north of 36° N lat is 4,367 mt, which is based on the application of the 40-10 harvest rate policy, and is 97.04 percent of the OY from the surveyed area. The total catch OY is reduced by 10 percent for the tribal set aside (437 mt) and by 24.7 mt for

compensation to vessels that conducted resource surveys. The remainder (3,906 mt) is the commercial total catch OY. The open access allocation of 9.4 percent of the commercial OY, results in an open access total catch OY of 367 mt. The limited entry total catch OY is 3,539 mt, 90.6 percent of the commercial OY. The limited entry total catch OY is further divided with 58 percent (2,052 mt) allocated to the trawl fishery and 42 percent (1,486 mt) allocated to the non-trawl fishery. Discard rates will be applied as follows: 22 percent for limited entry trawl, 8 percent for limited entry fixed gear and open access, and 3 percent for the tribal fisheries. The resulting landed catch values are: 1,601 mt for limited entry trawl, 1,367 mt for limited entry fixed gear, 338 mt for open access, and 424 mt for the tribal fisheries.

f/ Sablefish south of 36° N lat. - The ABC of 333 mt is the sum of 142 mt (2.96 percent of the ABC from the new 2001 survey based assessment) and 191 mt (based on historical landings). The total catch OY (229 mt) is the sum of 133 mt (2.96 percent of the OY from the new 2001 survey based assessment with the application of the 40-10 harvest rate policy) and 96 mt (that portion of the ABC based on historical landings south of Pt. Conception that was reduced by 50 percent to address uncertainty due to limited information). There are no limited entry or open access allocations in the Conception area at this time. The assumed discard value is 8 percent, resulting in a landed catch value of 211 mt.

g/ Dover sole north of 34°27'N lat. was assessed as a unit in 2001 and is estimated to be at 29% of its unfished biomass. The ABC (8,510 mt) is based on an Fmsy proxy of F40%. Because the biomass is estimated to be in the precautionary zone, the total catch OY of 7,440 mt is based on the application of the 40-10 harvest rate policy. The OY is reduced by 71.6 mt for compensation to vessels that conducted resource surveys, resulting in a commercial OY of 7,368 mt. Discards are assumed to be 5 percent, resulting in a landed catch value of 7,000 mt.

h/ Petrale sole was estimated to be at 42 percent of its unfished biomass following a 1999 assessment. For 2002, the final ABC for the Vancouver-Columbia area (1,262 mt) is based on an F40% Fmsy proxy. The ABCs for the Eureka, Monterey, and Conception areas (1,500 mt) continue at the same level as 2001.

i/ "Other flatfish" are those species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, sand sole, and starry flounder. The ABC is based on historical catch levels.

j/ Pacfic ocean perch (POP) was designated as overfished in 1999. The ABC (640 mt) is based on the 2000 assessment which was updated for 2001. The total catch OY (350 mt) is based on a 70 percent probability of rebuilding the stock to Bmsy by the year 2042. The landed catch value is 294 mt. The landed catch value is based on a discard rate of 16 percent. Tribal vessels are expected to land only trace amounts of POP in 2002 and do not have a specific allocation at this time.

k/ Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. The 1989 assessment provided 2 alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY therefore are set at 13,900 mt, the low end of the range in the assessment.

l/ Widow rockfish was assessed in 2000 and is estimated to be at 24 percent of its unfished biomass. Therefore, it was declared overfished in 2001. The ABC (3,727 mt) is based on an F50% Fmsy proxy. The OY (856 mt) is based on a 60 percent probability of rebuilding the stock to Bmsy within 37 years. The OY is reduced by 3 mt for the amount estimated to be taken as recreational catch, resulting in a commercial OY of 853 mt. The commercial OY is divided with open access receiving 3 percent (26 mt) and limited entry receiving 97 percent (827 mt). The landed catch equivalent for the open access fishery is 21 mt. The limited entry allocation is reduced by 150 mt for anticipated bycatch in the at-sea whiting fishery and an additional 40 mt for anticipated bycatch in the shore-based sector of the whiting fishery. The remainder of the limited entry allocation is reduced by 16 percent to account for discards in the trip limit fisheries. The landed catch equivalent, excluding the at-sea whiting fishery, is 575 mt. Tribal vessels are expected to land about 27 mt of widow rockfish in 2002, but do not have a specific allocation at this time.

m/ Canary rockfish is estimated to be at 22 percent of its unfished biomass in the north (north of Cape Blanco) and 8 percent of its unfished biomass in the south (south of Cape Blanco). Canary rockfish was declared overfished in 2000. The coastwide ABC (228 mt) is based on an Fmsy proxy of F50%. The coastwide OY of 93 mt (the sum of 73 mt for the northern area, plus 20 mt for the southern area) is based on a 52 percent

probability of rebuilding the stock to Bmsy by the year 2056. The OY is reduced by 5 mt for research surveys and 44 mt for the estimated recreational catch, resulting in a commercial OY of 44 mt. The commercial OY is divided with open access receiving 12.3 percent (5 mt) and limited entry receiving 87.7 percent (39 mt). The landed catch value for the open access fishery is 4.5 mt. The 39 mt limited entry allocation is further reduced by 3 mt for anticipated bycatch in the offshore whiting fishery. The limited entry landed catch value is 30 mt. The landed catch value is based on a discard rate of 16 percent. However, the specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are expected to land about 2.5 mt of canary rockfish in 2002, but do not have a specific allocation at this time.

n/ Chilipepper rockfish - The ABC (2,700 mt) for the Monterey-Conception area is based on the 1998 stock assessment with the application of an F50% Fmsy proxy. Because the unfished biomass is estimated to be above 40 percent, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt, near the recent average landed catch, to discourage effort on chilipepper, which is known to have bycatch of overfished bocaccio rockfish. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,985 mt. Of the commercial OY, open access is allocated 44.3 percent (879 mt) and limited entry is allocated 55.7 percent (1,106 mt). The assumed discard is 16 percent, resulting in a open access landed catch value of 739 mt and a limited entry landed catch value of 929 mt. In the north, chilpepper is included in the minor shelf rockfish OY.

o/ Bocaccio rockfish is estimated to be at 2 percent of its unfished biomass and was designated as overfished in 1999. The ABC of 122 mt for the Monterey and Conception areas are based on an F50% Fmsy proxy. The OY (100 mt) is based on the rebuilding plan, which has a 67% probability of rebuilding the stock to Bmsy by the year 2033. The OY is reduced by 56 mt for the amount estimated to be taken as recreational harvest, resulting in a 44 mt commercial OY. Open access is allocated 44.3 percent (19 mt) of the commercial OY and limited entry is allocated 55.7 percent (25 mt) of the commercial OY. The open access landed catch value is 16 mt and the limited entry landed catch value is 21 mt. The landed catch value is based on a discard rate of 16 percent. In the north, bocaccio is included in the minor shelf rockfish OY.

p/ Splitnose rockfish - The 2001 ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt total catch OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous assessment for this stock. In the north, splitnose is included in the minor slope rockfish OY. The assumed discard is 16 percent for a landed catch value of 387 mt.

q/ Yellowtail rockfish is estimated to be at 63 percent of its unfished biomass. The ABC of 3,146 mt is based on a 2000 stock assessment for the Vancouver-Columbia-Eureka areas with an Fmsy proxy of F50%. The OY (3,146 mt) was set equal to the ABC. To derive the commercial OY (3,131 mt) the total catch OY is reduced by 15 mt, the amount estimated to be taken in the recreational fishery. The open access allocation (260 mt) is 8.3 percent of the commercial OY. The limited entry allocation (2,871 mt) is 91.7 percent the commercial OY. For anticipated bycatch in the at-sea whiting fishery, 400 mt is subtracted from the limited entry allocation. An additional 150 mt is deducted for the shore-based whiting fishery. The remainder (2,471 mt) is further reduced by 20 percent for assumed discard. The limited entry landed catch equivalent, excluding the at-sea whiting fishery, is 2,007 mt. The open access landed catch equivalent is 218 mt, given the assumed discard of 16 percent. Tribal vessels are expected to land about 300 mt of yellowtail rockfish outside their directed whiting fishery in 2002, but do not have a specific allocation at this time.

r/ Shortspine thornyhead - A new assessment was done for shortspine thornyhead in 2001 and the stock is estimated to be between 25 and 50 percent of its unfished biomass. The ABC (1,004 mt) for the area north of Pt. Conception (34°27'N lat.) is based on a F50% Fmsy proxy. The OY of 955 mt is based on the new survey with the application of the 40-10 harvest policy, resulting in a commercial OY of 948 mt. Open access is allocated 0.27 percent (3 mt) of the commercial OY and limited entry is allocated 99.73 percent (945 mt) of the commercial OY. A 20 percent rate of discard is applied to obtain a limited entry landed catch value of 757 mt. There is no ABC or OY for the southern Conception area. Tribal vessels are expected to land about 1 mt of shortspine thornyheads, but do not have a specific allocation at this time.

s/ Longspine thornyhead is estimated to be above 40 percent of its unfished biomass. The ABC (2,461 mt) in the north (Vancouver-Columbia-Eureka-Monterey) is based on the average of the 3-year individual ABCs at an F50% Fmsy proxy. The total catch OY (2,461 mt) is set equal to the ABC. The OY is further reduced by 6 mt for compensation to vessels that conducted resource surveys, resulting in a commercial OY

of 2,455 mt. To derive the landed catch equivalent of 2,037 mt, the limited entry allocation is reduced by 17 percent for estimated discards.

t/ Longspine thornyhead - A separate ABC (390 mt) is established for the northern Conception area and is based on historical catch for the portion of the Conception area north of 34°27' N. lat. (Point Conception). The ABC was reduced by 50 percent to obtain the OY (195 mt), this reduction addresses uncertainty in the stock assessment due to limited information. There is no ABC or OY for the southern Conception Area.

u/ Cowcod in the Conception area was assessed in 1999 and is estimated to be at less than 10 percent of its unfished biomass. Therefore cowcod was declared overfished in 2000. The ABC in the Conception area (5 mt) is based on the 1999 assessment, while the ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. An OY of 4.8 mt (2.4 mt in each area) is based on a 55 percent probability of rebuilding the stock to Bmsy by the year 2094. Cowcod retention will not be permitted in 2002.

v/ Darkblotched rockfish was assessed in 2000 and estimated to be at 22 percent of its unfished biomass. The stock was declared overfished in 2001. An update to the assessment which incorporated new data indicates that the stock may be at 12 percent of the unfished biomass. The ABC of 187 mt is based on the updated assessment with an Fmsy proxy of F50%. The OY of 168 mt is based on a 70 percent probability of rebuilding the stock to Bmsy by 2034. For anticipated bycatch in the at-sea whiting fishery, 5 mt is subtracted from the limited entry allocation. The landed catch value for the remaining limited entry fisheries is 130 mt. The landed catch value is based on a discard rate of 20 percent. Specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are expected to land minimal amounts of darkblotched rockfish in 2002, but do not have a specific allocation at this time.

w/ Yelloweye rockfish was assessed in 2001 and is estimated to be at 7 percent of its unfished biomass off northern California and at 13 percent of its unfished biomass off Oregon, indicating that it is overfished at this time. The 27 mt coastwide ABC (5 mt for the Monterey area and 22 mt for the areas north of 40°10'N lat.) is based on an Fmsy proxy of F50%. As a precautionary measure, until rebuilding measures can be adopted, the coastwide ABC has been reduced by 50 percent to obtain the OY of 13.5 mt (2.5 mt for the Monterey area and 11 mt for the areas north of 40°10'N lat.) The OY is reduced by 8.81 mt for the amount estimated to be taken as recreational harvest, and 1 mt for the amount expected to be taken in the tribal fishery, resulting in a commercial OY of 3.69 mt. Specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

x/ Minor rockfish north includes the "remaining rockfish" and "other rockfish" categories in the Vancouver, Columbia, and Eureka areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish" which includes species that do not have quantifiable assessments. The ABC (4,795 mt) is the sum of the individual "remaining rockfish" ABCs (2,727 mt) plus the "other rockfish" ABCs (2,068 mt). The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY (3,115 mt) the remaining rockfish ABCs are further reduced by 25 percent with the exception of black rockfish (see footnote aa/), and other rockfish ABCs are reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 673 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 2,442 mt. Open access is allocated 8.3 percent (203 mt) of the commercial OY and limited entry is allocated 91.7 percent (2,239 mt) of the commercial OY. The discard is assumed to be 5 percent for nearshore rockfish, 16 percent for shelf rockfish, and 20 percent for slope rockfish, resulting in a an open access landed catch value of 188 mt and a limited entry landed catch value of 1,852 mt. Tribal vessels are expected to land about 10 mt of minor rockfish (2 mt of minor nearshore rockfish, 4 mt of shelf rockfish, and 4 mt of slope rockfish) in 2002, but do not have a specific allocation at this time.

y/ Minor rockfish south includes the "remaining rockfish" and "other rockfish" categories in the Monterey and Conception areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish" which includes species that do not have quantifiable assessments. The ABC (3,506 mt) is the sum of the individual "remaining rockfish" ABCs (854 mt) plus the "other rockfish" ABCs (2,652). The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain total catch OY (2,015 mt), the remaining rockfish

ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote bb/), and the other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 732 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,283 mt. Open access is allocated 44.3 percent (569 mt) of the commercial OY and limited entry is allocated 55.7 percent (714 mt) of the commercial OY. The discard is assumed to be 5 percent for nearshore rockfish, 16 percent for shelf rockfish, and 20 percent for slope rockfish, resulting in an open access landed catch value of 484 mt and a limited entry landed catch value of 582 mt.

z/ Bank rockfish - The ABC of 350 mt is based on a 2000 assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

aa/ Black rockfish - The ABC (1,115 mt) which is based on a 2000 assessment, is the sum of the assessment area (615 mt) plus the average catch in the unassessed area (500 mt). To obtain the OY for the southern portion of this area, the ABC has been reduced by 50 percent as a precautionary measures due to limited information. For the assessed area the OY was set equal to the ABC. This stock contributes 865 mt towards the minor rockfish OY in the north.

bb/ Blackgill rockfish is estimated to be at 51 percent of its unfished biomass. The ABC (343 mt) is the sum of the Conception area ABC of 268 mt, based on the 1998 assessment with an Fmsy proxy of F50%, and the Monterey area ABC of 75 mt. This stock contributes 306 mt towards minor rockfish south (268 mt for the Conception area ABC and 38 mt for the Monterey area). The OY for the Monterey area is the ABC reduced by 50 percent for precautionary measures because of lack of information.

cc/ "Other rockfish" includes rockfish species listed in 50 CFR 660.302 and California scorpionfish. The ABC is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been quantifiably assessed. Beginning in 2002, an ABC and OY have been specified for yelloweye rockfish, in the Monterey and Conception areas. Therefore, it has been removed from the "other rockfish" category.

dd/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, and other groundfish species noted above in footnote c/.

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II. Limited Entry and Open Access Fisheries

Since 1994, the non-tribal commercial groundfish fishery has been divided into limited entry and open access sectors, each with its own set of allocations and management measures. Species or species group allocations between the two sectors are based on the relative amounts of a species or species group taken by each component of the fishery during the 1984–1988 limited entry permit qualification period (50 CFR 660.332). The FMP allows suspension of this allocation formula for overfished species when changes to the traditional allocation formula are needed to better protect overfished species (Section 5.3.2).

Groundfish species or species group allocations between the limited entry and open access sectors are detailed in Tables 1a and 1b. All OYs, and all limited entry and open access allocations are expressed in terms of total catch. The limited entry/open access allocations for canary, darkblotched, and yelloweye rockfish are suspended to allow the Council to better develop management measures that provide harvest of healthy stocks while protecting overfished stocks. Estimates of trip-limit induced discards are taken ''off the top'' before setting the limited entry and open access allocations, except for estimates of sablefish discards as explained in the footnotes to Table 1a. Landed catch equivalents are the harvest goals used when adjusting trip limits and other management measures for target species during the season. Estimated bycatch of yellowtail, widow, canary, and darkblotched rockfish in the offshore whiting fishery is also deducted from the limited entry allocations before determining the landed catch equivalents for the target fisheries for widow and yellowtail rockfish.

III. 2002 Management Measures

Management measures for the limited entry fishery are found in Section IV. Most cumulative trip limits, size limits, and seasons for the limited entry fishery are set out in Tables 3 and 4. However, the limited entry nontrawl sablefish fishery, the midwater trawl fishery for whiting, and the hook-and-line fishery for black rockfish off Washington are managed separately from the majority of the groundfish species and are not fully addressed in the tables. The management structure for these fisheries has not changed since 2001, except for the level of trip limits for sablefish and whiting and for the primary sablefish season dates, and is described in paragraphs IV.B.(2) through (4). Similarly, management measures for the open access exempted trawl fisheries (California halibut, sea cucumber, pink shrimp, spot and ridgeback prawns) are described in paragraph IV.C.(2), separately from the open access fisheries trip limits set out in Table 5.

IV. NMFS Actions

For the reasons stated above, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), concurs with the Council's recommendations and announces the following management actions for 2002, including measures that are unchanged from 2001 and new measures.

A. General Definitions and Provisions

The following definitions and provisions apply to the 2002 management measures, unless otherwise specified in a subsequent **Federal Register** document:

(1) *Trip limits.* Trip limits are used in the commercial fishery to specify the amount of fish that may legally be taken and retained, possessed, or landed, per vessel, per fishing trip, or cumulatively per unit of time, or the number of landings that may be made from a vessel in a given period of time, as follows:

(a) A per trip limit is the total allowable amount of a groundfish species or species group, by weight, or by percentage of weight of legal fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip.

(b) A daily trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours l.t. Only one landing of groundfish may be made in that 24–hour period. Daily trip limits may not be accumulated during multiple day trips.

(c) A weekly trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week includes days within two different months, a vessel is not entitled to two separate weekly limits during that week.

(d) A cumulative trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in a specified period of time without a limit on the number of landings or trips, unless otherwise specified. The cumulative trip limit periods for limited entry and open access fisheries, which start at 0001 hours l.t. and end at 2400 hours l.t., are as follows, unless otherwise specified:

(i) The 2–month periods are: January 1–February 28, March 1–April 30, May 1–June 30, July 1–August 31, September 1–October 31, and November 1–December 31.

(ii) One month means the first day through the last day of the calendar month.

(iii) One week means 7 consecutive days, Sunday through Saturday.

(2) *Fishing ahead.* Unless the fishery is closed, a vessel that has landed its cumulative or daily limit may continue to fish on the limit for the next period, so long as no fish (including, but not limited to, groundfish with no trip limits, shrimp, prawns, or other nongroundfish species or shellfish) are landed (offloaded) until the next period. As stated at 50 CFR 660.302 (in the definition of ''landing''), once the offloading of any species begins, all fish aboard the vessel are counted as part of the landing. Fishing ahead is not allowed during or before a closed period (see paragraph IV.A.(7)). See paragraph IV.A.(9) for information on inseason changes to limits.

(3) *Weights.* All weights are round weights or round-weight equivalents unless otherwise specified.

(4) *Percentages.* Percentages are based on round weights, and, unless otherwise specified, apply only to legal fish on board.

(5) *Legal fish.* Legal fish means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 660, the Magnuson-Stevens Act, any document issued under part 660, and any other regulation promulgated or permit issued under the Magnuson-Stevens Act.

(6) *Size limits and length measurement.* Unless otherwise specified, size limits in the commercial and recreational groundfish fisheries apply to the ''total length,'' which is the longest measurement of the fish without mutilation of the fish or the use of force to extend the length of the fish. No fish with a size limit may be retained if it is in such condition that its length has been extended or cannot be determined by these methods. For conversions not listed here, contact the state where the fish will be landed.

(a) *Whole fish.* For a whole fish, total length is measured from the tip of the snout (mouth closed) to the tip of the tail in a natural, relaxed position.

(b) *''Headed'' fish.* For a fish with the head removed (''headed''), the length is measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the

upper lobe of the tail; the dorsal fin and tail must be left intact.

(c) *Filets.* A filet is the flesh from one side of a fish extending from the head to the tail, which has been removed from the body (head, tail, and backbone) in a single continuous piece. Filet lengths may be subject to size limits for some groundfish taken in the recreational fishery off California (see paragraph IV. D.(1)). A filet is measured along the length of the longest part of the filet in a relaxed position; stretching or otherwise manipulating the filet to increase its length is not permitted.

(d) *Sablefish weight limit conversions.* The following conversions apply to both the limited entry and open access fisheries when trip limits are effective for those fisheries. For headed and gutted (eviscerated) sablefish, the conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (The conversion factor currently is 1.6 in Washington, Oregon, and California. However, the state conversion factors may differ; fishers should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.)

(e) *Lingcod size and weight conversions.* The following conversions apply in both limited entry and open access fisheries.

(i) *Size conversion.* For lingcod with the head removed, the minimum size limit is 19.5 inches (49.5 cm), which corresponds to 24 inches (61 cm) total length for whole fish.

(ii) *Weight conversion.* The conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (The states' conversion factors may differ, and fishers should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.) If a state does not have a conversion factor for headed and gutted lingcod, or lingcod that is only gutted; the following conversion factors will be used. To determine the round weight, multiply the processed weight times the conversion factor.

(A) *Headed and gutted.* The conversion factor for headed and gutted lingcod is 1.5.

(B) *Gutted, with the head on.* The conversion factor for lingcod that has only been gutted is 1.1.

(7) Closure. ''Closure,'' when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited. (See 50 CFR 660.302.) Unless otherwise announced in the **Federal Register**, offloading must begin before the time the fishery closes. The provisions at paragraph IV.A.(2) for fishing ahead do not apply during a closed period. It is unlawful to transit through a closed area with the prohibited species on board, no matter where that species was caught, except as provided for in the CCA at IV. A.(20).

(8) *Fishery management area.* The fishery management area for these species is the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico. All groundfish possessed between 0–200 nm offshore or landed in Washington, Oregon, or California are presumed to have been taken and retained from the EEZ, unless otherwise demonstrated by the person in possession of those fish.

(9) *Routine management measures.* Most trip, bag, and size limits in the groundfish fishery have been designated ''routine,'' which means they may be changed rapidly after a single Council meeting. (See 50 CFR 660.323(b).) Council meetings in 2002 will be held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the **Federal Register**. Information concerning changes to routine management measures is available from the NMFS Northwest and Southwest Regional Offices (see **ADDRESSES**). Changes to trip limits are effective at the times stated in the **Federal Register**. Once a change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the **Federal Register**, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect.

(10) *Limited entry limits.* It is unlawful for any person to take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish (50 CFR 660.306(p)).

(11) *Operating in both limited entry and open access fisheries.* The open access trip limit applies to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. A vessel that operates in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit cannot be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(12) *Operating in areas with different trip limits.* Trip limits for a species or a species group may differ in different geographic areas along the coast. The following ''crossover'' provisions apply to vessels operating in different geographical areas that have different cumulative or ''per trip'' trip limits for the same species or species group. Such crossover provisions do not apply to species that are subject only to daily trip limits, or to the trip limits for black rockfish off Washington (see 50 CFR 660.323(a)(1)). In 2002, the cumulative trip limit periods for the limited entry and open access fisheries are specified in paragraph IV.A(1)(d), but may be changed during the year if announced in the **Federal Register**.

(a) *Going from a more restrictive to a more liberal area.* If a vessel takes and retains any groundfish species or species group of groundfish in an area where a more restrictive trip limit applies before fishing in an area where a more liberal trip limit (or no trip limit) applies, then that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(b) *Going from a more liberal to a more restrictive area.* If a vessel takes and retains a groundfish species or species group in an area where a higher trip limit or no trip limit applies, and takes and retains, possesses or lands the same species or species group in an area where a more restrictive trip limit applies, that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(c) *Minor rockfish.* Several rockfish species are designated with species-specific limits on one side of the 40°10′ N. lat. management line, and are included as part of a minor rockfish complex on the other side of the line.

(i) If a vessel takes and retains minor slope rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land splitnose rockfish

up to its cumulative limit south of 40°10′ N. lat., even if splitnose rockfish were a part of the landings from minor slope rockfish taken and retained north of 40°10′ N. lat. [Note: A vessel that takes and retains minor slope rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor slope rockfish during that period.]

(ii) If a vessel takes and retains minor slope rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land POP up to its cumulative limit north of 40°10′ N. lat., even if POP were a part of the landings from minor slope rockfish taken and retained south of 40°10 N. lat. [Note: A vessel that takes and retains minor slope rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor slope rockfish during that period.]

(iii) If a vessel takes and retains minor shelf rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land chilipepper rockfish and bocaccio up to their respective cumulative limits south of 40°10′ N. lat., even if either species is part of the landings from minor shelf rockfish taken and retained north of 40°10′ N. lat. [Note: A vessel that takes and retains minor shelf rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor shelf rockfish during that period.]

(iv) If a vessel takes and retains minor shelf rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land yellowtail rockfish up to its respective cumulative limits north of 40°10′ N. lat., even if yellowtail rockfish is part of the landings from minor shelf rockfish taken and retained south of 40°10′ N. lat. [Note: A vessel that takes and retains minor shelf rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor shelf rockfish during that period.]

(d) *''DTS complex.''* For 2002, there are differential trip limits for the ''DTS complex'' (Dover sole, shortspine thornyhead, longspine thornyhead, sablefish) north and south of the management line at 40°10′ N. lat. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph IV.A.(12) when making landings that include any one of the four species in the ''DTS complex.''

(13) *Sorting.* It is unlawful for any person to fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or harvest guideline, if the vessel fished or landed in an area during a time when such trip limit, size limit, harvest guideline, or quota applied. This provision applies to both the limited entry and open access fisheries. (See 50 CFR 660.306(h).) The following species must be sorted in 2002:

(a) For vessels with a limited entry permit:

(i) Coastwide--widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, rex sole, petrale sole, other flatfish, lingcod, sablefish, and Pacific whiting [Note: Although both yelloweye and darkblotched rockfish are considered minor rockfish managed under the minor shelf and minor slope rockfish complexes, respectively, they have separate OYs and therefore must be sorted by species.]

(ii) North of 40°10′ N. lat.--POP, yellowtail rockfish, and, for fixed gear, black rockfish and blue rockfish;

(iii) South of 40°10′ N. lat.--chilipepper rockfish, bocaccio rockfish, splitnose rockfish, and Pacific sanddabs (trawl only.)

(b) For open access vessels (vessels without a limited entry

permit):

(i) Coastwide--widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, arrowtooth flounder, other flatfish, lingcod, sablefish, Pacific whiting, and Pacific sanddabs;

(ii) North of 40°10′ N. lat. -black rockfish, blue rockfish, POP, yellowtail rockfish;

(iii) South of 40°10′ N. lat.--chilipepper rockfish, bocaccio rockfish, splitnose rockfish;

(iv) South of Point Conception--thornyheads.

(14) *Limited Entry Trawl Gear Restrictions.* Limited entry trip limits may vary depending on the type of trawl gear that is on board a vessel during a fishing trip: large footrope, small footrope, or midwater trawl gear.

(a) *Types of trawl gear.* (i) Large footrope trawl gear is bottom trawl gear, as specified at 50 CFR 660.302 and 660.322(b), with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope).

(ii) Small footrope trawl gear is bottom trawl gear, as specified at 50 CFR 660.302 and 660.322(b), with a footrope diameter 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope), except chafing gear may be used only on the last 50 meshes of a small footrope trawl, measured from the terminal (closed) end of the codend. Other lines or ropes that run parallel to the footrope may not be augmented or modified to violate footrope size restrictions.

(iii) Midwater trawl gear is pelagic trawl gear, as specified at 50 CFR 660.302 and 660.322(b)(5). The footrope of midwater trawl gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended with chains or other materials.

(b) *Cumulative trip limits and prohibitions by trawl gear type*--(i) *Large footrope trawl.* It is unlawful to take and retain, possess or land any species of shelf or nearshore rockfish (defined at IV.A.(21) and Table 2 except chilipepper rockfish south of 40°10′ N. lat. (as specified in Table 3) from a fishing trip if large footrope gear is on board; this restriction applies coastwide from January 1 to December 31. It is unlawful to take and retain, possess or land petrale sole, rex sole, or arrowtooth flounder from a fishing trip if large footrope gear is onboard and the trip is conducted at least in part between May 1 and October 31; cumulative limits for ''all other flatfish'' (all flatfish except those with cumulative trip limits in Table 3 to section IV) are lower for vessels with large footrope gear on board throughout the year (See Table 3). It is unlawful for any vessel with large footrope gear on board to exceed large footrope gear limits for any species, regardless of which type of trawl gear was used to catch those fish. If a species is subject to a large footrope gear per trip limit, it is unlawful for a vessel fishing with large footrope gear under the per trip limit to exceed the small footrope gear cumulative limit during the applicable cumulative limit period. The presence of rollers or bobbins larger than 8 inches (20 cm) in diameter on board the vessel, even if not attached to a trawl, will be considered to mean a large footrope trawl is on board. Dates are adjusted for the ''B'' platoon (See IV.A.(16)).

(ii) *Small footrope or midwater trawl gear.* Cumulative trip limits for canary rockfish, widow rockfish, yellowtail rockfish, bocaccio, minor shelf rockfish, minor nearshore rockfish, and lingcod,

and higher cumulative trip limits for chilipepper rockfish and flatfish, as indicated in Table 3 are allowed only if small footrope gear or midwater trawl gear is used, and if that gear meets the specifications in paragraph IV.A.(14)(a).

(iii) *Midwater trawl gear.* Higher cumulative trip limits are available for limited entry vessels using midwater trawl gear to harvest widow or chilipepper rockfish. Each landing that contains widow or chilipepper rockfish is attributed to the gear on board with the most restrictive trip limit for those species. Landings attributed to small footrope trawl must not exceed the small footrope limit, and landings attributed to midwater trawl must not exceed the midwater trawl limit. If a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the midwater gear limit is higher than the small footrope gear limit, the small footrope gear limit may not be exceeded with small footrope gear and counts toward the midwater gear limit. Conversely, if a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the small footrope gear limit is higher than the midwater gear limit, the midwater gear limit may not be exceeded with midwater gear and counts toward the small footrope gear limit.

(iv) *More than one type of trawl gear on board.* The cumulative trip limits in Table 3 must not be exceeded. A fisher may have more than one type of limited entry trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear. [Example: If a vessel has large footrope gear on board, it cannot land yellowtail rockfish, even if the yellowtail rockfish is caught with a small footrope trawl. If a vessel has both small footrope trawl and midwater trawl gear on board, the landing is attributed to the most restrictive gear-specific limit, regardless of which gear type was used.]

(c) *Measurement.* The footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(d) *State landing receipts.* Washington, Oregon, and California will require the type of trawl gear on board with the most restrictive limit to be recorded on the State landing receipt(s) for each trip or an attachment to the State landing receipt.

(e) *Gear inspection.* All trawl gear and trawl gear components, including unattached rollers or bobbins, must be readily accessible and made available for inspection at the request of an authorized officer. No trawl gear may be removed from the vessel prior to offloading. All footropes shall be uncovered and clearly visible except when in use for fishing.

(15) *Permit transfers.* Limited entry permit transfers are to take effect no earlier than the first day of a major cumulative limit period following the day NMFS receives the transfer form and original permit (50 CFR 660.335(e)(3)). Those days in 2002 are January 1, March 1, May 1, July 1, September 1, and November 1, and are delayed by 15 days (starting on the 16th of a month) for the ''B'' platoon.

(16) *Platooning--limited entry trawl vessels.* Limited entry trawl vessels are automatically in the ''A'' platoon, unless the ''B'' platoon is indicated on the limited entry permit. If a vessel is in the ''A'' platoon, its cumulative trip limit periods begin and end on the beginning and end of a calendar month as in the past. If a limited entry trawl permit is authorized for the ''B'' platoon, then cumulative trip limit periods will begin on the 16th of the month (generally 2 weeks later than for the ''A'' platoon), unless otherwise specified.

(a) For a vessel in the ''B'' platoon, cumulative trip limit periods begin on the 16th of the month at 0001 hours, l.t., and end at 2400 hours, l.t., on the 15th of the month. Therefore, the management measures announced herein that are effective on January 1, 2002, for the ''A'' platoon will be effective on January 16, 2002, for the ''B'' platoon. The effective date of any inseason changes to the cumulative trip limits also will be delayed for 2 weeks for the ''B'' platoon, unless otherwise specified.

(b) A vessel authorized to operate in the ''B'' platoon may take and retain, but may not land, groundfish from January 1, 2002, through January 15, 2002.

(c) A vessel authorized to operate in the ''B'' platoon will have the same cumulative trip limits for the November 16, 2002, through December 31, 2002, period as a vessel operating in the ''A'' platoon has for the November 1, 2002, through December 31, 2002 period.

(17) *Exempted fisheries.* U.S. vessels operating under an exempted fishing permit issued under 50 CFR part 600 are also subject to these restrictions, unless otherwise provided in the permit.

(18) *Application of requirements.* Paragraphs IV.B. and IV.C. pertain to the commercial groundfish fishery, but not to Washington coastal tribal fisheries, which are described in section V. The provisions in paragraphs IV.B. and IV.C. that are not covered under the headings ''limited entry'' or ''open access'' apply to all vessels in the commercial fishery that take and retain groundfish, unless otherwise stated. Paragraph IV.D. pertains to the recreational fishery.

(19) *Commonly used geographic coordinates.*

(a) Cape Falcon, OR--45°46′ N. lat.

(b) Cape Lookout, OR--45°20′15″ N. lat.

(c) Cape Blanco, OR--42°50′ N. lat.

(d) Cape Mendocino, CA--40°30′ N. lat.

(e) North/South management line--40°10′ N. lat.

(f) Point Arena, CA--38°57′30″ N. lat.

(g) Point Conception, CA--34°27′ N. lat.

(h) International North Pacific Fisheries Commission (INPFC) subareas (for more precise coordinates for the Canadian and Mexican boundaries, see 50 CFR 660.304):

(i) Vancouver--U.S.-Canada border to 47°30′ N. lat.

(ii) Columbia--47°30′ to 43°00′ N. lat.

(iii) Eureka--43°00′ to 40°30′ N. lat.

(iv) Monterey--40°30′ to 36°00′ N. lat.

(v) Conception--36°00′ N. lat. to the U.S.-Mexico border.

(20) *Cowcod Conservation Areas.* Recreational and commercial fishing for groundfish is prohibited within the Cowcod Conservation Areas (CCAs), except that recreational and commercial fishing for rockfish and lingcod is permitted in waters inside 20 fathoms (36.9 m). It is unlawful to take and retain, possess, or land groundfish inside the CCAs, except for rockfish and lingcod taken in waters inside the 20–fathom (36.9 m) depth contour, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00′30″ N. lat., and bounded on the south by the latitude line at 32°59′30″ N. lat.

(a) The Western CCA is an area south of Point Conception that is bound by straight lines connecting all of the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°30′ W. long.;

and connecting back to 33°50′ N. lat., 119°30′ W. long.

(b) The Eastern CCA is a smaller area west of San Diego that is bound by

straight lines connecting all of the following points in the order listed:

32°40′ N. lat., 118°00′ W. long.;
32°40′ N. lat., 117°50′ W. long.;
32°36′42'' N. lat., 117°50′ W. long.;
32°30′ N. lat., 117°53′30'' W. long.;
32°30′ N. lat., 118°00′ W. long.;
and connecting back to 32°40′ N. lat., 118°00′ W. long.;

(21) *Rockfish categories.* Rockfish (except thornyheads) are divided into categories north and south of 40°10′ N. lat., depending on the depth where they most often are caught: nearshore, shelf, or slope. (Scientific names appear in Table 2.) Trip limits are established for ''minor rockfish'' species according to these categories (see Tables 3–5).

(a) Nearshore rockfish consists entirely of the minor nearshore rockfish species listed in Table 2.

(b) Shelf rockfish consists of canary rockfish, shortbelly rockfish, widow rockfish, yelloweye rockfish, yellowtail rockfish, bocaccio, chilipepper, cowcod, and the minor shelf rockfish species listed in Table 2.

(c) Slope rockfish consists of POP, splitnose rockfish, darkblotched rockfish, and the minor slope rockfish species listed in Table 2.

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Table 2 – Minor Rockfish Species (excludes thornyheads)

North of 40°10' N. lat.	South of 40°10' N. lat.
NEARSHORE	
black, Sebastes melanops	black, Sebastes melanops
black and yellow, S. chrysolmelas	black and yellow, S. chrysolmelas
blue, S. mystinus	blue, S. mystinus
brown, S. auriculatus	brown, S. auriculatus
calico, S. dallii	calico, S. dallii
China, S. nebulosus	California scorpionfish, Scorpaena guttata
copper, S. caurinus	China, Sebastes nebulosus
gopher, S. carnatus	copper, S. caurinus
grass, S. rastrelliger	gopher, S. carnatus
kelp, S. atrovirens	grass, S. rastrelliger
olive, S. serranoides	kelp, S. atrovirens
quillback, S. maliger	olive, S. serranoides
treefish, S. serriceps	quillback, S. maliger
	treefish, S. serriceps
SHELF	
bronzespotted, S. gilli	bronzespotted, S. gilli
bocaccio, S. paucispinis	chameleon, S. phillipsi
chameleon, S. phillipsi	dwarf-red, S. rufianus
chilipepper, S. goodei	flag, S. rubrivinctus
cowcod, S. levis	freckled, S. lentiginosus
dwarf-red, S. rufianus	greenblotched, S. rosenblatti
flag, S. rubrivinctus	greenspotted, S. chlorostictus
freckled, S. lentiginosus	greenstriped, S. elongatus
greenblotched, S. rosenblatti	halfbanded, S. semicinctus
greenspotted, S. chlorostictus	honeycomb, S. umbrosus
greenstriped, S. elongatus	Mexican, S. macdonaldi
halfbanded, S. semicinctus	pink, S. eos
honeycomb, S. umbrosus	pinkrose, S. simulator
Mexican, S. macdonaldi	pygmy, S. wilsoni
pink, S. eos	redstripe, S. proriger
pinkrose, S. simulator	rosethorn, S. helvomaculatus
pygmy, . wilsoni	rosy, S. rosaceus
redstripe, S. proriger	silvergrey, S. brevispinus
rosethorn, S. helvomaculatus	speckled, S. ovalis
rosy, S. rosaceus	squarespot, S. hopkinsi
silvergrey, S. brevispinis	starry, S. constellatus
speckled, S. ovalis	stripetail, S. saxicola
squarespot, S. hopkinsi	swordspine, S. ensifer
starry, S. constellatus	tiger, S. nigorcinctus
stripetail, S. saxicola	vermilion, S. miniatus
swordspine, S. ensifer	yelloweye, S. ruberrimus
tiger, S. nigorcinctus	yellowtail, S. flavidus
vermilion, S. miniatus	
yelloweye, S. ruberrimus	
SLOPE	
aurora, S. aurora	aurora, S. aurora
bank, S. rufus	bank, S. rufus
blackgill, S. melanostomus	blackgill, S. melanostomus
darkblotched, S. crameri	darkblotched, S. crameri
redbanded, S. babcocki	Pacific ocean perch (POP), S. alutus
rougheye, S. aleutianus	redbanded, S. babcocki
sharpchin, S. zacentrus	rougheye, S. aleutianus
shortraker, S. borealis	sharpchin, S. zacentrus
splitnose, S. diploproa	shortraker, S. borealis
yellowmouth, S. reedi	yellowmouth, S. reedi

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B. Limited Entry Fishery

(1) *General.* Most species taken in limited entry fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d),) size limits (see paragraph IV.A.(6)), and seasons (see paragraph IV.A.(7)). The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board (see paragraph IV.A.(14)). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(20)). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Most of the management measures for the limited entry fishery are listed previously and in Tables 3 and 4, and may be changed during the year by announcement in the **Federal Register**. However, the management regimes for several fisheries (nontrawl sablefish, Pacific whiting, and black rockfish) do not neatly fit into these tables and are addressed immediately following Tables 3 and 4.

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Table 3. Trip Limits[1/] and Gear Requirements[2/] for Limited Entry Trawl Gear

Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,800 lb/ 2 months					
3	South	50,000 lb/ 2 months					
4	**Splitnose - South**	25,000 lb/ 2 months					
5	**Pacific ocean perch - North[6/]**	2,000 lb/ month		4,000 lb/ month			2,000 lb/ month
6	**Chilipepper - South[6/]**						
7	mid-water trawl	25,000 lb/ 2 months					
8	small footrope trawl	7,500 lb/ 2 months					
9	large footrope trawl	500 lb/ trip, not to exceed small footrope cumulative 2-month limits at any time during the year					
10	**DTS complex - North**						
11	Sablefish	6,000 lb/ 2 months		3,500 lb/ 2 months	6,000 lb/ 2 months	3,500 lb/ 2 months	2,500 lb/ 2 months
12	Longspine thornyhead	10,000 lb/ 2 months		6,000 lb/ 2 months	3,000 lb/ 2 months	10,000 lb/ 2 months	2,000 lb/ 2 months
13	Shortspine thornyhead	2,600 lb/ 2 months		2,000 lb/ 2 months	2,600 lb/ 2 months	2,600 lb/ 2 months	1,500 lb/ 2 months
14	Dover sole	30,000 lb/ 2 months	28,000 lb/ 2 months	14,000 lb/ 2 months	28,000 lb/ 2 months	20,000 lb/ 2 months	14,000 lb/ 2 months
15	**DTS complex - South**						
16	Sablefish	4,500 lb/ 2 months					
17	Longspine thornyhead	10,000 lb/ 2 months					
18	Shortspine thornyhead	2,600 lb/ 2 months					
19	Dover sole	22,000 lb/ 2 months					
20	**Flatfish - North**						
21	All other flatfish [3/]	Small footrope required: 15,000 lb/ month	Small footrope required: 35,000 lb/ month	30,000 lb/ month, no more than 10,000 of which may be petrale sole	40,000 lb/ month, no more than 15,000 of which may be petrale sole	50,000 lb/ month, no more than 20,000 of which may be petrale sole	Small footrope required: 50,000 lb/ month
22	Petrale sole	Not limited					Not limited
23	Rex sole	Not limited					Not limited
24	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
25	**Flatfish - South**						
26	All other flatfish [3/]	Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs		Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs. Of the species other than Pacific sanddabs, no more than 15,000 lb may be petrale sole			Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs
27	Petrale sole	Not limited					Not limited
28	Rex sole	Not limited					Not limited
29	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
30	**All other flatfish [3/] - North and South**	Large footrope: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits at any time during the year					
31	**Whiting shoreside [4/]**	20,000 lb/ trip		Primary Season			20,000 lb/ trip
32	**USE OF SMALL FOOTROPE BOTTOM TRAWL[5/] OR MIDWATER TRAWL REQUIRED FOR LANDING ALL OF THE FOLLOWING SPECIES:**						
33	**Minor shelf rockfish**						
34	North	300 lb/ month		1,000 lb/ month			300 lb/ month
35	South	500 lb/ month		1,000 lb/ month			500 lb/ month
36	**Canary rockfish**	200 lb/ 2 months		600 lb/ 2 months			200 lb/ 2 months
37	**Widow rockfish**						
38	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month			CLOSED[7/]
39	small footrope trawl	1,000 lb/ month					
40	**Yellowtail - North[6/]**						
41	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month			CLOSED[7/]
42	small footrope trawl	Without flatfish, 1,000 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 30,000 lb/ 2 months					
43	**Bocaccio - South[6/]**	600 lb/ 2 months		1,000 lb/ 2 months			600 lb/ 2 months
44	**Cowcod**	**CLOSED[7/]**					
45	**Minor nearshore rockfish**						
46	North	300 lb/ month					
47	South	300 lb/ month					
48	**Lingcod[8/]**	800 lb/ 2 months					

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ Gear requirements and prohibitions are explained above. See IV.A.(14).

3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with species specific management measures, including trip limits.

4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies before and after the primary season.

5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. Midwater gear also may be used; the footrope must be bare. See above.

6/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

7/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

8/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4. Trip Limits[1/] for Limited Entry Fixed Gear
Other Limits and Requirements Apply – Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,000 lb/ month		5,000 lb/ 2 months			2,000 lb/ 2 months
3	South	25,000 lb/ 2 months					
4	**Splitnose - South**	25,000 lb/ 2 months					
5	**Pacific ocean perch - North[5/]**	2,000 lb/ month	4,000 lb/ month				2,000 lb/ month
6	**Sablefish**						
7	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
9	**Longspine thornyhead**	9,000 lb/ 2 months					
10	**Shortspine thornyhead**	2,000 lb/ 2 months					
11	**Dover sole**	5,000 lb/ month (all flatfish)					
12	**Arrowtooth flounder**						
13	**Petrale sole**						
14	**Rex sole**						
15	**All other flatfish[2/]**						
16	**Whiting[3/]**	20,000 lb/ trip					
17	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish[5/]**						
18	North	200 lb/ month					
19	South						
20	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]		200 lb/ month	CLOSED[4/]	
21	South of 34°27' N. lat.	CLOSED[4/]	1,000 lb/ month				CLOSED[4/]
22	**Canary rockfish**	CLOSED[4/]					
23	**Yelloweye rockfish**	CLOSED[4/]					
24	**Cowcod**	CLOSED[4/]					
25	**Bocaccio - South[5/]**						
26	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]		200 lb/ month	CLOSED[4/]	
27	South of 34°27' N. lat.	CLOSED[4/]	200 lb/ month				CLOSED[4/]
28	**Chilipepper - South[5/]**						
29	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[4/]		500 lb/ month	CLOSED[4/]	
30	South of 34°27' N. lat.	CLOSED[4/]	2,500 lb/ month				CLOSED[4/]
31	**Minor nearshore rockfish**						
32	North	5,000 lb/ month, no more than 2,000 lb of which may be species other than black or blue rockfish[6/]					
33	South						
34	40°10' - 34°27' N. lat.	1,600 lb/ 2 months	CLOSED[4/]	Shoreward of 20 ftm depth, 1,600 lb/ 2 months, otherwise CLOSED[4/]	1,600 lb/ 2 months	Shoreward of 20 ftm depth, 1,600 lb/ 2 months, otherwise CLOSED[4/]	CLOSED[4/]
35	South of 34°27' N. lat.	CLOSED[4/]	2,000 lb/ 2 months				CLOSED[4/]
36	**Lingcod[7/]**						
37	North	CLOSED[4/]		400 lb/ month			CLOSED[4/]
38	South						
39	40°10' - 34°27' N. lat.	CLOSED[4/]		Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	400 lb/ month	Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	CLOSED[4/]
40	South of 34°27' N. lat.	CLOSED[4/]		400 lb/ month			CLOSED[4/]

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with species specific management measures, including trip limits.

3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies.

4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

5/ Yellowtail rockfish and widow rockfish coastwide and bocaccio and chilipepper rockfishes in the north are included in the trip limits for shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

6/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

7/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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(2) Sablefish. The limited entry sablefish allocation is further allocated 58 percent to trawl gear and 42 percent to nontrawl gear. See footnote e/ of Table 1a.

(a) *Trawl trip and size limits.* Management measures for the limited entry trawl fishery for sablefish are listed in Table 3.

(b) *Nontrawl (fixed gear) trip and size limits.* To take, retain, possess, or land sablefish during the primary season for the limited entry fixed gear sablefish fishery, the owner of a vessel must hold a limited entry permit for that vessel, affixed with both a gear endorsement for longline or trap (or pot) gear, and a sablefish endorsement. (See 50 CFR 663.323(a)(2)(i).) A sablefish endorsement is not required to participate in the limited entry daily trip limit fishery.

(i) *Primary season.* The primary season begins at 12 noon l.t. on April 1, 2002, and ends at 12 noon l.t. on October 31, 2002. There are no pre-season or post-season closures. During the primary season, each vessel with at least one limited entry permit with a sablefish endorsement that is registered for use with that vessel may land up to the cumulative trip limit for each of the sablefish-endorsed limited entry permits registered for use with that vessel, for the tier(s) to which the permit(s) are assigned. For 2002, the following limits are in effect: Tier 1, 36,000 lb (16,329 kg); Tier 2, 16,500 lb (7,484 kg); Tier 3, 9,500 lb (4,309 kg). All limits are in round weight. If a vessel is registered for use with a sablefish-endorsed limited entry permit, all sablefish taken after April 1, 2002, count against the cumulative limits associated with the permit(s) registered for use with that vessel. A vessel that is eligible to participate in the primary sablefish season may participate in the daily trip limit fishery for sablefish once that vessel's primary season sablefish limit(s) have been taken or after October 31, 2001, whichever occurs first. No vessel may land sablefish against both its primary season cumulative sablefish limits and against the daily trip limit fishery limits within the same 24 hour period of 0001 hour l.t. to 2400 hours l.t. [For example, if a vessel lands the last of its primary sablefish season tier limit at 1100 hours on a Tuesday, that vessel may not take, retain, possess or land sablefish against the daily or weekly trip limits until after 0001 hours on Wednesday.]

(ii) *Daily trip limit.* Daily and/or weekly sablefish trip limits listed in Table 4 apply to any limited entry fixed gear vessels not participating in the primary sablefish season described in paragraph (i) of this section. North of 36° N. lat., the daily and/or weekly trip limits apply to fixed gear vessels that are not registered for use with a sablefish-endorsed limited entry permit, and to fixed gear vessels that are registered for use with a sablefish-endorsed limited entry permit when those vessels are not fishing against their primary sablefish season cumulative limits. South of 36° N. lat., the daily and/or weekly trip limits for taking and retaining sablefish that are listed in Table 4 apply throughout the year to all vessels registered for use with a limited entry fixed gear permit.

(3) *Whiting.* Additional regulations that apply to the whiting fishery are found at 50 CFR 660.306 and at 50 CFR 660.323(a)(3) and (a)(4). All allocations described in this section and in the tribal fisheries allocation description at paragraph V. will not be finalized until the Council finalizes the 2002 whiting ABC and OY at its March 2002 meeting.

(a) *Allocations.* Whiting allocations will be based on the percentages detailed in 50 CFR 660.323 (a)(4)(i), and will be announced inseason when the final OY is announced.

(b) *Seasons.* The 2002 primary seasons for the whiting fishery start on the same dates as in 2001, as follows (see 50 CFR 660.323(a)(3)):

(i) *Catcher/processor sector*--May 15;

(ii) *Mothership sector*--May 15;

(iii) *Shore-based sector*--June 15 north of 42° N. lat.; April 1 between 42°-40°30′ N. lat.; April 15 south of 40°30′ N. lat.

(c) *Trip limits*—(i) *Before and after the regular season.* The ''per trip'' limit for whiting before and after the regular season for the shore-based sector is announced in Table 3, as authorized at 50 CFR 660.323(a)(3) and (a)(4). Any whiting caught shoreward of 100 fathoms (183 m) in the Eureka area counts towards this limit.

(ii) *Inside the Eureka 100 fm (183 m) contour.* No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area.

(4) *Black rockfish.* The regulations at 50 CFR 660.323(a)(1) state: ''The trip limit for black rockfish (Sebastes melanops) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09′30'' N. lat.) and between Destruction Island (47°40′00'' N. lat.) and Leadbetter Point (46°38′10'' N. lat.), is 100 lb (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip.'' These ''per trip'' limits apply to limited entry and open access fisheries, in conjunction with the cumulative trip limits and other management measures listed in Tables 4 and 5 of Section IV. The crossover provisions at paragraphs

IV.A.(12) do not apply to the black rockfish per-trip limits.

C. Trip Limits in the Open Access Fishery

(1) *General.* Open access gear is gear used to take and retain groundfish from a vessel that does not have a valid limited entry permit for the Pacific Coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), set net and trammel net (south of 38° N. lat. only), and exempted trawl gear (trawls used to target non-groundfish species: pink shrimp or prawns, and, south of Pt. Arena, CA (38°57′30'' N. lat.), California halibut or sea cucumbers). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d),) size limits (see paragraph IV.A.(6)), and seasons (see paragraph IV.A.(7)). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(20)). Yelloweye rockfish retention is prohibited in all open access fisheries. The trip limits, size limits, seasons, and other management measures for open access groundfish gear, except exempted trawl gear, are listed in Table 5. The trip limit at 50 CFR 660.323(a)(1) for black rockfish caught with hook-and-line gear also applies. (The black rockfish limit is repeated at paragraph IV.B.4.)

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Table 5. Trip Limits[1/] for Open Access Gears
Other Limits and Requirements Apply – Read Sections IV. A. and C. NMFS Actions before using this table
Exceptions for exempted gears at Section IV.C.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	Per trip, no more than 25% of weight of the sablefish landed					
3	South	10,000 lb/ 2 months					
4	**Splitnose - South**	200 lb/ month					
5	**Pacific ocean perch - North**[4/]	100 lb/ month					
6	**Sablefish**						
7	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
9	**Thornyheads**						
10	North of 34° 27' N. lat.	CLOSED[3/]					
11	South of 34° 27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months					
12	**Dover sole**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs					
13	**Arrowtooth flounder**						
14	**Petrale sole**						
15	**Rex sole**						
16	**All other flatfish**[2/]						
17	**Whiting**	300 lb/ month					
18	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish**[4/]						
19	North	200 lb/ month					
20	South						
21	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[3/]	200 lb/ month	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]
22	South of 34°27' N. lat.	CLOSED[3/]	500 lb/ month				CLOSED[3/]
23	**Canary rockfish**	CLOSED[3/]					
24	**Yelloweye rockfish**	CLOSED[3/]					
25	**Cowcod**	CLOSED[3/]					
26	**Bocaccio - South**[4/]						
27	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]		200 lb/ month	CLOSED[3/]	
	South of 34°27' N. lat.	CLOSED[3/]	200 lb/ month				CLOSED[3/]
28	**Chilipepper - South**[4/]						
29	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[3/]		500 lb/ month	CLOSED[3/]	
30	South of 34°27' N. lat.	CLOSED[3/]	2,500 lb/ month				CLOSED[3/]
31	**Minor nearshore rockfish**						
32	North	3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish[5/]		4,000 lb/ 2 months, no more than 1,600 lb of which may be species other than black or blue rockfish[5/]			3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish[5/]
33	South						
34	40°10' - 34°27' N. lat.	1,200 lb/ 2 months	CLOSED[3/]	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	1,200 lb/ 2 months	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	CLOSED[3/]
35	South of 34°27' N. lat.	CLOSED[3/]	1,200 lb/ 2 months				CLOSED[3/]
36	**Lingcod**[6/]						
37	North	CLOSED[3/]		300 lb/ month			CLOSED[3/]
38	South						
39	40°10' - 34°27' N. lat.	CLOSED[3/]		Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	300 lb/ month	Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]
40	South of 34°27' N. lat.	CLOSED[3/]		300 lb/ month			CLOSED[3/]

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40o10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 5 with species specific management measures, including trip limits.

3/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

4/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

5/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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(2) *Groundfish taken with exempted trawl gear by vessels engaged in fishing for spot and ridgeback prawns, California halibut, or sea cucumbers.*–(a) *Trip limits.* The trip limit is 300 lb (136 kg) of groundfish per fishing trip. Limits in Table 5 also apply and are counted toward the 300 lb (136 kg) groundfish limit. In any landing by a vessel engaged in fishing for spot and ridgeback prawns, California halibut, or sea cucumbers with exempted trawl gear, the amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish (Squalas acanthias) landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb (136 kg) per trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish ''per trip'' limit may not be multiplied by the number of days of the fishing trip. The closures listed in table 5 also apply, except for the species subsequently listed in subparagraphs (i) through (v). The following sublimits also apply and are counted toward the overall 300 lb (136 kg) per trip groundfish limit:

(i) Shelf rockfish (including minor shelf rockfish, widow and yellowtail)-

(A) Between 40°10′ N. lat. and 34°27′ N. lat.: 200 lb (91 kg) per month.

(B) South of 34°27′ N. lat.: 500 lb (227 kg) per month.

(ii) Bocaccio south of 40 deg. 10′ N. lat. - 200 lb (91 kg) per month.

(iii) Chilipepper--

(A) Between 40°10′ N. lat. and 34°27′ N. lat.: 500 lb (227 kg) per month.

(B) South of 34°27′ N. lat.: 2,500 lb (1,134 kg) per month.

(iv) Minor nearshore rockfish south of 40 deg. 10′ N. lat.: 1,200 lb (544 kg) per 2 months.

(v) Lingcod south of 40 deg. 10′ N. lat. - May 1 through October 31, 2002: 300 lb (136 kg) per month, otherwise closed.

(b) *State law.* These trip limits are not intended to supersede any more restrictive state laws relating to the retention of groundfish taken in shrimp or prawn pots or traps.

(c) *Participation in the California halibut fishery.* A trawl vessel will be considered participating in the California halibut fishery if:

(i) It is not fishing under a valid limited entry permit issued under 50 CFR 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena; and

(iii) The landing includes California halibut of a size required by California Fish and Game Code section 8392(a), which states: ''No California halibut may be taken, possessed or sold which measures less than 22 inches (56 cm) in total length, unless it weighs 4 lbs (1.8144 kg) or more in the round, 3 and one-half lbs (1.587 kg) or more dressed with the head on, or 3 lbs (1.3608 kg) or more dressed with the head off.'' Total length means ''the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.''

(d) *Participation in the sea cucumber fishery.* A trawl vessel will be considered to be participating in the sea cucumber fishery if:

(i) It is not fishing under a valid limited entry permit issued under 50 CFR 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena; and

(iii) The landing includes sea cucumbers taken in accordance with California Fish and Game Code, section 8396, which requires a permit issued by the State of California.

(3) *Groundfish taken with exempted trawl gear by vessels engaged in fishing for pink shrimp.* (a) The trip limit is 500 lb (227 kg) of groundfish per day, multiplied by the number of days of the fishing trip, but not to exceed 1,500 lb (680 kg) of groundfish per trip. The following sublimits also apply and are counted toward the overall 500 lb (227 kg) per day and 1,500 lb (680 kg) per trip groundfish limits:

(i) Canary rockfish--

(A) April 1 through 30, 2002: 50 lb (23 kg) per month

(B) Starting May 1, 2002 through October 31, 2002: 200 lb (91 kg) per month

(ii) Lingcod--April 1 through October 31, 2002: 400 lb (181 kg) per month, with a minimum size limit (total length) of 24 inches (61 cm).

(iii) Sablefish--April 1, 2002 through October 31, 2002: 2,000 lb (907 kg) per month.

(iv) Thornyheads--Closed north of Pt. Conception (34°27′ N. lat.)

(b) All other groundfish species taken with exempted trawl gear by vessels engaged in fishing for pink shrimp are managed under the overall 500 lb (227 kg) per day and 1,500 lb (680 kg) per trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits.

(c) In any trip in which pink shrimp trawl gear is used, the amount of groundfish landed may not exceed the amount of pink shrimp landed.

(d) Operating in pink shrimp and other fisheries during the same cumulative trip limit period. Notwithstanding section IV.A.(11), a vessel that takes and retains pink shrimp and also takes and retains groundfish in either the limited entry or another open access fishery during the same applicable cumulative limit period that it takes and retains pink shrimp (which may be 1 month or 2 months, depending on the fishery and the time of year), may retain the larger of the two limits, but only if the limit(s) for each gear or fishery are not exceeded when operating in that fishery or with that gear. The limits are not additive; the vessel may not retain a separate trip limit for each fishery.

D. Recreational Fishery

(1) *California.* (Note: California law provides that, in times and areas when the recreational fishery is open, there is a 20–fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person.) For each person engaged in recreational fishing seaward of California, the following seasons and bag limits apply:

(a) *Rockfish.* (i) Cowcod Conservation Areas. Recreational fishing for groundfish is prohibited within the CCAs, as described above at IV.A.(20), except that fishing for rockfish is permitted in waters inside the 20–fathom (37 m) depth contour within the CCAs from March 1 through October 31, 2002, subject to the bag limits in paragraph (iii) of this section.

(ii) *Seasons.* North of 40°10′ N. lat., recreational fishing for rockfish is open from January 1 through December 31. South of 40°10′ N. lat. and north of Point Conception (34°27′ N. lat.), recreational fishing for rockfish is closed from March 1 through April 30, and from November 1 through December 31. This area is also closed to recreational rockfish fishing from May 1 through June 30 and from September 1 through October 31, except that fishing for rockfish is permitted inside the 20 fathom (37 m) depth contour, subject to the bag limits in paragraph (iii) of this section, except that bocaccio, canary rockfish and yelloweye rockfish retention is prohibited. South of Point Conception (34°27′ N. lat.), recreational fishing for rockfish is closed from January 1 through February 28 and from November 1 through December 31. Recreational fishing for cowcod is prohibited all year in all areas.

(iii) *Bag limits, boat limits, hook limits.* In times and areas when the recreational season for rockfish is open, there is a 2–hook limit per fishing line,

and the bag limit is 10 rockfish per day, of which no more than 2 may be bocaccio, no more than 1 may be canary rockfish, and no more than 1 may be yelloweye rockfish. No more than 2 yelloweye rockfish may be retained per vessel. Cowcod may not be retained. Bocaccio, canary rockfish, and yelloweye rockfish may not be retained, and no more than 2 shelf rockfish may be retained, in the area between 40°10′ N. lat. and Point Conception (34°27′ N. lat.) from May 1 through June 30, or September 1 through October 31. (Note: California scorpionfish, are subject to California's 10 fish bag limit per species, but are not counted toward the 10 rockfish bag limit.) Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(iv) *Size limits.* The following rockfish size limits apply: bocaccio may be no smaller than 10 inches (25 cm), and California scorpionfish may be no smaller than 10 inches (25 cm).

(v) *Dressing/Fileting.* Rockfish skin may not be removed when fileting or otherwise dressing rockfish taken in the recreational fishery. The following rockfish filet size limits apply: bocaccio filets may be no smaller than 5 inches (12.8 cm); California scorpionfish filets may be no smaller than 5 inches (12.8 cm); and brown-skinned rockfish filets may be no smaller than 6.5 inches (16.6 cm). ''Brown-skinned'' rockfish include the following species: brown, calico, copper, gopher, kelp, olive, speckled, squarespot, and yellowtail.

(b) *Roundfish* (Lingcod, cabezon, kelp greenling)–(i) *Cowcod Conservation Areas.* Recreational fishing for groundfish is prohibited within the CCAs, as described above at section IV.A.(20), except that fishing for lingcod is permitted in waters inside the 20 fathom (37 m) depth contour within the CCAs from March 1 through October 31, 2002, subject to the bag limits in paragraph (iii) of this section. Fishing for cabezon and kelp greenling is allowed in waters inside the 20 fathom (37 m) depth contour within the CCAs year round.

(ii) *Seasons.* North of 40°10′ N. lat., recreational fishing for lingcod is open from January 1 through December 31. South of 40°10′ N. lat. and north of Point Conception (34°27′ N. lat.), recreational fishing for lingcod is closed from March 1 through April 30, and from November 1 through December 31. This area is also closed to recreational lingcod fishing from May 1 through June 30 and from September 1 through October 31, except that fishing for lingcod is permitted inside the 20 fathom (36.9 m) depth contour, subject to the bag limits in paragraph (iii) of this section. South of Point Conception (34°27′ N. lat.), recreational fishing for lingcod is closed from January 1 through February 28 and from November 1 through December 31.

(iii) *Bag limits, boat limits, hook limits.* In times and areas when the recreational season for lingcod is open, there is a 2–hook limit per fishing line, and the bag limit is 2 lingcod per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(iv) *Size limits.* The following roundfish size limits apply: lingcod may be no smaller than 24 inches (61 cm) total length, cabezon may be no smaller than 15 inches (38 cm); and kelp greenling may be no smaller than 12 inches (30 cm).

(v) *Dressing/Fileting.* Cabezon and kelp greenling taken in the recreational fishery may not be fileted at sea. Lingcod filets may be no smaller than 15 inches (38.1 cm).

(2) *Oregon.* The bag limits for each person engaged in recreational fishing seaward of Oregon are 1 lingcod per day, which may be no smaller than 24 inches (61 cm) total length; and 10 rockfish per day, of which no more than 1 may be canary rockfish and no more than 1 may be yelloweye rockfish. During the all-depth recreational fisheries for Pacific halibut (Hippoglossus stenolopis), vessels with halibut on board may not take, retain, possess or land yelloweye rockfish.

(3) *Washington.* For each person engaged in recreational fishing seaward of Washington, the following seasons and bag limits apply:

(a) *Rockfish.* There is a rockfish bag limit of no more than 10 rockfish per day, of which no more than 2 may be canary rockfish. Taking and retaining yelloweye rockfish is prohibited off the Coast of Washington.

(b) *Lingcod.* Recreational fishing for lingcod is closed between January 1 and April 15, and between October 16 and December 31. When the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day, which may be no smaller than 24 inches (61 cm) total length.

V. Washington Coastal Tribal Fisheries

The Assistant Administrator (AA) announces the following tribal allocations for 2002, including those that are the same as in 2001. Trip limits for certain species were recommended by the tribes and the Council and are specified here with the tribal allocations.

A. Sablefish

The tribal allocation is 424 mt, 10 percent of the total catch OY, less 3 percent estimated discard mortality.

B. Rockfish

(1) For the commercial harvest of black rockfish off Washington State, a harvest guideline of: 20,000 lb (9,072 kg) north of Cape Alava (48°09′30'' N. lat.) and 10,000 lb (4,536 kg) between Destruction Island (47°40′00'' N. lat.) and Leadbetter Point (46°38′10'' N. lat.).

(2) Thornyheads are subject to a 300 lb (136 kg) trip limit.

(3) Canary rockfish are subject to a 300 lb (136 kg) trip limit.

(4) Yelloweye rockfish are subject to a 100 lb (45 kg) trip limit.

(5) Yellowtail rockfish taken in the tribal mid-water trawl fisheries are subject to a cumulative limit of 30,000 lb (13,608 kg) per two-month period. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed in any two-month period. These limits may be adjusted by an individual tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish.

(6) Other rockfish, including minor nearshore, minor shelf, and minor slope rockfish groups are subject to a 300 lb (136 kg) trip limit per species or species group, or to the non-tribal limited entry trip limit for those species if those limits are less restrictive than 300 lb (136 kg) per trip.

(7) Rockfish taken during open competition tribal commercial fisheries for Pacific halibut will not be subject to trip limits.

C. Lingcod

Lingcod are subject to a 300 lb (136 kg) daily trip limit and a 900 lb (408 kg) weekly limit.

D. Pacific whiting

Whiting allocations will be announced when the final OY is announced.

Classification

These final specifications and management measures for 2002 are issued under the authority of, and are in accordance with, the Magnuson-Stevens Act, the FMP, and 50 CFR parts 600 and 660 subpart G (the regulations implementing the FMP).

This package of specifications and management measures is intended to protect overfished and depleted groundfish stocks while also allowing as much harvest of healthy stocks as

possible over the course of the year. A 30–day delay in effectiveness for these rules would in fact be a 60–day delay, because most of the trip limits are two-month limits, so most fishers could land the entire two month limit before the rules went into effect in 30 days. Delay in implementation of these regulatory measures could cause harm to some stocks, as fishing would continue using the less restrictive March-December 2001 management measures until the implementation of these 2002 regulations. For example, limits for dover sole are substantially larger for March and April in 2001 than during March and April in 2002. Also, the 2002 regulations allow no mid-water fishing for widow rockfish above the small footrope limit, but the 2001 regulations allow 20,000 lb in March and April. Delay in publishing these measures could also require unnecessarily restrictive measures, including possible closures, later in the year to make up for the excessive harvest allowed by late implementation of these regulations, causing economic harm to the fishing industry and fishing communities. For these reasons, there is good cause under 5 U.S.C. 553(d)(3) to determine that delaying the effectiveness of this rule for 30 days would be contrary to the public interest.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a final regulatory flexibility analysis (FRFA) describing the impact of this action on small entities. The IRFA was summarized in the proposed rule published on January 11, 2002 (67 FR 1555). The following is the summary of the FRFA. The need for and objectives of this final rule are contained in the SUMMARY and Background section of the preamble. NMFS did not receive any comments on the IRFA or on the proposed rule regarding the economic effects of this final rule.

Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered with limited entry permits issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10–20 of those vessels are considered small businesses by the Small Business Administration. There are also about 700 groundfish buyers on the West Coast, approximately 250 of which annually purchased at least $33,000 of groundfish in 2000. In the 2001 recreational fisheries, there were 106 charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

In developing the 2002 specifications and management measures, the Council considered three issues, each with several alternatives and sub-options, and ultimately recommended a management package that balanced the conservation and socioeconomic risks and benefits associated with all aspects of the 2002 Pacific Coast groundfish fishery. The three issues were harvest levels, bycatch and discard rate assumptions, and season structuring. Each issue had several alternatives with varying degrees of potential risks and benefits to the groundfish fishery, as described in the EA/RIR/IRFA. Less restrictive alternatives tend to buffer, but not necessarily ameliorate, the continued downward trend in economic benefits and fishing opportunities. However, the short term benefits of less restrictive alternatives were weighed against longer term stock conservation risks. The Council adopted alternatives modeled in the EA/RIR/IRFA that encompass a reasonable range of options for the 2002 groundfish fishery, given anticipated short and long term risks and benefits.

Alternative harvest levels were developed for the seven stocks that were subject to new stock assessments or rebuilding strategies in 2001: sablefish, Pacific ocean perch (POP), widow rockfish, shortspine thornyhead, darkblotched rockfish, yelloweye rockfish, and Dover sole. Four alternatives were considered: the status quo, a low level of acceptable biological catch (ABC) and OY, high levels of ABC/OY, and the recommended action. The recommended action sets ABCs/OYs between the high and low levels, with the ABCs/OYs of the seven stocks at lower levels than the status quo alternative except for shortspine thornyheads and darkblotched rockfish, and represents a 21–percent reduction in commercial exvessel value from the status quo and a commensurate reduction in recreational catch. Neither the status quo alternative nor the high level alternative were recommended because they were not considered to sufficiently reduce the effects of incidental catches of overfished species in fisheries targeting healthy stocks. The low level alternative would reduce commercial exvessel value by 34 percent of the value of the status quo fishery, with a commensurate reduction in recreational catch. While this alternative would have provided more risk averse stock protection, it was rejected because its effects on the fishery would likely have caused even more severe economic disruptions, particularly in the limited entry trawl and fixed gear fisheries.

The bycatch and discard rate estimation issue arose from the need to accurately account for total groundfish mortality and from recent legal challenges of past bycatch and discard rate assumptions. The Council used a synthesis of several scientific studies to provide a low-to-high range of bycatch rates for lingcod, bocaccio, canary rockfish, darkblotched rockfish, and POP for the limited entry trawl fishery. Four alternatives were considered, the status quo, a low end range of bycatch rates, a high end range of bycatch rates, and species-specific bycatch rates, which were low-, mid-, or high, depending on the data availability and analytical fit for the relationship between each target fishery and bycatch species. The Council chose the individual species bycatch rates that were best supported by the available data. In choosing the preferred alternative the Council considered the legal requirements and the biological and economic consequences of over- or underestimating the bycatch rates. The Council rejected using the status quo bycatch and discard rate assumptions of 2001 because the new analysis required by the Court provided a better basis for bycatch and discard management. Applying the low end alternative would not have been as constraining on the fishery, but represented a greater risk of overfishing depleted stocks if bycatch rates and total mortality were underestimated. Applying the high end alternative would have entailed less risk of overfishing, but would have been the most constraining on the fishery and would have incurred unnecessary economic losses if the total mortality were overestimated and for some species did not appear to use the best available data.

The alternative season options considered area and time closures to allow higher trip limits and lessen regulatory discard of groundfish during open times and areas. Six alternatives were considered for the commercial seasons: the status quo, a year-round GMT recommended season, a coastwide 6–month season, a year-round Groundfish Advisory Panel (GAP) recommended season based on the preferred OYs, a year-round GAP recommended season based on the high end OYs, and the recommended action, which shaped seasons based on allowing harvest of the preferred OYs of healthy stocks during times and in areas

when bycatch of overfished stocks would be reduced. The status quo alternative was rejected because it would not have used the best available science (i.e., new stock assessments,) and would have violated the legal mandate to reconsider bycatch and discard mortality rate assumptions. The year-round GMT recommended season was rejected because it did not consider the restrictions needed for managing overfished species. The coastwide 6–month season was rejected because of the potential of processors and vessels to lose skilled workers, loss of markets, and weather constraints leading to inequitable fishing opportunities for different fishing sectors. The two year-round GAP recommended seasons were rejected because the landing limits for these seasons would have resulted in a higher bycatch of constraining stocks than would have been allowed under the range of harvest levels considered, possibly exceeding the OYs for those stocks.

The fisheries agencies of the states of Oregon, Washington, and California presented several options for recreational fisheries off their respective states. In each case the Council adopted a preferred alternative that considered the preferred ABC/OY level and the bycatch constraints for their state- and area-specific fisheries.

Allowable commercial catches of many groundfish are even lower than in 2001, but the Council has tried to restructure the timing of differential trip limits to provide commercial fisheries with greater flexibility in their fishing patterns while not increasing the overall catches. This restructuring is intended to limit the extent to which businesses such as tackle suppliers and gear shops that supply and support the fishing industry would suffer. Many commercial groundfish fishers have other fishing opportunities during the year, and these opportunities were taken into account. For example, the small-scale commercial fishers (and recreational fishers) in southern California would (under state regulations) still be able to fish for certain species in nearshore waters while the shelf is closed to protect overfished species. Nonetheless, the effects of these 2002 management measures on some fishers and communities will be severe, particularly for those without other opportunities. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This rule does not propose any new reporting and recordkeeping requirements; however, the proposed rule was used in part as a vehicle to announce exempted fishing permits (EFPs) for 2002, which include reporting and recordkeeping requirements. Permit requirements relevant to the EFPs discussed in the proposed rule have been approved by OMB under control number 0648–0203 for Federal fisheries permits. The public reporting burden for applications for exempted fishery permits is estimated at 1 hour per response; the burden for reporting by exempted fishing permittees is estimated at 30 minutes per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information. EFP permittees would be owners or captains of West Coast groundfish fishing vessels, most of which are classified as small entities. No professional skills are needed for any of the reporting requirements of the EFP programs.

A copy of this analysis is available from NMFS (see **ADDRESSES**).

The Small Business Regulatory Enforcement Act of 1996 requires a plain language guide to assist small entities in complying with this rule. In order to comply with this requirement, NMFS has produced a public notice labeled a Small Business Entity Compliance Guide for the 2002 fishing season that includes trip limit tables and descriptions of 2002 management measures. Contact NMFS to request a copy of this public notice (see **ADDRESSES**) or see the NMFS Northwest Region's groundfish website at *http://www.nwr.noaa.gov/ 1sustfsh/gdfsh01.htm.*

Pursuant to Executive Order 13175, this rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the FMP request new allocation or regulations specific to the tribes, in writing, before the first of the two autumn groundfish meetings of the Council. The regulation at 50 CFR 660.324(d) further states ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The tribal management measures in this final rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the tribal management measures, which was passed by the Council, and those management measures, which were developed and proposed by the tribes, are included in this final rule.

NMFS issued Biological Opinions (BOs) under the Endangered Species Act on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, northern California, southern California). NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. NMFS has re-initiated consultation on the Pacific whiting fishery associated with the (whiting BO) issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the BO's incidental take statement's incidental take estimates, 11,000 fish, by approximately 500 fish. In the 2001 whiting season, however, the whiting fishery's chinook bycatch was well below the 11,000 fish incidental take estimates. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS is gathering data from the 2001 whiting fisheries and expects that the re-initiated whiting BO will be complete by April 2002. During the reinitiation, fishing under the FMP is within the scope of the December 15, 1999, BO, so long as the annual incidental take of chinook stays under the 11,000 fish bycatch limit. NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the

continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: March 1, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660--FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

l. The authority citation for part 660 continues to read as follows:

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

2. In § 660.323, paragraph (a)(2)(ii) is revised to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(2) * * *

(ii) *Primary season–limited entry, fixed gear sablefish fishery*–(A) *Season dates.* North of 36° N. lat., the primary sablefish season for limited entry, fixed gear vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, unless otherwise announced by the Regional Administrator.

* * * * *

[FR Doc. 02–5302 Filed 3–1–02; 2:36 pm]

BILLING CODE 3510–22–S

Federal Register

Thursday,
March 7, 2002

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1 and Parts 17, et al.
Federal Acquisition Regulations; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 17, 22, and 36

[FAC 2001–05; FAR Case 2001–016 (stay)]

RIN 9000–AJ14

Federal Acquisition Regulation; Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

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

ACTION: Interim rule; stay with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) published an interim rule in the **Federal Register** at 66 FR 27414, May 16, 2001, implementing Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, which prohibits including requirements for affiliation with a labor organization as a condition for award of any contract or subcontract for construction or construction management services. Executive Order 13202, as amended, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. Pending resolution of this litigation, the Councils are now issuing a stay of a paragraph of the rule. After final judicial resolution of the dispute, the Councils will, as appropriate, issue a notice regarding the status of the rule. The Councils request comments on this action.

DATES: *Effective Date:* Effective March 7, 2002 paragraph 36.202(d) of the interim rule published in the **Federal Register** at 66 FR 27414, May 16, 2001, is stayed indefinitely.

Comment Date: Interested parties must submit comments to the FAR Secretariat at the address shown below on or before May 6, 2002 to be considered in the formulation of a rule concerning the stay and the length of the stay.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: *farcase.2001–016stay@gsa.gov.* Please submit comments only and cite FAC 2001–05, FAR case 2001–016 (stay), in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 2001–05, FAR case 2001–016 (stay).

SUPPLEMENTARY INFORMATION:

A. Background

On February 17, 2001, President George W. Bush signed Executive Order 13202 revoking Executive Order 12836 of February 1, 1993, and Presidential Memorandum of June 5, 1997, entitled ''Use of Project Labor Agreements for Federal Construction Projects.'' The Executive order was published in the **Federal Register** at 66 FR 11225, February 22, 2001, and was amended by Executive Order 13208, which was published in the **Federal Register** at 66 FR 18717, April 11, 2001. Executive Order 13202, as amended, is intended to improve the internal management of the Executive branch by—

- Promoting and ensuring open competition on Federal and federally funded or assisted construction projects;
- Maintaining Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects;
- Reducing construction costs to the Government and to the taxpayers;
- Expanding job opportunities, especially for small and disadvantaged businesses;
- Preventing discrimination against Government contractors or their employees based upon labor affiliation or lack thereof, thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects; and
- Preventing the inefficiency that may result from the disruption of a previously established contractual relationship in particular cases.

To implement Executive Order 13202, as amended, an interim rule was published in the **Federal Register** on May 16, 2001, 66 FR 27414, as Item II of FAC 97–26. Consistent with Executive Order 13202, as amended, FAR 36.202(d) of that interim rule specified that agencies could not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permitted agency heads to exempt a project from the requirements of the Executive order under special circumstances, but specified that such an exemption could not be related to a possible or an actual labor dispute. FAR 36.202(d) also provided for the exemption of a project governed by a project labor agreement in place as of February 17, 2001, which had a construction contract awarded as of February 17, 2001.

Public comments were received from 179 respondents.

Executive Order 13202, as amended, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. *Building and Construction Trades Department, AFL–CIO* v. *Allbaugh,* 172 F.Supp. 2d 138 (D.D.C. 2001), appeal pending, No. 01–5436 (D.C. Cir.).

Based on guidance received from the Administrator of the Office of Federal Procurement Policy, Office of Management and Budget, the Councils are issuing this notice staying FAR 36.202(d), pending resolution of the litigation. After final judicial resolution of the dispute, the Councils will, as appropriate, issue a notice regarding the status of FAR 36.202(d).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration believe that this stay may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the action stays a rule that would have assisted in expanding job opportunities for small and small disadvantaged businesses in Federal construction projects. Therefore, we have prepared an Initial Regulatory Flexibility Analysis:

Description of the reasons why action by the agency is being considered: An interim rule was published in the **Federal Register** on May 16, 2001, 66 FR 27414, as Item II of

FAC 97–26. That interim rule amended the FAR to implement Executive Order 13202, as amended. Consistent with the Executive Order, FAR 36.202(d) provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from these requirements under special circumstances, as long as the exemption is not related to the possibility of or an actual labor dispute. FAR 36.202(d) also allows for exemption of a project governed by a project labor agreement in place as of February 17, 2001, which had a construction contract awarded as of February 17, 2001. Public comments were received from 179 respondents. There were no public comments received in response to the Initial Regulatory Flexibility Analysis.

Executive Order 13202, as amended, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. See *Building and Construction Trades Department, AFL–CIO v. Allbaugh,* 172 F.Supp. 2d 138 (D.D.C. 2001), appeal pending, No. 01–5436 (D.C. Cir.). Based on guidance received from the Administrator of the Office of Federal Procurement Policy, Office of Management and Budget, the Councils are staying FAR 36.202(d) pending resolution of the litigation. After final judicial resolution of the dispute, the Councils will, as appropriate, issue a notice regarding the status of FAR 36.202(d).

Succinct statement of the objectives of, and legal basis for, the interim rule stay: This action stays FAR 36.202(d), which implemented Executive Order 13202, as amended, pending judicial resolution of litigation related to the Executive Order.

Description of, and where feasible, estimate of the number of small entities to which the interim rule stay will apply: The stay applies to all large and small entities that seek construction contracts that are awarded by executive agencies. For fiscal year 2001, through the third quarter, there were 1,143 construction contract actions awarded. It is not known how many were union or nonunion. The interim rule published as Item II of FAC 97–26 had an Initial Regulatory Flexibility Act statement that said it was likely to have an economic impact on entities that had nonunion shops because it would have provided additional work opportunities.

Description of projected reporting, recordkeeping, and other compliance requirements of the interim rule stay, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record: The interim rule stay imposes no reporting, recordkeeping, or other compliance requirements.

Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the interim rule stay: The interim rule stay does not duplicate, overlap, or conflict with any other Federal rules.

Description of any significant alternatives to the interim rule stay that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the interim rule stay on small entities: There are no practical alternatives that will accomplish the objectives of this stay.

We invite comments from small businesses and other interested parties. We will consider comments from small entities concerning the affected FAR Parts 17, 22, and 36 in accordance with 5 U.S.C. 610. Small entities must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–05, FAR Case 2001–016 (stay)), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim stay does not impose or remove information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Stay

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim stay without prior opportunity for public comment. This action is necessary because Executive Order 13202, as amended, which FAR 36.202(d) implements, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule stay will be considered in formulating a final rule.

List of Subjects in 48 CFR Parts 17, 22, and 36

Government procurement.

Dated: March 1, 2002.

Al Matera,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–05 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2001–05 are effective March 7, 2002.

Dated: February 28, 2002.

Deidre A. Lee,

Director, Defense Procurement.

Dated: February 27, 2002.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: February 27, 2002.

Anne Guenther,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

Accordingly, paragraph 36.202(d) of the interim rule amending 48 CFR parts 17, 22, and 36, which was published on May 16, 2001 in the **Federal Register** at 66 FR 27414 as Item II of FAC 97–26, is stayed indefinitely.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 02–5385 Filed 3–6–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rule appearing in Federal Acquisition Circular (FAC) 2001–05 which amends the FAR. A regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 603. Interested parties may obtain further information regarding this rule by referring to FAC 2001–05 which precedes this document. This document is also available via the Internet at *http://www.arnet.gov/far.*

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, General Services Administration, at (202) 501–1900.

Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (FAR Case 2001–016 (Stay))

This action stays FAR 36.202(d), which was added by the May 16, 2001, interim rule published as Item II of Federal Acquisition Circular 97–26 to implement Executive Order 13202, as amended.

Dated: March 1, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–5386 Filed 3–6–02; 8:45 am]

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March 7, 2002

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1 and Parts 17, et al.
Federal Acquisition Regulations; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 17, 22, and 36

[FAC 2001–05; FAR Case 2001–016 (stay)]

RIN 9000–AJ14

Federal Acquisition Regulation; Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects

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

ACTION: Interim rule; stay with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) published an interim rule in the **Federal Register** at 66 FR 27414, May 16, 2001, implementing Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, which prohibits including requirements for affiliation with a labor organization as a condition for award of any contract or subcontract for construction or construction management services. Executive Order 13202, as amended, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. Pending resolution of this litigation, the Councils are now issuing a stay of a paragraph of the rule. After final judicial resolution of the dispute, the Councils will, as appropriate, issue a notice regarding the status of the rule. The Councils request comments on this action.

DATES: *Effective Date:* Effective March 7, 2002 paragraph 36.202(d) of the interim rule published in the **Federal Register** at 66 FR 27414, May 16, 2001, is stayed indefinitely.

Comment Date: Interested parties must submit comments to the FAR Secretariat at the address shown below on or before May 6, 2002 to be considered in the formulation of a rule concerning the stay and the length of the stay.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: *farcase.2001–016stay@gsa.gov.* Please submit comments only and cite FAC 2001–05, FAR case 2001–016 (stay), in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 2001–05, FAR case 2001–016 (stay).

SUPPLEMENTARY INFORMATION:

A. Background

On February 17, 2001, President George W. Bush signed Executive Order 13202 revoking Executive Order 12836 of February 1, 1993, and Presidential Memorandum of June 5, 1997, entitled ''Use of Project Labor Agreements for Federal Construction Projects.'' The Executive order was published in the **Federal Register** at 66 FR 11225, February 22, 2001, and was amended by Executive Order 13208, which was published in the **Federal Register** at 66 FR 18717, April 11, 2001. Executive Order 13202, as amended, is intended to improve the internal management of the Executive branch by—

- Promoting and ensuring open competition on Federal and federally funded or assisted construction projects;
- Maintaining Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects;
- Reducing construction costs to the Government and to the taxpayers;
- Expanding job opportunities, especially for small and disadvantaged businesses;
- Preventing discrimination against Government contractors or their employees based upon labor affiliation or lack thereof, thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects; and
- Preventing the inefficiency that may result from the disruption of a previously established contractual relationship in particular cases.

To implement Executive Order 13202, as amended, an interim rule was published in the **Federal Register** on May 16, 2001, 66 FR 27414, as Item II of FAC 97–26. Consistent with Executive Order 13202, as amended, FAR 36.202(d) of that interim rule specified that agencies could not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permitted agency heads to exempt a project from the requirements of the Executive order under special circumstances, but specified that such an exemption could not be related to a possible or an actual labor dispute. FAR 36.202(d) also provided for the exemption of a project governed by a project labor agreement in place as of February 17, 2001, which had a construction contract awarded as of February 17, 2001.

Public comments were received from 179 respondents.

Executive Order 13202, as amended, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. *Building and Construction Trades Department, AFL–CIO* v. *Allbaugh,* 172 F.Supp. 2d 138 (D.D.C. 2001), appeal pending, No. 01–5436 (D.C. Cir.).

Based on guidance received from the Administrator of the Office of Federal Procurement Policy, Office of Management and Budget, the Councils are issuing this notice staying FAR 36.202(d), pending resolution of the litigation. After final judicial resolution of the dispute, the Councils will, as appropriate, issue a notice regarding the status of FAR 36.202(d).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration believe that this stay may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the action stays a rule that would have assisted in expanding job opportunities for small and small disadvantaged businesses in Federal construction projects. Therefore, we have prepared an Initial Regulatory Flexibility Analysis:

Description of the reasons why action by the agency is being considered: An interim rule was published in the **Federal Register** on May 16, 2001, 66 FR 27414, as Item II of

FAC 97–26. That interim rule amended the FAR to implement Executive Order 13202, as amended. Consistent with the Executive Order, FAR 36.202(d) provides that agencies may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to agreements with one or more labor organizations. It also permits agency heads to exempt a project from these requirements under special circumstances, as long as the exemption is not related to the possibility of or an actual labor dispute. FAR 36.202(d) also allows for exemption of a project governed by a project labor agreement in place as of February 17, 2001, which had a construction contract awarded as of February 17, 2001. Public comments were received from 179 respondents. There were no public comments received in response to the Initial Regulatory Flexibility Analysis.

Executive Order 13202, as amended, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. See *Building and Construction Trades Department, AFL–CIO v. Allbaugh,* 172 F.Supp. 2d 138 (D.D.C. 2001), appeal pending, No. 01–5436 (D.C. Cir.). Based on guidance received from the Administrator of the Office of Federal Procurement Policy, Office of Management and Budget, the Councils are staying FAR 36.202(d) pending resolution of the litigation. After final judicial resolution of the dispute, the Councils will, as appropriate, issue a notice regarding the status of FAR 36.202(d).

Succinct statement of the objectives of, and legal basis for, the interim rule stay: This action stays FAR 36.202(d), which implemented Executive Order 13202, as amended, pending judicial resolution of litigation related to the Executive Order.

Description of, and where feasible, estimate of the number of small entities to which the interim rule stay will apply: The stay applies to all large and small entities that seek construction contracts that are awarded by executive agencies. For fiscal year 2001, through the third quarter, there were 1,143 construction contract actions awarded. It is not known how many were union or nonunion. The interim rule published as Item II of FAC 97–26 had an Initial Regulatory Flexibility Act statement that said it was likely to have an economic impact on entities that had nonunion shops because it would have provided additional work opportunities.

Description of projected reporting, recordkeeping, and other compliance requirements of the interim rule stay, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record: The interim rule stay imposes no reporting, recordkeeping, or other compliance requirements.

Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the interim rule stay: The interim rule stay does not duplicate, overlap, or conflict with any other Federal rules.

Description of any significant alternatives to the interim rule stay that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the interim rule stay on small entities: There are no practical alternatives that will accomplish the objectives of this stay.

We invite comments from small businesses and other interested parties. We will consider comments from small entities concerning the affected FAR Parts 17, 22, and 36 in accordance with 5 U.S.C. 610. Small entities must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–05, FAR Case 2001–016 (stay)), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim stay does not impose or remove information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Stay

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim stay without prior opportunity for public comment. This action is necessary because Executive Order 13202, as amended, which FAR 36.202(d) implements, is currently the subject of litigation in the Federal courts, and an appeal is pending in the United States Court of Appeals for the District of Columbia Circuit. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule stay will be considered in formulating a final rule.

List of Subjects in 48 CFR Parts 17, 22, and 36

Government procurement.

Dated: March 1, 2002.

Al Matera,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–05 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2001–05 are effective March 7, 2002.

Dated: February 28, 2002.

Deidre A. Lee,

Director, Defense Procurement.

Dated: February 27, 2002.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: February 27, 2002.

Anne Guenther,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

Accordingly, paragraph 36.202(d) of the interim rule amending 48 CFR parts 17, 22, and 36, which was published on May 16, 2001 in the **Federal Register** at 66 FR 27414 as Item II of FAC 97–26, is stayed indefinitely.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 02–5385 Filed 3–6–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rule appearing in Federal Acquisition Circular (FAC) 2001–05 which amends the FAR. A regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 603. Interested parties may obtain further information regarding this rule by referring to FAC 2001–05 which precedes this document. This document is also available via the Internet at *http://www.arnet.gov/far.*

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, General Services Administration, at (202) 501–1900.

Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (FAR Case 2001–016 (Stay))

This action stays FAR 36.202(d), which was added by the May 16, 2001, interim rule published as Item II of Federal Acquisition Circular 97–26 to implement Executive Order 13202, as amended.

Dated: March 1, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–5386 Filed 3–6–02; 8:45 am]

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Federal Register

Thursday,
March 7, 2002

Part IV

Environmental Protection Agency

40 CFR Part 141

Unregulated Contaminant Monitoring Regulation: Approval of Analytical Method for *Aeromonas*; National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7153–9]

Unregulated Contaminant Monitoring Regulation: Approval of Analytical Method for *Aeromonas;* National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Today's rule proposes the analytical method and an associated Minimum Reporting Level (MRL) for the analysis of *Aeromonas* to support the Unregulated Contaminant Monitoring Regulation's List 2 monitoring of 120 large and 180 small public water systems from January 1, 2003 through December 31, 2003. Only these 300 systems must monitor for *Aeromonas*. Aeromonas hydrophilia is a bacterium that is indigenous to natural waters. It has been implicated as a cause of traveler's diarrhea and other types of infections. *Aeromonas* has been observed in drinking water distribution systems, especially in locations with low residual chlorine levels.

Additionally, USEPA proposes to approve USEPA Method 515.4 to support previously required National Primary Drinking Water Regulation (NPDWR) compliance monitoring for 2,4–D (as acid, salts and esters), 2,4,5–TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon, and USEPA Method 531.2 to support previously required NPDWR monitoring for carbofuran and oxamyl.

Minor formatting changes are being made to the table of methods required to be used for required organic chemical NPDWR compliance monitoring to improve clarity and to conform to the format of other methods tables. In addition, the Presence-Absence (P–A) Coliform Test listed in the total coliform methods table was inadvertently identified as method 9221. This is being corrected to 9221 D. Also, detection limits for ''Cyanide'' are added in the ''Detection Limits for Inorganic Contaminants'' table for the two proposed cyanide methods.

Finally, USEPA proposes to approve eight additional industry developed analytical methods to support previously required NPDWR compliance monitoring. These eight methods include: a method for the determination of atrazine, two methods for the determination of cyanide, three methods for the determination of total coliforms, a method for the determination of heterotrophic bacteria and a method for the determination of turbidity.

DATES: Written comments should be postmarked by midnight, delivered by hand, or electronically mailed on or before May 6, 2002.

ADDRESSES: Any person may submit written or electronic comments concerning this proposed rule. Please send an original and 3 copies of your comments and enclosures (including references) to the W–01–13 Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries should be delivered to: USEPA's Water Docket at 401 M. St., SW., Room EB57, Washington, DC. Comments may also be submitted electronically to *ow-docket@epa.gov*.

FOR FURTHER INFORMATION CONTACT: For information regarding the actions included in this proposal contact David J. Munch, USEPA, 26 West Martin Luther King Dr. (MLK 140), Cincinnati, Ohio 45268, (513) 569–7843 or e-mail at *munch.dave@EPA.gov*. General information may also be obtained from the USEPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

The only regulated entities are the 300 public water systems selected for *Aeromonas* monitoring; the use of the remaining methods proposed for approval in this action is voluntary however, if one of these methods is selected for use for the purpose of compliance monitoring then, compliance with the procedures specified in the method is required. A nationally representative sample of 120 large community and non-transient non-community water systems serving more than 10,000 persons are required to monitor for *Aeromonas* under the revised UCMR. A nationally representative sample of 180 community and non-transient non-community systems serving 10,000 or fewer persons are also required to monitor for *Aeromonas*. States, Territories, and Tribes, with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act sometimes conduct analyses to measure for contaminants in water samples and are affected by this action. Categories and entities potentially affected by this action include the following:

Category	Examples of potentially regulated entities	NAICS [a]
State, Local, & Tribal Governments.	States, local and tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; States, local and tribal governments that themselves operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor.	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

[a] National American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that USEPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is potentially regulated by this action concerning the monitoring for *Aeromonas*, you should carefully examine the applicability criteria in § 141.35 and § 141.40 of the Code of Federal Regulations. A listing of the systems selected to perform *Aeromonas* monitoring is available at *http://www.epa.gov/safewater/standard/ucmr/systems.html*. To determine whether your facility is potentially regulated by the action concerning the use of USEPA Methods 515.4, 531.2 or the additional industry developed methods being proposed, you should carefully examine

the applicability criteria in § 141.21, § 141.23, § 141.24 and § 141.74 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Submitting Comments

Commentors who want USEPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Electronic comments must be submitted as an ASCII, WP5.1, WP6.1 or WP8 file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the docket number W–01–13. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Commentors should use a separate paragraph for each issue discussed.

The record for this proposed rulemaking has been established under docket number W-01–13, and includes all of the supporting documentation, including copies of all of the analytical methods included in this proposed regulation as well as all materials referenced. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M. St., SW., Washington, DC. For access to docket materials, please call 202/260–3027 to schedule an appointment.

Abbreviations and Acronyms Used in the Preamble and Proposed Rule

2,4-D—2,4-dichlorophenoxyacetic acid
2,4,5-TP—2,4,5 trichlorophenoxyacetic acid
ADA—ampicilin-dextrin
APHA—American Public Health Association
ASTM—American Society for Testing and Materials
CAS—Chemical Abstract Service
CASRN—Chemical Abstract Service Registry Number
CFR—Code of Federal Regulations
CFU/mL—colony forming units per milliliter
DCPA—dimethyl tetrachloroterephthalate, chemical name of the herbicide dacthal
ECD—electron capture detector
USEPA—United States Environmental Protection Agency
EPTDS—entry point to the distribution system
ESA—ethanesulfonic acid, a degradation product of alachlor and other acetanilide pesticides
et al.—and others
GC—gas chromatograph, a laboratory instrument
GLI method—Great Lakes Instruments method
HRGC—high resolution gas chromatography
HRMS—high resolution mass spectrometer
ICR—information collection request
LD—point of lowest disinfectant residual
MCL—maximum contaminant level
MD—midpoint in the distribution system
MDL—method detection limit
MI—4—methylumbelliferyl—beta—D—galactopyranoside'indoxyl—beta—D—glucuronide
µg/L—micrograms per liter
mg/L—milligram per liter
MPN—most probable number
MR—point of maximum retention
MRL—minimum reporting level
MTBE—methyl tertiary-butyl ether, a gasoline additive
NAICS—National American Industry Classification System
NERL—National Environmental Research Laboratory
nm—nanometers
NPDWR—National Primary Drinking Water Regulation
NTIS—National Technical Information Service
NTNCWS—non-transient non-community water system
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
PCBs—polychlorinated biphenyls pKa—negative logarithm of the acidity constant
pKa—negative logarithm of the acidity constant
PT—performance testing
PWS—public water system
RDX—royal demolition explosive, hexahydro-1,3,5-trinitro-1,3,5-triazine
RFA—Regulatory Flexibility Act
SBREFA—Small Business Regulatory Enforcement Fairness Act
SDWA—Safe Drinking Water Act
UCMR—Unregulated Contaminant Monitoring Regulation
UMRA—Unfunded Mandates Reform Act of 1995
UV—ultraviolet

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I. Regulatory Background

The Safe Drinking Water Act (SDWA) section 1445(a)(2), as amended in 1996, requires USEPA to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. To meet these requirements, USEPA published the Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for Public Water Systems in (64 FR 50555, September 17, 1999) which substantially revised the previous Unregulated Contaminant Monitoring Program, codified at 40 CFR 141.40. USEPA subsequently published supplements to the rule, including analytical methods for conducting analysis of List 1 and selected List 2 contaminants (65 FR 11372, March 2, 2000 and 66 FR 2273, January 11, 2001) and technical corrections and other supplemental information (66 FR 27215, May 16, 2001 and 66 FR 46221, September 4, 2001). The January 11, 2001 rule specified the requirements for *Aeromonas* monitoring in the UCMR; however, an analytical method was not approved to support the required monitoring for *Aeromonas* which is scheduled to begin on January 1, 2003. Today's rule proposes to amend the UCMR to specify a method and an associated Minimum Reporting Level for monitoring *Aeromonas* on List 2.

The Safe Drinking Water Act (SDWA), as amended in 1996, requires USEPA to promulgate national primary drinking water regulations (NPDWRs) which specify maximum contaminant levels (MCLs) or treatment techniques for drinking water contaminants (SDWA section 1412 (42 U.S.C. 300g–1)).

NPDWRs apply to public water systems pursuant to SDWA section 1401 (42 U.S.C. 300f(1)(A)). According to SDWA section 1401(1)(D), NPDWRs include ''criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures.'' In addition, SDWA section 1445(a) authorizes the Administrator to establish regulations for monitoring to assist in determining whether persons are acting in compliance with the requirements of the SDWA. USEPA's promulgation of analytical methods is authorized under these sections of the SDWA as well as the general rulemaking authority in SDWA section 1450(a), (42 U.S.C. 300j–9(a)).

Today's action proposes to approve USEPA Method 515.4 for the determination of 2,4-D (as acid, salts and esters), 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon; USEPA Method 531.2 for the determination of carbofuran and oxamyl and an additional industry developed method for the determination of atrazine in drinking water using an immunoassay-based technology and colorimetric determination, as required in § 141.24(e) to support monitoring required under § 141.24(h). Today's rule also proposes to approve seven additional industry developed methods: a method using a micro-scale hard distillation apparatus followed by colorimetric determination of total cyanide and a method using an ultra-violet digester system for the determination of total and available cyanide to support monitoring required under § 141.23 (k)(1); two methods for the determination of the presence or absence of total coliforms and *E. coli* in drinking waters using a liquid culture or membrane filter method, a method for the determination of the presence or absence of total coliforms and *E. coli* using a liquid culture enzyme-substrate procedure for monitoring required under § 141.21, a method for the determination of heterotrophic bacteria for monitoring and a laser based nephelometric system for the determination of turbidity for monitoring required under § 141.74.

Please note that USEPA is not requesting comment on any aspect of the UCMR other than those changes proposed today. Specifically, USEPA is not requesting comment on the UCMR list of contaminants other than the use of USEPA Method 1605 for the analysis of *Aeromonas* and the MRL being proposed. USEPA is not seeking comment on any aspect of the monitoring required under § 141.24 other than the applicability of: USEPA Method 515.4 for the analysis of 2,4-D (as acid, salts and esters), 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon; USEPA Method 531.2 for the analysis of carbofuran and oxamyl; or the additional industry developed method for the analysis of atrazine. USEPA is not seeking comment on the monitoring required under § 141.21, § 141.23 or § 141.74 beyond the applicability of the seven additional industry developed methods proposed which include: two methods for the determination of cyanide, three methods for the determination of total coliforms and *E. coli*, a method for the determination of heterotrophic bacteria and a method for the determination of turbidity.

II. *Aeromonas* Related Actions

A. Relation to the UCMR

Prior actions (66 FR 2273, January 11, 2001 and 66 FR 46221, September 4, 2001), specify the methods to be used for analysis of List 2 chemicals to be monitored in 2001 and 2002. Today's proposal specifies the analytical method and associated MRL for a List 2 contaminant, *Aeromonas*. Methods for the other two remaining List 2 contaminants, RDX and Alachlor ESA and other acetanilide pesticides, need to be refined for analysis in treated drinking water and thus may be proposed at a later time. The List 2 Rule specified the timing, frequency, and other requirements for *Aeromonas* monitoring. (66 FR 2273, January 11, 2001) Today's proposal completes the *Aeromonas* monitoring requirements by specifying the analytical method and MRL.

As specified in these prior actions, USEPA will pay for the shipping, analysis and reporting of results for samples from the 180 small systems serving 10,000 or fewer persons which were selected to conduct this monitoring. The 120 large systems selected to perform this monitoring must arrange and pay for the monitoring, shipping, analysis and reporting of results for *Aeromonas* samples. Only the 180 small systems and the 120 large systems that were selected must monitor for *Aeromonas*. No other systems must monitor for *Aeromonas*. A listing of the systems selected to perform *Aeromonas* monitoring is available at *http://www.epa.gov/safewater/standard/ucmr/systems.html.*

As promulgated in the UCMR List 2 Rule (66 FR 2273, January 11, 2001), large systems must use laboratories approved for this analysis. Large PWSs must arrange for the analysis for *Aeromonas* using USEPA Method 1605, as identified in List 2 of Table 1 (today's action), by a laboratory certified under § 141.28 for compliance analysis using an USEPA-approved membrane filtration method for the analysis of coliform indicator bacteria. As required in § 141.40 (a)(5)(ii)(G)(*3*), laboratories performing USEPA Method 1605 must participate in and successfully pass one of potentially two performance testing (PT) studies, the first to be conducted by USEPA 45 days after promulgation of this regulation, and a second to be conducted prior to the start of the List 2 *Aeromonas* monitoring in 2003, time permitting.

B. Contaminant and Analytical Methods

In today's proposal, USEPA is proposing the use of USEPA Method 1605 for the monitoring of *Aeromonas* as specified in List 2 of Table 1 with an MRL of 0.2 Colony Forming Units (CFU)/100 mL. The proposed MRL is based upon precision data derived during the primary laboratory's methods development and then verified in a second laboratory. Ten laboratories provided precision data using samples, fortified with a single strain of *Aeromonas*, which were provided by USEPA. The mean precision reported for reagent water samples analyzed by these laboratories was 27% and for finished water samples was 57%.

C. Laboratory Approval and Certification

This rule proposes that laboratories wishing to analyze samples for *Aeromonas* for the UCMR must use USEPA Method 1605 (described later). USEPA has previously specified, in § 141.40 (a)(5)(ii)(G)(*3*) (66 FR 2273, January 11, 2001), that *Aeromonas* analyses must be performed by laboratories certified under § 141.28 for compliance analyses of coliform indicator bacteria using an USEPA approved membrane filtration procedure. Because of differences between USEPA Method 1605 and existing membrane filtration methods for coliform indicator bacteria, laboratories performing USEPA Method 1605 must also participate in performance testing (PT) studies to be conducted by USEPA. Laboratories wishing to be approved to use Method 1605 for this monitoring must submit a ''request to participate'' letter to USEPA and to analyze 10 samples for *Aeromonas* using Method 1605. USEPA has established 45 days following the publication of the final rule as the latest date by which it will accept the ''request to participate'' letter. A second PT study

will only be conducted if more than 90 days remain between the reporting of the results of the first study and the beginning of *Aeromonas* monitoring, January 2003, to provide utilities with at least 45 days to contract with laboratories that have received approval. Upon completion of the *Aeromonas* PT Program, USEPA will provide each successful laboratory with an approval letter identifying the laboratory by name and the approval date. This letter and a copy of the laboratory's certification under § 141.28 for compliance analysis of coliform indicator bacteria using an USEPA approved membrane filtration procedure, may then be presented to any PWS as evidence of laboratory approval for *Aeromonas* analysis supporting the UCMR. Laboratory approval is contingent upon the laboratory maintaining certification to perform drinking water compliance monitoring using an approved coliform membrane filtration method. USEPA intends to post a listing of the laboratories that have successfully completed each PT study at *www.epa.gov/safewater.*

All large and small systems selected for the Screening Survey will be notified by their State Drinking Water Authority or USEPA at least 90 days before the dates established for collecting and submitting UCMR field samples to determine the presence of *Aeromonas*. Large systems must send samples to approved laboratories and then report the results to USEPA as specified in § 141.35. All small system shipping and analytical costs will be paid by USEPA, however, small systems will be responsible for collecting these samples.

D. Summary of USEPA Method 1605

The proposed *Aeromonas* method for List 2 monitoring is USEPA Method 1605 ''*Aeromonas* in Finished Water by Membrane Filtration using Ampicillin-Dextrin Agar with Vancomycin (ADA–V),'' October 2001 EPA # 821–R–01–034 (see *www.epa.gov/microbes* or the docket for this proposal for a copy of the proposed method). This method is a membrane filter assay based on the ampicillin-dextrin (ADA) method of Havelaar *et al.* (1987). The ADA medium has been modified by the addition of vancomycin to inhibit gram positive bacteria including *Bacillus* species, that may grow on ADA medium, and by the addition of a second stage, which includes three tests for confirmation, cytochrome oxidase, trehalose fermentation, and the production of indole as determined by Kovac's reagent. This method identifies *Aeromonas* to the genus level and detects *A. hydrophila* and a majority of the other aeromonad species.

III. Primary and Secondary Drinking Water Regulation Related Actions

A. Contaminants and Analytical Methods

In today's action, USEPA is proposing two new USEPA developed methods and eight additional industry developed methods, for use in National Primary Drinking Water Regulation (NPDWR) monitoring under § 141.24. The proposed methods, and the contaminants (analytes), are shown in Table 1.

TABLE 1.—REGULATED CONTAMINANTS AND PROPOSED NEW ANALYTICAL METHODS

Contaminant	Method
2,4-D (as acid, salts, and esters)	USEPA Method 515.4.
2,4,5-TP (Silvex)	USEPA Method 515.4.
Dinoseb	USEPA Method 515.4.
Pentachlorophenol	USEPA Method 515.4.
Picloram	USEPA Method 515.4.
Dalapon	USEPA Method 515.4.
Carbofuran	USEPA Method 531.2.
Oxamyl	USEPA Method 531.2.
Atrazine	Syngenta AG–625.
Cyanide	QuikChem 10–204–00–1–X. Kelada 01.
Total coliforms	Readycult® Coliforms 100 Presence/Absence Test. Membrane Filter Technique using Chromocult® Coliform Agar. Colitag® Test.
E. coli	Readycult® Coliforms 100 Presence/Absence Test. Membrane Filter Technique using Chromocult® Coliform Agar. Colitag® Test.
Heterotrophic bacteria	SimPlate.
Turbidity	Hach FilterTrak 10133.

USEPA Method 515.4 was previously approved for use for UCMR List 1 contaminants in § 141.40, Table 1 List 1 (66 FR 2273, January 11, 2001), but was not approved for monitoring compliance with NPDWRs. Also, in a supplemental action (66 FR 46221, September 4, 2001), laboratories certified to conduct compliance monitoring using USEPA Method 515.3 were automatically approved to use USEPA Method 515.4 for UCMR analyses. Approving USEPA Method 515.4 for use in NPDWR compliance monitoring will allow public water systems and their laboratories to analyze one water sample for both UCMR and NPDWR purposes, reducing monitoring costs. It will also provide greater method flexibility for monitoring in the long term.

USEPA Method 531.2 improves the sample preservation procedures required in USEPA Method 531.1 and Standard Method 6610 and updates the method performance tables using data generated with more up to date equipment. Use of USEPA Method 531.2 will improve safety for analysts and sample collection personnel by approving the use of a less toxic preservation reagent. Accuracy, precision and detection limit data generated using USEPA Method 531.2 is superior to that generated with either of the currently approved methods. It will also provide greater method flexibility for monitoring in the long term.

For the additional industry developed methods, the submitting organization provided data to support the validation of the new or modified method. The Agency reviewed these validation packages and is proposing those methods that USEPA has determined are satisfactory compliance methods,

capable of providing the quality of monitoring data required.

B. Summary of Primary and Secondary Drinking Water Regulation Methods

1. USEPA Method 515.4

USEPA Method 515.4 is a gas chromatography (GC) method for the determination of chlorinated acids in drinking waters. Accuracy, precision, and detection limit data have been generated for the method analytes in reagent water and finished ground and surface waters. Accuracy, precision, and detection limit data generated using USEPA Method 515.4 are equivalent to that generated using USEPA Method 515.3 which is currently approved to perform this monitoring.

USEPA Method 515.4 is applicable to the determination of salts and esters of analyte acids. The form of each acid is not distinguished by this method. Results are calculated and reported for each listed analyte as the total free acid. This method is able to quantify the mono- and di-acid forms of DCPA (Dacthal) without contribution from the parent compound.

A 40-mL volume of sample is adjusted to pH ≥ 12 with 4 Normal (N) sodium hydroxide and allowed to sit for one hour at room temperature to hydrolyze derivatives. Following hydrolysis, a wash step using a hexane: methyl tert-butyl ether (MTBE) mixture is performed as a sample cleanup and to remove Dacthal. The aqueous sample is then acidified with sulfuric acid to a pH of less than 1 and extracted with 4-mL of MTBE. The chlorinated acids that have been partitioned into the MTBE are then converted to methyl esters by derivatization with diazomethane. The target esters are separated and identified by fast capillary column gas chromatography (conditions for standard gas chromatography are also included) using an electron capture detector (GC/ECD). Peer reviews for USEPA Method 515.4 were conducted both within USEPA and by personnel from Montgomery Watson Laboratories, Philadelphia Suburban Water Company, and the American Water Works Service Company. All of the technical peer review comments were positive and the only changes requested were editorial in nature.

USEPA Method 515.4, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection,'' Revision 1.0, April 2000, USEPA #815/B–00/001, is available from the docket for this proposal or by requesting a copy from the USEPA Safe Drinking Water Hotline at 800–426–4791 (hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time). Alternatively, the method can be accessed and downloaded directly on-line at *www.epa.gov/safewater/methods/sourcalt.html.* Tables of method validation data are included in the written method.

2. USEPA Method 531.2

USEPA Method 531.2 is a high performance liquid chromatographic (HPLC) method applicable to the determination of certain N-methylcarbamoyloximes and N-methylcarbamates in finished drinking waters. Accuracy, precision, and detection limit data generated using USEPA Method 531.2 are superior to that generated using the currently approved methods, USEPA Method 531.1 or Standard Method 6610.

The water sample is filtered. Method analytes are chromatographically separated by injecting an aliquot (400 to 1000 uL) into a high performance liquid chromatographic (HPLC) system equipped with a reversed phase (C_{18}) column. After elution from the column, the analytes are hydrolyzed in a postcolumn reaction with 0.05 N sodium hydroxide (NaOH) at 80 °C to form methyl amine. The methyl amine is reacted with o-phthalaldehyde (OPA) and 2-mercaptoethanol (or N,N-dimethyl-2-mercaptoethylamine) to form a highly fluorescent isoindole which is detected by a fluorescence detector. Analytes are quantitated using the external standard technique. A second laboratory validation for USEPA Method 531.2 was performed at the American Water Works Service Company and demonstrated good agreement with the performance data generated during the development of the method.

USEPA Method 531.2, ''Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization,'' Revision 1.0, September 2001, is available in the docket for this proposal or by requesting a copy from the USEPA Safe Drinking Water Hotline within the United States at 800–426–4791 (hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time). Tables of method validation data are included in the written method.

3. Syngenta Method AG–625

Syngenta Crop Protection, Inc.'s ''Atrazine in Drinking Water by Immunoassay'' (Method AG–625) is an additional industry developed method that employs immunoassay technology to determine atrazine in drinking water. Atrazine is determined by using a color-based immunoassay method. Atrazine in a sample is detected by adding sample and enzyme conjugate solution to a culture tube that has been pre-coated with atrazine antibodies. Atrazine competes with the conjugate for antibody binding sites. The culture tube is washed, and an enzyme substrate solution is added. The substrate is enzymatically converted from a colorless to a blue solution, the absorption of which is inversely proportional to atrazine concentration.

Method performance was characterized using data from a 19 laboratory validation study. Average recovery of atrazine from drinking water was 96%, and the relative standard deviation was less than 20%. The stated method detection limit is 0.05 ug/L. Based on these results, USEPA believes that Method AG–625 is a satisfactory compliance method for atrazine in drinking water.

Method AG–625 is available in the docket for this proposal or from Syngenta Crop Protection, Inc. Contact: James Brady, Syngenta Crop Protection, Inc., 410 Swing Road, Post Office Box 18300, Greensboro, NC 27419, telephone (336) 632–6000.

4. QuikChem 10–204–00–1–X

Lachat Instruments ''Digestion and Distillation of Total Cyanide in Drinking and Wastewaters using MICRO DIST and determination of cyanide by flow injection analysis'' (QuikChem Method 10–204–00–1–X) is an additional industry developed method that determines total cyanide in drinking water. The method employs the MICRO DIST apparatus, a reduced volume disposable distillation apparatus. MICRO DIST reduces distillation time, sample and reagent wastes, and allows for multiple distillations simultaneously (one distillation heating block accommodates 21 MICRO DIST distillation devices).

Total cyanide is determined by distilling the sample and measuring cyanide generated using colorimetry or some other method for cyanide ion detection. Six milliliters of sample are added to a distillation tube along with standard cyanide distillation reagents (sulfuric acid, magnesium chloride). A cyanide collector tube, which consists of a gas permeable membrane and sodium hydroxide absorber solution, is attached to the distillation tube; the distillation and collector tubes together comprise the MICRO DIST unit. The

sample is heated for ½ hour, during which hydrogen cyanide gas distills from the sample, passes through the gas permeable membrane, and collects in the sodium hydroxide absorber solution. Using method write-up 10–204–00–1–X, the absorber solution is analyzed using an automated colorimeter; however, the absorber solution may be analyzed using another procedure (e.g., ion selective electrode) as well, provided all precautions in the method write-up are acknowledged (e.g., pH of the absorber solution and standards are adjusted to match).

Method performance was characterized in single laboratory studies, and an eight laboratory validation study. Single laboratory studies, performed by Lachat and by Research Triangle Institute, demonstrated recovery of complex cyanides using MICRO DIST and macro distillations were substantially equivalent by measuring a variety of cyanide complexes using both distillations. The eight laboratory validation study demonstrated that the QuikChem 10–204–00–1–X method is a satisfactory compliance method. Based on these results, USEPA believes that this method is a satisfactory compliance method for total cyanides in drinking water.

Method 10–204–00–1–X is available in the docket for this proposal or from Lachat Instruments, 6645 W. Mill Rd., Milwaukee, WI 53218, USA. Phone: 414–358–4200.

5. Kelada 01

Dr. Nabih Kelada's ''Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, and Thiocyanate'' (Kelada 01), USEPA # 821–B–01–009 is an additional industry developed automated procedure that determines total cyanide and acid dissociable cyanide in drinking water. The procedure makes use of a two-stage sample digestion system to determine total cyanide. A sample is introduced into a flow analysis system. The sample then passes through an irradiation coil, where it is exposed to intense ultraviolet (UV) light from a 550 Watt UV photochemical bulb. The UV light breaks down cyanide complexes (include strong ferro- and ferri-cyanide complexes) to free cyanide. The irradiated sample containing free cyanide then passes though a distillation coil from which the free cyanide is distilled into a flow colorimetry system (similar to that used in USEPA Method 335.4) where cyanide concentration is determined. All complex cyanides determined using total cyanide manual distillations are also determined using the Kelada 01 method.

When the irradiation coil is by—passed ''exposing sample only to a distillation coil—''acid dissociable'' cyanide is determined. The complexes measured are substantially equivalent to those measured using cyanide amenable to chlorination (CATC) or procedures which measure available cyanide, according to a single laboratory study performed by the Metropolitan Water Reclamation District of Greater Chicago.

The Kelada 01method offers advantages over currently approved methods. First, it reduces analysis time from 1.5 hours (using manual distillation and analysis) to minutes. Second, the method reduces the effects of many chemical interferences encountered using traditional manual distillation methods.

The method was validated in both single laboratory and multi-laboratory validation studies, including studies involving eight laboratories which was conducted by the Metropolitan Water Reclamation District of Greater Chicago and through a multi-laboratory study involving 31 laboratories managed by Environment Canada. Studies showed total and acid dissociable cyanide recoveries from samples between 90% and 110%, and relative standard deviations of less than 10%. The reported lower limit of detection is 0.5 μg/L. Based on these results, USEPA believes that the Kelada 01method is a satisfactory compliance method for total cyanide in drinking water.

The Kelada 01method is available in the docket for this proposal.

6. Readycult® Coliforms 100 Presence/Absence Test

The Readycult® Coliforms 100 Presence/Absence Test simultaneously determines the presence of total coliforms and *E. coli,* both of which must be monitored under the Total Coliform Rule at § 141.21. The tests involve adding the contents of a blister pack to a 100-mL water sample, followed by incubation at 36 ± 1°C for 24 ± 1 hours. If coliform bacteria are present, the medium changes color from slightly yellow to blue-green. In addition, if *E. coli* is present, the medium will emit a bright blue fluorescence when subjected to a long wave (366 nm) ultraviolet (UV) light, and will form a red ring when indole reagent is added.

The Readycult test is based upon the detection of three enzymes, β-galactosidase, which is specific to the total coliform group, and β-glucuronidase and tryptophanase, both of which are characteristic of *E. coli.* For detection of β-galactosidase, the medium contains the chromogenic enzyme substrate 5-bromo-4-chloro-3-indolyl-β-D-galactopyranoside (X-GAL). Upon hydrolysis by β-D-galactosidase, X-GAL releases a chromogenic compound (indigo-blue) that turns the medium from slightly yellow to a blue-green color. For detection of β-glucuronidase, the medium contains the fluorogenic enzyme substrate 4-methyl-umbelliferyl-β-D-glucuronide (MUG). Upon hydrolysis by β-glucuronidase, MUG releases 4-methylumbelliferone that fluoresces when exposed to ultraviolet light. For detection of tryptophanase, the medium contains the enzyme substrate tryptophan. Upon cleavage by tryptophanase, tryptophan releases indole that immediately forms a red ring when Kovac's indole reagent is added directly to the broth. The presence of this red ring confirms the presence of *E. coli*

USEPA has evaluated false positive and false negative data submitted by the manufacturer and has determined that results obtained with the Readycult test are substantially equivalent to the Agency's previously approved reference method for total coliforms and *E. coli,* however, USEPA has not yet determined a fully substantiated false negative rate for the USEPA reference method. The manufacturer observed a false-positive error of 7% for total coliforms and 5% for *E. coli.* (The false-positive error for total coliforms was based upon whether the isolate was also positive in lauryl tryptose broth (LTB) and brilliant green lactose bile broth. The false-positive error for *E. coli* was based upon whether the isolate was also positive in LTB and EC+MUG.) The false-negative rate, respectively, was 5.1% and 6.86%. Based on these results, USEPA believes that the Readycult test is a satisfactory compliance method for total coliforms and *E. coli* in drinking water.

The method description for the Readycult test is available in the docket for this proposal or from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Their telephone number is (800) 222–0342.

7. Membrane Filter Technique using Chromocult® Coliform Agar

Chromocult® Coliform Agar is a membrane filter medium that simultaneously determines the presence of total coliforms and *E. coli,* both of which must be monitored under the Total Coliform Rule at § 141.21. For the test, a 100-mL water sample is passed through the membrane that retains the bacteria. Following filtration, the

membrane containing bacterial cells is placed on the media and incubated at 36 ± 1°C for 24 ± 1 h. Salmon to red colonies are recorded as total coliforms (without *E. coli*). In contrast, dark-blue to violet colonies are recorded as *E. coli.*

The membrane filter method using Chromocult® Coliform Agar is based upon the detection of three enzymes; β-galactosidase, which is specific to the total coliform group, and β-glucuronidase and tryptophanase, both of which are characteristic of *E. coli.* For detection of β-galactosidase, the medium contains the chromogenic enzyme substrate 6-chloro-3-indolyl-3-β-D-galactopyranoside (SALMON-GAL). Upon hydrolysis by β-D-galactosidase, SALMON-GAL releases a chromogenic compound (chloroindigo) that forms salmon to red-colored colonies. For detection of β-glucuronidase, the medium contains another chromogenic enzyme substrate, 5-bromo-4-chloro-3-indoxyl-β-D-glucuronic acid, cyclohexylammonium salt (X-GLUC). Upon hydrolysis by β-glucuronidase, X-GLUC releases a chromogenic compound (bromochloroindigo) that forms light-blue to turquoise colonies. *E. coli* produces both β-galactosidase and β-glucuronidase that cleave both SALMON-GAL and X-GLUC, respectively. The simultaneous hydrolysis of these chromogenic substrates forms dark-blue to violet colonies that are easily distinguished from other coliform colonies. For detection of tryptophanase, the medium contains the enzyme substrate tryptophan. Upon cleavage by tryptophanase, tryptophan releases indole that immediately forms a cherry-red color when Kovac's indole reagent is added directly to dark-blue to violet colonies. This reaction thus confirms the presence of *E. coli* in dark-blue to violet colonies.

USEPA has evaluated data submitted by the manufacturer and has determined that more positives were reported with Chromocult® Coliform Agar than the Agency's previously approved reference method for total coliforms and *E. coli,* (USEPA has not yet determined a fully substantiated false negative rate for the USEPA reference method, however, USEPA believes that it is higher than the false negative rate observed for Chromocult® Coliform Agar and that this is responsible for the observed higher positive rate). The manufacturer observed a false-positive error of 13% for total coliforms and 6% for *E. coli.* (The false-positive error for total coliforms was based on whether the isolate was also positive in lauryl tryptose broth (LTB) and brilliant green lactose bile broth. The false-positive error for *E. coli* was based on whether the isolate was also positive in LTB and EC+MUG.) The false-negative rate using the Chromocult® Coliform Agar was 0% for both total coliforms and *E. coli.* Based on these results, USEPA believes that Chromocult® Coliform Agar is a satisfactory medium for use under the Total Coliform Rule to detect total coliforms and *E. coli* in drinking water.

The method description for Chromocult® Coliform Agar is available in the docket for this proposal or from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Their telephone number is (800) 222–0342.

8. Colitag® Test

The ''Colitag® Product as a Test for Detection and Identification of Coliforms and *E. coli* Bacteria in Drinking Water and Source Water as required in National Primary Drinking Water Regulations'' is a liquid culture enzyme-substrate procedure that simultaneously determines the presence of total coliforms and *E. coli,* both of which must be monitored under the Total Coliform Rule at § 141.21. To determine total coliforms, the Colitag® test medium contains chromogenic enzyme substrate ortho-β-D-galactopyranoside (ONPG) for the detection of β-galactosidase, an enzyme indicative of the coliform group. Upon hydrolysis by β-galactosidase, ONPG produces a distinct yellow color that can be observed visually, indicating the presence of coliforms. To determine *E. coli,* Colitag medium contains chromogenic enzyme substrate, 4-methyl-umbelliferyl-β-D-glucuronide (MUG) for detection of β-glucuronidase, an enzyme specific to *E. coli.* Upon hydrolysis by β-glucuronidase, MUG produces the fluorescent compound 4-methylumbelliferone, which fluoresces when exposed to ultraviolet light.

The method differs from currently approved enzymatic methods by the addition of trimethylamine-N-oxide (TMAO) to the list of ingredients. TMAO allows the pH of the medium to increase from 6.2 to 7.0 during incubation, thereby enhancing the recovery of chlorine injured/stressed organisms.

USEPA has evaluated comparability data submitted by the manufacturer and has determined that results obtained with the Colitag® test are statistically equivalent to the Agency's reference method for total coliforms and *E. coli,* however, USEPA has not yet determined a fully substantiated false negative rate for the USEPA reference method. The manufacturer observed a false-positive error of 2.0% for total coliforms and 2.0% for *E. coli.* The false-negative rates were 0% and 0%, respectively. Based on these results, USEPA believes that the Colitag® test is a satisfactory compliance method for total coliforms and *E. coli* in drinking water.

The method description for the Colitag® test is available in the docket for this proposal or from CPI, International, Inc., 5580 Skylane Blvd., Santa Rosa, CA, 95403, telephone (800) 878–7654, Fax (707) 545–7901, e-mail *www.cpiinternational.com.*

9. SimPlate

Under the Surface Water Treatment Rule (SWTR), § 141, Subpart H, a system using surface water or ground water under the direct influence of surface water must, among other requirements, maintain a disinfectant residual in the distribution system. The disinfectant residual in the distribution system cannot be undetectable in more than 5% of the samples each month, for any two consecutive months that the system serves water to the public. However, § 141.72(b)(3) allows a system that does not detect a residual at a particular site to determine the concentration of heterotrophic bacteria at that site. For compliance purposes, a concentration of 500 colonies/mL or fewer, as measured by the pour plate method (Standard Method 9215), is considered to be equivalent to a detectable disinfectant residual.

Because the measured density of heterotrophic bacteria is method-dependent, USEPA to date has only approved one method. Recently, however, USEPA has determined that another test for heterotrophic bacteria, the SimPlate method, provides results substantially equivalent to the pour plate method, given the intended application. Consequently, the Agency is proposing to approve the SimPlate method as an optional procedure for determining the density of heterotrophic bacteria under § 141.72(b)(3).

SimPlate is a substrate-based medium in which the substrates are hydrolyzed by microbial enzymes causing the release of 4-methylumbelliferone, which fluoresces under 365-nm ultraviolet light. The medium is dehydrated when purchased. Two SimPlate formats are available: a unit-dose format and a multi-dose format. The unit-dose format consists of adding 10-mL of test sample to a test tube containing the dehydrated SimPlate medium, and then pouring the dissolved mixture to the center of a plate containing 84 small wells. In contrast, under the multi-dose format, the dehydrated medium needs to be reconstituted first by filling the medium

vessel to the 100-mL mark with sterile diluent, and shaking to dissolve. A 1.0-mL test sample is then pipetted to the center of the plate, followed by 9.0 mL of the reconstituted SimPlate medium. The plate is then gently swirled to mix the sample and medium. The next steps are the same for both formats. The mixture is evenly distributed to the 84 wells on the plate, and the excess liquid drained into an absorbent pad on the plate. The plate is then inverted (the fluid in each well is held in place by surface tension) and incubated for 45–72 hours at 35°C. Bacterial density is determined by counting the number of wells that fluoresce under a 365-nm UV light, and converting this value to a Most Probable Number (MPN) using the table provided, taking into account any dilution factor that may have been used during sample preparation to ensure a proper counting range.

USEPA has evaluated data submitted by the manufacturer from a side-by-side comparison of the SimPlate and the USEPA-approved pour plate method, and has determined that while statistically significant differences were observed in individual matrices those differences were acceptable based upon the intended application of the method. Thus, the Agency believes that the SimPlate method is satisfactory as an additional method for determining the density of heterotrophic bacteria in the distribution system under the SWTR (§ 141.72(b)(3)).

The method description for SimPlate is available in the docket for this proposal or from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. Their telephone number is (800) 321–0207. Their website is *www.idexx.com.*

10. Hach Filter Trak

Hach Filter Trak (Method 10133) ''Determination of Turbidity by Laser Nephelometry'' is an additional industry developed method that employs a laser nephelometer to determine the turbidity of finished drinking waters. Method 10133 uses the Hach FilterTrak 660 nephelometer, which functions like a standard nephelometer but has the sensitivity of a particle counter. The method can be used both in a laboratory and on-line fashion.

Turbidity is determined by measuring the scatter of a laser beam onto a photomultiplier detector whose response spectrum significantly overlaps the spectra of the incident light source. Response is compared to the response of Hach Stablcal formazin standards to quantify sample turbidity. Method 10133's FilterTrak 660 system is designed to reduce background light scatter that can artificially raise turbidity measurements when using currently approved methods. Method 10133, by employing the FilterTrak 660, provides increased sensitivity to particle ''events'' (changes in particle concentration). Detection of particle ''events'' is critical to assessing performance of the filtration systems, which in turn is critical to protecting drinking water quality.

Method performance, laboratory and on-line, was characterized using a three laboratory validation study. The method demonstrated good correlation to approved methods and reduced interference from background light scatter. Also, Method 10133 provides quality control requirements to ensure proper operator use. USEPA believes that Method 10133 is a satisfactory additional method for the measurement of turbidity.

Method 10133 is available in the docket for this proposal or from Hach Co., P.O. Box 389, Loveland, Colorado, 80539–0389. Phone: 800–227–4224.

11. MI Agar Medium for Total Coliforms and *E. coli.*

USEPA approved 4-methylumbelliferyl-beta-D-galactopyranoside-indoxyl-beta-D-glucuronide (MI) agar medium as an alternative membrane filter medium for the detection of total coliforms and *E. coli* under the Total Coliform Rule and for enumerating total coliforms under the Surface Water Treatment Rule. (64 FR 67450, December 1, 1999) This approval is reflected in § 141.21(f)(3) and § 141.21(f)(6)(v) and in § 141.74(a)(1). In granting approval, however, USEPA inadvertently did not clearly indicate that colony verification on MI agar was not required. The false-positive rate for MI agar was 4.9% for total coliforms and 4.3% for *E. coli.* Based on these data, USEPA believes that colony verification should not be required and proposes to amend the regulatory language in footnote 6 of the table at § 141.21(f)(3) and in § 141.74(a)(1) to clarify this point.

Finally, USEPA is proposing to correct a typographical error found in section § 141.21(f) by replacing the citation for the ''Presence-Absence (P–A) Coliform Test'' which currently reads ''9221'' with ''9221D.'' USEPA previously proposed for approval and requested comment on (52 FR 42224, November 3, 1987) Method 9221D. USEPA approved Method 9221D on June 29, 1989 (54 FR 27544). The ''D'' was inadvertently dropped by a drinking water method update rule published on December 1, 1999, 64 FR 67450.

IV. Cost of the Rule

Today's proposed amendment to the UCMR adds Method 1605 for analysis of *Aeromonas,* a UCMR (1999) List 2 contaminant. The monitoring requirements for *Aeromonas* were proposed in June 2000 and subject to public comment and review. Following consideration of public comment, the requirements were promulgated in the January 11, 2001 UCMR. As specified in that rule, 180 small systems and 120 large systems were randomly selected to conduct *Aeromonas* monitoring. These systems were selected from the list of systems previously selected to conduct UCMR Assessment Monitoring.

USEPA has estimated system and Agency costs associated with *Aeromonas* monitoring and analysis, based on the burden associated with collecting samples and the analytical costs for Method 1605. There are no costs that will be incurred by States as a result of today's action. State costs attributed to UCMR during this first implementation cycle of 2001–2005 were covered within the UCMR (1999) cost estimations (64 FR 50556, September 17, 1999), and are accounted for in the UCMR discussion within the current ICR (OMB No. 2040–0204—Titled: ''Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Information Collection Request'').

The collection of *Aeromonas* will necessitate some minimal additional labor burden for participating systems to collect samples. In many cases, the *Aeromonas* samples can be collected at the same time and place as other required distribution system sampling (such as that for the Total Coliform Rule (TCR)). For coincident monitoring, USEPA assumes 0.25 hours per sampling period per system. For monitoring periods in which coincident sampling is not possible, USEPA assumes one hour of labor per system per period. And finally, for monitoring periods in which sampling can only be partially coincident with other monitoring (such as for systems that only have to collect only one TCR sample per month), USEPA assumes 0.75 hours of labor per system per period. In addition, large systems were assumed to incur a small amount of labor burden associated with review of monitoring results, as reported to USEPA's UCMR database by their analytical laboratories. Small system reporting is being handled through USEPA's contract laboratories.

In addition to labor costs, non-labor costs will be incurred by USEPA and by participating large PWSs. Non-labor costs from this rule are solely attributed to the laboratory fees that will be charged for analysis of *Aeromonas* and to shipping charges for sending the sample bottles to the appropriate laboratory. USEPA will cover these costs for small system testing; however, participating large systems will be responsible for these analytical and shipping expenses. USEPA estimates that the average laboratory fee for Method 1605 will be $25. The additional costs for this laboratory analysis are calculated as follows: the number of systems multiplied by three sampling points in the distribution systems, multiplied by the sampling frequency of six times throughout the year 2003, and then multiplied by the $25 cost of the analysis. This cost would apply to the 120 large systems and to USEPA for the cost analyses for the 180 small systems. USEPA will also pay for quality assurance sampling for 10 percent of the small system samples.

In addition, USEPA estimates that *Aeromonas* will be detected in 10 percent of samples. Each of these positive *Aeromonas* samples (i.e., estimated as 10 percent of all samples, including the quality assurance samples for small systems) would incur an additional $25 cost for confirmation tests at the genus level (such tests are part of Method 1605). This would be the total cost to large systems. For small systems, where *Aeromonas* has been found, USEPA will pay for further genotyping at an estimated additional $100 per sample. For the cost estimations presented, USEPA assumes it will pay for genotyping for the estimated 10 percent of positive small system samples.

Today's rule also proposes to approve USEPA Methods 515.4 and 531.2 to support monitoring already required under Phase II/V monitoring (§ 141.24), and proposes eight additional industry developed analytical methods. This part of today's proposed rule merely allows for the optional use of additional standardized methods, offering systems and their laboratories further operational flexibility. Thus, USEPA believes that there is no cost or burden to public water systems associated with the addition of these additional methods. These additional methods may even reduce costs for the testing and analysis of contaminants. However, these potential savings to systems are not estimated here, since use of these methods is voluntary. In addition, because State adoption of these additional analytical methods is voluntary, no costs are estimated for States related to the additional analytical methods that are included in today's proposed rule. Moreover, States that do adopt additional methods often adopt such Federal regulation by reference, or may incorporate these voluntary options when the next set of required regulatory revisions are being incorporated.

The details of USEPA's cost assumptions and estimates regarding implementation of the *Aeromonas* Rule can be found in the proposed Information Collection Request (ICR) (ICR number 2040–0204). This ICR presents estimated cost and burden for the 2001–2005 period. Copies of the proposed ICR may be obtained from Susan Auby by mail at: Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at: *auby.susan@epa.gov,* or by calling: (202) 260–4901. A copy may also be downloaded from the Internet at: *http://www.epa.gov/icr.*

In preparing these cost estimates, USEPA relied on standard assumptions and data sources used in the preparation of other drinking water program ICRs. These include the public water system inventory and labor rates. USEPA expects that States will incur no additional labor or non-labor costs associated with the Screening Survey component of the UCMR.

USEPA estimates that the total cost for one year of Screening Survey 2 monitoring for *Aeromonas* (in 2003) is approximately $247,320. These total estimated costs are incurred as follows:

TOTAL ESTIMATED COSTS

USEPA	$150,930 (for testing and sample shipping costs for small systems).
States	$0 (no additional burden associated with Screening Survey component of UCMR).
Small systems	$18,260 (labor only).
Large systems	$78,130 (labor and non-labor testing and sample shipping costs).

Over the five year UCMR implementation period of 2001–2005, the estimated average annual cost for each of the 120 large systems conducting *Aeromonas* monitoring is $12 (0.5 hours) per year for labor costs, and $118 for non-labor costs associated with testing and shipping. For the 180 small systems participating in *Aeromonas* monitoring in 2003, the average annual cost per system over that same period is $20.30 (0.84 hours) per year for labor costs (USEPA pays for all non-labor costs for small systems).

V. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that USEPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not ''economically significant'' as defined

under Executive Order 12866. Further, this proposed rule does not concern an environmental health or safety risk that USEPA has reason to believe may have a disproportionate effect on children.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under UMRA section 202, USEPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an USEPA rule for which a written statement is needed, UMRA section 205 generally requires USEPA 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 USEPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative, if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before USEPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under UMRA section 203 a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of USEPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

USEPA has determined that today's proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or for the private sector in any one year. Total annual costs of today's rule (across the UCMR implementation period of 2001–2005), for State, local, and Tribal governments and the private sector, are estimated to be $49,500, of which USEPA will pay $30,200, or approximately 61 percent. State drinking water programs are assumed to incur no additional costs associated with the *Aeromonas* Screening Survey component of the UCMR. No costs are estimated/incurred for the other methods included in this proposed rule since they represent additional methods that public water systems may elect to use but that are not required. Thus, today's proposed rule is not subject to the requirements of UMRA sections 202 and 205.

USEPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because USEPA will pay for the reasonable costs of sample testing for the small PWSs required to sample and test for *Aeromonas* under this proposed rule, including those owned and operated by small governments. The only costs that small systems will incur are those attributed to collecting the *Aeromonas* samples and packing them for shipping to the laboratory (USEPA will also pay for shipping). These costs are minimal. They are not significant or unique. Again, no costs are estimated/incurred for the other methods. Thus, today's rule is not subject to the requirements of UMRA section 203.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* USEPA prepared an Information Collection Request (ICR) document (ICR No. 1896.03). A copy may be obtained from Susan Auby by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by e-mail at: *auby.susan@epa.gov;* or by calling (202) 260–2740. A copy may also be downloaded from the internet at: *http://www.epa.gov/icr.*

The information to be collected under today's proposed rule fulfills the statutory requirements of section 1445(a)(2) of the Safe Drinking Water Act, as amended in 1996. The data to be collected will describe the source water, location, and test results for samples taken from PWSs. The rate of occurrence of *Aeromonas* will be evaluated regarding health effects and will be considered for future regulation accordingly. Reporting is mandatory. The data are not subject to confidentiality protection. The cost estimates described below for *Aeromonas* monitoring are attributed to laboratory fees, shipping costs, and some minimal labor burden for reading of requirements and for collecting samples. For large systems, labor burden estimates also consider activities related to reporting of results to USEPA's UCMR database.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and use 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.

Average annual non-labor costs during the five year ICR period (2001–2005) are estimated to be: $197 for each large system. USEPA will incur no additional labor costs for implementation of today's proposed rule. The Agency's annual non-labor costs for the ICR period are estimated to be $50,300. These non-labor costs are solely attributed to the cost of sample testing and sample kit shipping for the 180 small systems. A detailed discussion of these costs is presented in section IV.

Today's rule also proposes to approve USEPA Methods 515.4 and 531.2 to support monitoring already required under Phase II/V monitoring (§ 141.24), and proposes eight additional industry developed analytical methods. This part of today's proposed rule merely allows for the use of additional standardized methods, offering systems and their laboratories further operational flexibility. Thus, USEPA believes that there is no cost or burden to public water systems associated with the addition of these additional methods. In addition, because State adoption of analytical methods is voluntary, no costs are estimated for States related to the additional analytical methods that are included in today's proposed rule.

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 USEPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods

for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the proposed ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for USEPA.'' Include the ICR number (OMB No. 2040–0204) in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after March 7, 2002, a comment to OMB is best assured of having its full effect if OMB receives it by April 8, 2002. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, ''which are appropriate to the activities of the agency'' after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with SBA's Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's proposed rule on small entities, USEPA considered small entities to be systems serving 10,000. This is the cut-off level specified by Congress in the 1996 Amendments to the Safe Drinking Water Act for small system flexibility provisions. In accordance with the RFA requirements, USEPA proposed using this alternative definition in the **Federal Register** (63 FR 7620, February 13, 1998), requested public comment, consulted with SBA, and expressed its intention to use the alternative definition for all future drinking water regulations in the Consumer Confidence Reports regulation, (63 FR 44511, August 19, 1998). As stated in that final rule, the alternative definition would be applied to this regulation as well.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

As for the UCMR, published on September 17, 1999, USEPA analyzed separately the impact on small privately and publicly owned water systems because of the different economic characteristics of these ownership types. For publicly owned systems, USEPA used the ''revenue test,'' which compares a system's annual costs attributed to the rule with the system's annual revenues. USEPA used a ''sales test'' for privately owned systems, which involves the analogous comparison of UCMR-related costs to a privately owned system's sales. Because USEPA does not know the ownership types of the systems selected for *Aeromonas* monitoring, the Agency assumes that the distribution of the national representative sample of small systems will reflect the proportions of publicly and privately owned systems in the national inventory (as estimated by USEPA's 1995 Community Water System Survey, http://www.epa.gov/safewater/cwssvr.html). The estimated distribution of the sample for today's proposed rule, categorized by ownership type, source water, and system size, is presented in the following table.

NUMBER OF PUBLICLY AND PRIVATELY OWNED SMALL SYSTEMS TO PARTICIPATE IN SCREENING SURVEY TWO FOR AEROMONAS

Size category	Publicly owned systems	Privately owned systems	Total—all systems
GROUND WATER SYSTEMS			
500 and under	8	29	37
501 to 3,300	35	16	51
3,301 to 10,000	27	7	34
Subtotal Ground	70	52	122
SURFACE WATER SYSTEMS			
500 and under	5	13	18
501 to 3,300	10	4	14
3,301 to 10,000	20	6	26
Subtotal Surface	35	23	58
Total	105	75	180

The basis for the UCMR RFA certification for today's proposed rule, which approves Method 1605 for the analysis of *Aeromonas,* was determined by evaluating average annual costs as a percentage of system revenues/sales. In the worst-case-scenario, the smallest system size category (i.e., 500 and under) is estimated to have revenues/sales of approximately $16,000 per year. The annual cost related to *Aeromonas* monitoring for these 55 systems represents less than 0.2 percent of their annual revenue/sales. The impact for larger systems will be even less significant. USEPA specifically structured the rule to avoid significantly affecting small entities by assuming all

costs for laboratory analyses, shipping, and quality control for small entities. USEPA incurs the entirety of the non-labor costs associated with *Aeromonas* monitoring, or 89 percent of all costs. Small systems only incur labor costs associated with the collection of *Aeromonas* samples, and for reading about their sampling requirements, with an average annual labor cost per system over the 5 years of UCMR implementation of $20.30. USEPA continues to be interested in the potential impacts this proposal has on small entities and welcomes comments on issues related to such impacts.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs USEPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs USEPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. USEPA identified no voluntary consensus standards for *Aeromonas.* Therefore, USEPA proposes to use USEPA Method 1605.

Concerning the approval of USEPA Method 515.4, while the Agency identified two new methods (ASTM D5317–98, and SM 6640 B) for the acid herbicides as being potentially applicable, we do not propose to include them in this rulemaking. USEPA decided not to approve SM 6640 B. The use of this voluntary consensus standard would have been impractical because of significant shortcomings in the sample preparation and quality control sections of the method instructions. USEPA previously approved ASTM Method D5317–93 for acid herbicides. ASTM D5317–98 is an updated version of ASTM D5317–93 with no changes in the basic procedure and with limited changes to ''Table 4 Acceptance Criteria for Initial Demonstration of Proficiency'' and the addition of a table of acceptance criteria for quality control samples. While these tables are slightly different than those in ASTM D5317–93, they still permit acceptance windows for the initial demonstration of proficiency for laboratory fortified blank samples that are as large as 0% to 223% recovery for picloram, with tighter criteria for other regulated contaminants. When ASTM D5317–93 was originally proposed, a set of fixed acceptance limits of 70% to 130% recovery was also proposed. Due to adverse public comments concerning the ability of laboratories to meet this criteria due to low recovery expectations for picloram (and other analytes not currently regulated), this criteria was withdrawn. USEPA is currently considering alternate procedures for determining useful acceptance criteria for these methods, however, a discussion and proposal of those procedures is beyond the scope of this regulation. Therefore, USEPA is proposing to add approval only for USEPA Method 515.4 for the acid herbicides at this time.

Concerning the approval of USEPA Method 531.2, while the Agency identified two new methods (Standard Method 6610, 20th Edition, and Standard Method 6610, 20th Supplemental Edition) for the carbamates as being potentially applicable, we do not propose to use them in this rulemaking. Standard Method 6610, 20th Edition has previously been proposed for compliance monitoring in (66 FR 3466, January 16, 2001). Since it is currently in the rulemaking process it is not included in this regulation. USEPA has concerns about the Standard Method 6610, 20th Supplemental Edition. This version of Method 6610 permits the use of a strong acid, hydrochloric acid (HCL), as a preservative. The preservatives in all of the other approved USEPA and Standard Methods procedures for these analytes are weak acids that adjust the pH to a specific value based upon the pKa of the preservative. The use of HCL would require accurate determinations of the pH of the sample in the field and could be subject to considerable error and possible changes in pH upon storage. Although not observed for oxamyl or carbofuran, structurally similar pesticides will degrade over time when kept at pH 3. Therefore, USEPA is concerned about the use of a strong acid such as HCL when positive control of the pH is critical. Therefore, USEPA is proposing to add approval only for USEPA Method 531.2 for determining oxamyl and carbofuran, at this time.

The eight analytical methods developed by industry being proposed in this regulation are additional analytic methods for use in drinking water compliance monitoring proposed to USEPA by industry. These industry methods will supplement existing approved methods, some of which are voluntary consensus standards.

USEPA welcomes comments on this aspect of the proposed rulemaking and specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

G. Executive Order 12898—Federal Actions To Address Environmental Justice in Minority Populations and Low—Income Populations

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low—Income Populations'' (February 11, 1994), focuses Federal attention on the environmental and human health conditions of minority and low—income populations with the goal of achieving environmental protection for all communities. This proposal adds new analytic methods to Part 141. It does not withdraw any currently approved methods nor does it add nor alter any current monitoring requirement. The purpose of this proposal is to provide additional analytical methods for drinking water utilities to use to meet the currently existing monitoring requirements. USEPA has determined that there are no environmental justice issues in this rulemaking.

H. Executive Order 13132—Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires USEPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The objective of this proposed rule is to specify

approved analytical methods, thereby allowing *Aeromonas* to be included in the UCMR Screening Survey program, and to add USEPA Methods 515.4 and 531.2 and eight additional industry developed methods that public water systems may use to conduct analyses previously required. The cost to State and local governments is minimal, and the rule does not preempt State law. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with USEPA policy to promote communications between USEPA and State and local governments, USEPA specifically solicits comment on this proposed rule from State and local officials.

I. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires USEPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' ''Policies that have Tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The objective of this proposed rule is to specify approved analytical methods, thereby allowing *Aeromonas* to be included in the UCMR Screening Survey program and to add USEPA Methods 515.4, 531.2 and eight additional industry developed methods that public water systems may use to conduct analyses previously required. Only one small Indian Tribal system was selected for *Aeromonas* monitoring. Since this utility will be receiving sampling assistance from the State of Montana and the USEPA will pay for all shipping and analysis costs, the cost to the Tribal government will be minimal. The rule does not preempt Tribal law. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with USEPA policy to promote communications between USEPA and Tribal governments USEPA specifically solicits additional comment on this proposed rule from Tribal officials.

J. Plain Language Directive

Executive Order 12866 requires each agency to write all rules in plain language. USEPA invites public comment on how to make this proposed rule easier to understand. Comments may address the following questions and other factors, as well:

A. Has USEPA organized the material to suit your needs?

B. Are the requirements in the rule clearly stated?

C. Does the rule contain technical wording or jargon that is not clear?

D. Would a different format (grouping or order of sections, use of headings, paragraphing) make the rule easier to understand?

E. Would more (but shorter) sections be better?

F. Could USEPA improve clarity by using additional tables, lists or diagrams?

G. What else could USEPA do to make the rule easier to understand?

K. Executive Order 13211—Energy Effects

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

VI. References

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List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indians-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: March 1, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code

of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.21 is amended:

a. By revising the Table in paragraph (f)(3),

b. By adding paragraphs (f)(6) (viii) through (x).

The revision and additions read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(3) * * *

Organism	Methodology [12]	Citation [1]
Total Coliforms [2]	Total Coliform Fermentation Technique [3,4,5]	9221 A, B.
	Total Coliform Membrane Filter Technique [6]	9222 A, B, C.
	Presence-Absence (P–A) Coliform Test [5,7]	9221 D.
	ONPG–MUG Test [8]	9223.
	Colisure Test [9].	
	E*Colite® Test [10].	
	m-ColiBlue24® Test [11].	
	Readycult® Coliforms 100 Presence/Absence Test [13].	
	Membrane Filter Technique using Chromocult® Coliform Agar [14].	
	Colitag® Test [15].	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1, 6, 8, 9, 10 and 11 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M. St. SW., Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of FEDERAL REGISTER, 800 North Capitol Street, NW., Suite 700, Washington, DC 20408.

[1] Methods 9221 A, B; 9222 A, B, C; 9221 D and 9223 are contained in Standard Methods for the Examination of Water and Wastewater, 18th edition (1992) and 19th edition (1995) American Public Health Association, 1015 Fifteenth Street NW., Washington, DC 20005; either edition may be used.

[2] The time from sample collection to initiation of analysis may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10 deg. C during transit.

[3] Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform, using lactose broth, is less than 10 percent.

[4] If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half to two-thirds after the sample is added.

[5] No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

[6] MI agar also may be used. Preparation and use of MI agar is set forth in the article, ''New medium for the simultaneous detection of total coliform and *Escherichia coli* in water'' by Brenner, K.P., et. al., 1993, Appl. Environ. Microbiol. 59:3534–3544. Also available from the Office of Water Resource Center (RC–4100), 401 M. Street SW., Washington DC 20460, EPA/600/J–99/225. Verification of colonies is not required.

[7] Six-times formulation strength may be used if the medium is filter-sterilized rather than autoclaved.

[8] The ONPG-MUG Test is also known as the Autoanalysis Colilert System.

[9] A description of the Colisure Test, Feb 28, 1994, may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. The Colisure Test may be read after an incubation time of 24 hours.

[10] A description of the E*Colite® Test, ''Presence/Absence for Coliforms and E. Coli in Water,'' Dec 21, 1997, is available from Charm Sciences, Inc., 36 Franklin Street, Malden, MA 02148–4120.

[11] A description of the m-ColiBlue24® Test, Aug 17, 1999, is available from the Hach Company, 100 Dayton Avenue, Ames, IA 50010.

[12] EPA strongly recommends that laboratories evaluate the false-positive and negative rates for the method(s) they use for monitoring total coliforms. EPA also encourages laboratories to establish false-positive and false-negative rates within their own laboratory and sample matrix (drinking water or source water) with the intent that if the method they choose has an unacceptable false-positive or negative rate, another method can be used. The Agency suggests that laboratories perform these studies on a minimum of 5% of all total coliform-positive samples, except for those methods where verification/confirmation is already required, e.g., the M-Endo and LES Endo Membrane Filter Tests, Standard Total Coliform Fermentation Technique, and Presence-Absence Coliform Test. Methods for establishing false-positive and negative-rates may be based on lactose fermentation, the rapid test for β-galactosidase and cytochrome oxidase, multi-test identification systems, or equivalent confirmation tests. False-positive and false-negative information is often available in published studies and/or from the manufacturer(s).

[13] The Readycult® Coliforms 100 Presence/Absence Test is described in the document, ''Readycult® Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters'', November 2000, Version 1.0, available from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Telephone number is (800) 222–0342, e-mail address is: adellenbusch@emscience.com.

[14] Membrane Filter Technique using Chromocult® Coliform Agar is described in the document, ''Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters'', November 2000, Version 1.0, available from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Telephone number is (800) 222–0342, e-mail address is: adellenbusch@emscience.com.

[15] Colitag® Test is described in the document, ''Colitag® Product as a Test for Detection and Identification of Coliforms and *Esherichia coli* Bacteria in Drinking Water and Source Water as required in National Primary Drinking Water Regulations'', available from CPI International, Inc., 5580 Skylane Blvd., Santa Rosa, CA 95403, telephone (800) 878–7654, fax (707) 545–7901, internet address is www.cpiinternational.com.

* * * * *

(6) * * *

(viii) Readycult® Coliforms 100 Presence/Absence Test, a description of which is cited in footnote 13 to the table at paragraph (f)(3) of this section.

(ix) Membrane Filter Technique using Chromocult® Coliform Agar, a description of which is cited in footnote 14 to the table at paragraph (f)(3) of this section.

(x) Colitag® Test, a description of which is cited in footnote 15 to the table at paragraph (f)(3) of this section.

* * * * *

3. Section 141.23 is amended by revising the entry for ''Cyanide'' in the table in paragraph (a)(4)(i) and in the table in paragraph (k)(1) to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

* * * * *

(a) * * *

(4) * * *

(i) * * *

DETECTION LIMITS FOR INORGANIC CONTAMINANTS

Contaminant	MCL (mg/L)	Methodology	Detection limit (mg/L)
* * *		* * *	*
Cyanide	0.2	Distillation, Spectrophotometric [3]	0.02
		Distillation, Automated, Spectrophotometric [3]	0.005
		Distillation, Selective Eleectrode [3]	0.05
		Distillation, Amenable, Spectrophotometric [4]	0.02
		UV, Distillation, Spectrophotometric	0.05
		Distillation, Spectrophotometric	0.0006
* * *		* * *	*

* * * * * * *

[3] Screening method for total cyanides.

[4] Measures ''free'' cyanides.

* * * * * * *

(k) * * *

(1) * * *

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4]	Other
* * *		*	*	* *
Cyanide: Manual Distillation followed by		D2036–91A	4500–CN–C	
Spectrophotometric, Amenable		D2036–91B	4500–CN–G	
Spectrophotometric, Manual		D2036–91A	4500–CN–E	I–3300–85 [5]
Spectrophotometric, Semi-automated	[6]335.4			
Selective Electrode			4500–CN–F	
Distillation/Spectrophotometric				QuikChem 10–204–00–1–X [16]
UV /Distillation/Spectrophotometric				Kelada 01 [17]
* * *		*	*	* *

* * * * * * *

[3] Annual Book of ASTM Standards, 1994 and 1996, Vols. 11.01 and 11.02, American Society for Testing and Materials. The previous versions of D1688–95A, D1688–95C (copper), D3559–95D (lead), D1293–95 (pH), D1125–91A (conductivity) and D859–94 (silica) are also approved. These previous versions D1688–90A, C; D3559–90D, D1293–84, D1125–91A and D859–88, respectively are located in the Annual Book of ASTM Standards, 1994, Vols. 11.01. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4] 18th and 19th editions of Standard Methods for the Examination of Water and Wastewater, 1992 and 1995, respectively, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[5] Method I–2601–90, Methods for Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, Open File Report 93–125, 1993; For Methods I–1030–85; I–1601–85; I–1700–85; I–2598–85; I–2700–85; and I–3300–85 See Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A–1, 3rd ed., 1989; Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225–0425.

[6] ''Methods for the Determination of Inorganic Substances in Environmental Samples'', EPA/600/R–93/100, August 1993. Available at NTIS, PB94–120821.

* * * * * * *

[13] Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. For direct analysis of cadmium and arsenic by Method 200.7, and arsenic by Method 3120 B sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by Method 200.9; antimony and lead by Method 3113 B; and lead by Method D3559–90D unless multiple in–furnace depositions are made.

* * * * * * *

[16] The description for the QuikChem Method 10–204–00–1–X, Revision 2.1, November 30, 2000 for cyanide is available from Lachat Instruments, 6645 W. Mill Rd., Milwaukee, WI 53218, USA. Phone: 414–358–4200.

[17] The description for the Kelada 01 Method, Revision 1.2, August 2001, USEPA # 821–B–01–009 for cyanide is available from the National Technical Information Service (NTIS), PB 2001–108275, 5285 Port Royal Road, Springfield, VA 22161. The toll free telephone number is 800-553–6847.

* * * * * * *

4. Section 141.24 is amended by revising paragraph (e)(1) and by revising the table in paragraph (e)(1) to read as follows:

§ 141.24 Organic chemical, sampling and analytical requirements

* * * * *

(e) * * *

(1) The following documents are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at EPA's Drinking Water

Docket, 401 M Street, SW, Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. Method 508A and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water,* EPA/600/4–88–039, December 1988, Revised, July 1991. Methods 547, 550 and 550.1 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement I,* EPA/600–4–90–020, July 1990. Methods 548.1, 549.1, 552.1 and 555 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II,* EPA/600/R–92–129, August 1992. Methods 502.2, 504.1, 505, 506, 507, 508, 508.1, 515.2, 524.2 525.2, 531.1, 551.1 and 552.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III,* EPA/600/R–95–131, August 1995. Method 1613 is titled ''Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS'', EPA/821-B–94–005, October 1994. These documents are available from the National Technical Information Service, NTIS PB91–231480, PB91–146027, PB92–207703, PB95–261616 and PB95–104774, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. Method 6651 shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater,* 18th edition, 1992 and 19th edition, 1995, American Public Health Association (APHA); either edition may be used. Method 6610 shall be followed in accordance with the *Supplement to the 18th edition of Standard Methods for the Examination of Water and Wastewater,* 1994 or with the 19th edition of *Standard Methods for the Examination of Water and Wastewater,* 1995, APHA; either publication may be used. The APHA documents are available from APHA, 1015 Fifteenth Street NW, Washington, DC 20005. Other required analytical test procedures germane to the conduct of these analyses are contained in *Technical Notes on Drinking Water Methods,* EPA/600/R–94–173, October 1994, NTIS PB95–104766. EPA Methods 515.3 and 549.2 are available from U.S. Environmental Protection Agency, National Exposure Research Laboratory (NERL)—Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268. ASTM Method D 5317–93 is available in the *Annual Book of ASTM Standards,* 1996, Vol. 11.02, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or in any edition published after 1993. EPA Method 515.4, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection,'' Revision 1.0, April 2000, EPA /815/B–00/001. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time). Alternatively, the method can be assessed and downloaded directly on-line at *www.epa.gov/safewater/methods/sourcalt.html.* The Syngenta AG–625 is available from Syngenta Crop Protection, Inc., 410 Swing Road, Post Office Box 18300, Greensboro, NC 27419, Phone number (336) 632–6000. Method 531.2 ''Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization,'' Revision 1.0, September 2001. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time).

Contaminant	EPA method [1]	Standard methods	ASTM	Other
Benzene	502.2, 524.2.			
Carbon tetrachloride	502.2, 524.2, 551.1.			
Chlorobenzene	502.2, 524.2.			
1,2-Dichlorobenzene	502.2, 524.2.			
1,4-Dichlorobenzene	502.2, 524.2.			
1,2-Dichloroethane	502.2, 524.2.			
cis-Dichloroethylene	502.2, 524.2.			
trans-Dichloroethylene	502.2, 524.2.			
Dichloromethane	502.2, 524.2.			
1,2-Dichloropropane	502.2, 524.2.			
Ethylbenzene	502.2, 524.2.			
Styrene	502.2, 524.2.			
Tetrachloroethylene	502.2, 524.2, 551.1.			
1,1,1-Trichloroethane	502.2, 524.2, 551.1.			
Trichloroethylene	502.2, 524.2, 551.1.			
Toluene	502.2, 524.2.			
1,2,4-Trichlorobenzene	502.2, 524.2.			
1,1-Dichloroethylene	502.2, 524.2.			
1,1,2-Trichloroethane 5	502.2, 524.2, 551.1.			
Vinyl chloride	502.2, 524.2.			
Xylenes (total)	502.2, 524.2.			
2,3,7,8-TCDD (dioxin)	1613.			
2,4-D [4] (as acid, salts and esters)	515.2, 555, 515.1, 515.3, 515.4		D5317–93.	
2,4,5-TP [4] (Silvex)	515.2, 555, 515.1, 515.3, 515.4		D5317–93.	
Alachlor [2]	507, 525.2, 508.1, 505, 551.1.			
Atrazine [2]	507, 525.2, 508.1, 505, 551.1			Syngenta AG–625
Benzo(a)pyrene	525.2, 550, 550.1.			
Carbofuran	531.1, 531.2	6610		
Chlordane	508, 525.2, 508.1, 505.			
Dalapon	552.1, 515.1, 552.2, 515.3, 515.4.			
Di(2-ethylhexyl)adipate	506, 525.2.			
Di(2-ethylhexyl)phthalate	506, 525.2.			
Dibromochloropropane (DBCP)	504.1, 551.1.			
Dinoseb [4]	515.2, 555, 515.1, 515.3, 515.4.			

Contaminant	EPA method [1]	Standard methods	ASTM	Other
Diquat	549.2.			
Endothall	548.1.			
Endrin	508, 525.2, 508.1, 505, 551.1.			
Ethylene dibromide (EDB)	504.1, 551.1.			
Glyphosate	547	6651		
Heptachlor	508, 525.2, 508.1, 505, 551.1.			
Heptachlor Epoxide	508, 525.2, 508.1, 505, 551.1.			
Hexachlorobenzene	508, 525.2, 508.l, 505, 551.1.			
Hexachlorocyclopentadiene	508, 525.2, 508.1, 505, 551.1.			
Lindane	508, 525.2, 508.1, 505, 551.1.			
Methoxychlor	508, 525.2, 508.1, 505, 551.1.			
Oxamyl	531.1, 531.2	6610		
PCBs [3] (as decachlorobiphenyl)	508A.			
PCBs [3] (as Aroclors)	508.1, 508, 525.2, 505.			
Pentachlorophenol	515.2, 525.2, 555, 515.1, 515.3, 515.4		D5317–93.	
Picloram [4]	515.2, 555, 515.1, 515.3, 515.4		D5317–93.	
Simazine [2]	507, 525.2, 508.1, 505, 551.1.			
Toxaphene	508, 508.1, 525.2, 505.			
Total Trihalomethanes	502.2, 524.2, 551.1.			

[1] For previously approved EPA methods which remain available for compliance monitoring until June 1, 2001, see paragraph (e)(2) of this section.

[2] Substitution of the detector specified in Method 505, 507, 508 or 508.1 for the purpose of achieving lower detection limits is allowed as follows. Either an electron capture or nitrogen phosphorous detector may be used provided all regulatory requirements and quality control criteria are met.

[3] PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl. Users of Method 505 may have more difficulty in achieving the required detection limits than users of Methods 508.1, 525.2 or 508.

[4] Accurate determination of the chlorinated esters requires hydrolysis of the sample as described in EPA Methods 515.1, 515.2, 515.3, 515.4 and 555 and ASTM Method D5317–93.

* * * * * * *

5. Section 141.40 is amended in paragraph (a)(3), table 1, by revising the second List 2 table including the title, and by revising footnotes f and h, to read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) * * *

(3) * * *

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REGULATION (1999) LIST

1—Contaminant	2—Identification number	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Period during which monitoring to be completed
*	*	*	*	*	*
List 2—Screening Survey Microbiological Contaminants					
Aeromonas	NA	EPA Method 1605 [h]	0.2 CFU/100mL [f]	Distribution System [g]	2003

Column headings are:

1—Chemical or microbiological contaminant: the name of the contaminants to be analyzed.

2—CAS (Chemical Abstract Service Number) Registry No. or Identification Number: a unique number identifying the chemical contaminants.

3—Analytical Methods: method numbers identifying the methods that must be used to test the contaminants.

4—Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods.

5—Sampling Location: the locations within a PWS at which samples must be collected.

6—Years During Which Monitoring to be Completed: the years during which the sampling and testing are to occur for the indicated contaminant.

* * * * * * *

Minimum Reporting Level represents the value of the lowest concentration precision and accuracy determination made during methods development and documented in the method. If method options are permitted, the concentration used was for the least sensitive option.

[g] Three samples must be taken from the distribution system, which is owned or controlled by the selected PWS. The sample locations must include one sample from a point (MD from § 141.35(d)(3), Table 1) where the disinfectant residual is representative of the distribution system. This sample location may be selected from sample locations which have been previously identified for samples to be analyzed for coliform indicator bacteria. Coliform sample locations encompass a variety of sites including midpoint samples which may contain a disinfectant residual that is typical of the system. Coliform sample locations are described in 40 CFR 141.21. This same approach must be used for the Aeromonas midpoint sample where the disinfectant residual would not have declined and would be typical for the distribution system. Additionally, two samples must be taken from two different locations: the distal or dead—end location in the distribution system (MR from § 141.35(d)(3), Table 1), avoiding disinfectant booster stations, and from a location where previous determinations have indicated the lowest disinfectant residual in the distribution system (LD from § 141.35(d)(3), Table 1). If these two locations of distal and low disinfectant residual sites coincide, then the second sample must be taken at a location between the MD and MR sites. Locations in the distribution system where the disinfectant residual is expected to be low are similar to TTHM sampling points. Sampling locations for TTHMs are described in 63 FR 69468.

[h] EPA Method 1605 ''*Aeromonas* in Finished Water by Membrane Filtration using Ampicillin-Dextrin Agar with Vancomycin (ADA–V)'', October 2001, EPA # 821–R–01–034. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding Federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time). Alternatively, the method can be assessed and downloaded directly on-line at *www.epa.gov/microbes.*

* * * * *

6. Section 141.74 is amended by revising the table in paragraph (a)(1) and adding footnotes 11 and 12 to read as follows:

§ 141.74 Analytical and monitoring requirements.

(a) * * *

(1) * * *

Organism	Methodology	Citation [1]
Total Coliform [2]	Total Coliform Fermentation Technique [3 4 5]	9221 A, B, C.
	Total Coliform Membrane Filter Technique [6]	9222 A, B, C.
	ONPG–MUG Test [7]	9223.
Fecal Coliforms [2]	Fecal Coliform Procedure [8]	9221 E.
	Fecal Coliforms Filter Procedure	9222 D.
Heterotrophic bacteria [2]	Pour Plate Method	9215 B.
	SimPlate [11]	
Turbidity	Nephelometric Method	2130 B.
	Nephelometric Method	180.1 [9].
	Great Lakes Instruments	Method 2 [10].
	Hach FilterTrak	10133 [12].

Note: The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1, 6, 7, 9 and 10 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M. Street, SW, Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C. 20408.

[1] Except where noted, all methods refer to Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992 and 19th edition, 1995, American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005; either edition may be used.

[2] The time from sample collection to initiation of analysis may not exceed 8 hours. Systems must hold samples below 10 deg. C during transit.

[3] Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false—positive rate and false—negative rate for total coliform, using lactose broth, is less than 10 percent.

[4] Media should cover inverted tubes at least one—half to two—thirds after the sample is added.

[5] No requirement exists to run the completed phase on 10 percent of all total coliform—positive confirmed tubes.

[6] MI agar also may be used. Preparation and use of MI agar is set forth in the article, ''New medium for the simultaneous detection of total coliform and *Escherichia coli* in water'' by Brenner, K.P., et. al., 1993, Appl. Environ. Microbiol. 59:3534–3544. Also available from the Office of Water Resource Center (RC–4100), 401 M. Street SW, Washington D.C., 20460, EPA/600/J–99/225. Verification of colonies is not required.

[7] The ONPG—MUG Test is also known as the Autoanalysis Colilert System.

[8] A–1 Broth may be held up to three months in a tightly closed screw cap tube at 4 deg. C.

[9] ''Methods for the Determination of Inorganic Substances in Environmental Samples'', EPA/600/R–93/100, August 1993. Available at NTIS, PB94–121811.

[10] GLI Method 2, ''Turbidity'', November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, Wisconsin 53223.

[11] A description of the SimPlate method can be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092, telephone (800) 321–0207.

[12] A description of the Hach FilterTrak method 10133 can be obtained from; Hach Co., P.O. Box 389, Loveland, Colorado, 80539–0389. Phone: 800–227–4224.

* * * * *

[FR Doc. 02–5447 Filed 3–6–02; 8:45 am]

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Federal Register

Thursday,
March 7, 2002

Part IV

Environmental Protection Agency

40 CFR Part 141

Unregulated Contaminant Monitoring Regulation: Approval of Analytical Method for *Aeromonas*; National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7153–9]

Unregulated Contaminant Monitoring Regulation: Approval of Analytical Method for *Aeromonas;* National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Today's rule proposes the analytical method and an associated Minimum Reporting Level (MRL) for the analysis of *Aeromonas* to support the Unregulated Contaminant Monitoring Regulation's List 2 monitoring of 120 large and 180 small public water systems from January 1, 2003 through December 31, 2003. Only these 300 systems must monitor for *Aeromonas*. Aeromonas hydrophilia is a bacterium that is indigenous to natural waters. It has been implicated as a cause of traveler's diarrhea and other types of infections. *Aeromonas* has been observed in drinking water distribution systems, especially in locations with low residual chlorine levels.

Additionally, USEPA proposes to approve USEPA Method 515.4 to support previously required National Primary Drinking Water Regulation (NPDWR) compliance monitoring for 2,4–D (as acid, salts and esters), 2,4,5–TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon, and USEPA Method 531.2 to support previously required NPDWR monitoring for carbofuran and oxamyl.

Minor formatting changes are being made to the table of methods required to be used for required organic chemical NPDWR compliance monitoring to improve clarity and to conform to the format of other methods tables. In addition, the Presence-Absence (P–A) Coliform Test listed in the total coliform methods table was inadvertently identified as method 9221. This is being corrected to 9221 D. Also, detection limits for ''Cyanide'' are added in the ''Detection Limits for Inorganic Contaminants'' table for the two proposed cyanide methods.

Finally, USEPA proposes to approve eight additional industry developed analytical methods to support previously required NPDWR compliance monitoring. These eight methods include: a method for the determination of atrazine, two methods for the determination of cyanide, three methods for the determination of total coliforms, a method for the determination of heterotrophic bacteria and a method for the determination of turbidity.

DATES: Written comments should be postmarked by midnight, delivered by hand, or electronically mailed on or before May 6, 2002.

ADDRESSES: Any person may submit written or electronic comments concerning this proposed rule. Please send an original and 3 copies of your comments and enclosures (including references) to the W–01–13 Comment Clerk, Water Docket (MC4101), USEPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries should be delivered to: USEPA's Water Docket at 401 M. St., SW., Room EB57, Washington, DC. Comments may also be submitted electronically to *ow-docket@epa.gov*.

FOR FURTHER INFORMATION CONTACT: For information regarding the actions included in this proposal contact David J. Munch, USEPA, 26 West Martin Luther King Dr. (MLK 140), Cincinnati, Ohio 45268, (513) 569–7843 or e-mail at *munch.dave@EPA.gov*. General information may also be obtained from the USEPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

The only regulated entities are the 300 public water systems selected for *Aeromonas* monitoring; the use of the remaining methods proposed for approval in this action is voluntary however, if one of these methods is selected for use for the purpose of compliance monitoring then, compliance with the procedures specified in the method is required. A nationally representative sample of 120 large community and non-transient non-community water systems serving more than 10,000 persons are required to monitor for *Aeromonas* under the revised UCMR. A nationally representative sample of 180 community and non-transient non-community systems serving 10,000 or fewer persons are also required to monitor for *Aeromonas*. States, Territories, and Tribes, with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act sometimes conduct analyses to measure for contaminants in water samples and are affected by this action. Categories and entities potentially affected by this action include the following:

Category	Examples of potentially regulated entities	NAICS [a]
State, Local, & Tribal Governments.	States, local and tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; States, local and tribal governments that themselves operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor.	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

[a] National American Industrial Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that USEPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is potentially regulated by this action concerning the monitoring for *Aeromonas*, you should carefully examine the applicability criteria in § 141.35 and § 141.40 of the Code of Federal Regulations. A listing of the systems selected to perform *Aeromonas* monitoring is available at *http://www.epa.gov/safewater/standard/ucmr/systems.html*. To determine whether your facility is potentially regulated by the action concerning the use of USEPA Methods 515.4, 531.2 or the additional industry developed methods being proposed, you should carefully examine

the applicability criteria in § 141.21, § 141.23, § 141.24 and § 141.74 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Submitting Comments

Commentors who want USEPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Electronic comments must be submitted as an ASCII, WP5.1, WP6.1 or WP8 file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by the docket number W–01–13. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Commentors should use a separate paragraph for each issue discussed.

The record for this proposed rulemaking has been established under docket number W-01–13, and includes all of the supporting documentation, including copies of all of the analytical methods included in this proposed regulation as well as all materials referenced. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M. St., SW., Washington, DC. For access to docket materials, please call 202/260–3027 to schedule an appointment.

Abbreviations and Acronyms Used in the Preamble and Proposed Rule

2,4-D—2,4-dichlorophenoxyacetic acid
2,4,5-TP—2,4,5 trichlorophenoxyacetic acid
ADA—ampicilin-dextrin
APHA—American Public Health Association
ASTM—American Society for Testing and Materials
CAS—Chemical Abstract Service
CASRN—Chemical Abstract Service Registry Number
CFR—Code of Federal Regulations
CFU/mL—colony forming units per milliliter
DCPA—dimethyl tetrachloroterephthalate, chemical name of the herbicide dacthal
ECD—electron capture detector
USEPA—United States Environmental Protection Agency
EPTDS—entry point to the distribution system
ESA—ethanesulfonic acid, a degradation product of alachlor and other acetanilide pesticides
et al.—and others
GC—gas chromatograph, a laboratory instrument
GLI method—Great Lakes Instruments method
HRGC—high resolution gas chromatography
HRMS—high resolution mass spectrometer
ICR—information collection request
LD—point of lowest disinfectant residual
MCL—maximum contaminant level
MD—midpoint in the distribution system
MDL—method detection limit
MI—4—methylumbelliferyl—beta—D—galactopyranoside'indoxyl—beta—D—glucuronide
µg/L—micrograms per liter
mg/L—milligram per liter
MPN—most probable number
MR—point of maximum retention
MRL—minimum reporting level
MTBE—methyl tertiary-butyl ether, a gasoline additive
NAICS—National American Industry Classification System
NERL—National Environmental Research Laboratory
nm—nanometers
NPDWR—National Primary Drinking Water Regulation
NTIS—National Technical Information Service
NTNCWS—non-transient non-community water system
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
PCBs—polychlorinated biphenyls pKa—negative logarithm of the acidity constant
pKa—negative logarithm of the acidity constant
PT—performance testing
PWS—public water system
RDX—royal demolition explosive, hexahydro-1,3,5-trinitro-1,3,5-triazine
RFA—Regulatory Flexibility Act
SBREFA—Small Business Regulatory Enforcement Fairness Act
SDWA—Safe Drinking Water Act
UCMR—Unregulated Contaminant Monitoring Regulation
UMRA—Unfunded Mandates Reform Act of 1995
UV—ultraviolet

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I. Regulatory Background

The Safe Drinking Water Act (SDWA) section 1445(a)(2), as amended in 1996, requires USEPA to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. To meet these requirements, USEPA published the Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for Public Water Systems in (64 FR 50555, September 17, 1999) which substantially revised the previous Unregulated Contaminant Monitoring Program, codified at 40 CFR 141.40. USEPA subsequently published supplements to the rule, including analytical methods for conducting analysis of List 1 and selected List 2 contaminants (65 FR 11372, March 2, 2000 and 66 FR 2273, January 11, 2001) and technical corrections and other supplemental information (66 FR 27215, May 16, 2001 and 66 FR 46221, September 4, 2001). The January 11, 2001 rule specified the requirements for *Aeromonas* monitoring in the UCMR; however, an analytical method was not approved to support the required monitoring for *Aeromonas* which is scheduled to begin on January 1, 2003. Today's rule proposes to amend the UCMR to specify a method and an associated Minimum Reporting Level for monitoring *Aeromonas* on List 2.

The Safe Drinking Water Act (SDWA), as amended in 1996, requires USEPA to promulgate national primary drinking water regulations (NPDWRs) which specify maximum contaminant levels (MCLs) or treatment techniques for drinking water contaminants (SDWA section 1412 (42 U.S.C. 300g–1)).

NPDWRs apply to public water systems pursuant to SDWA section 1401 (42 U.S.C. 300f(1)(A)). According to SDWA section 1401(1)(D), NPDWRs include ''criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures.'' In addition, SDWA section 1445(a) authorizes the Administrator to establish regulations for monitoring to assist in determining whether persons are acting in compliance with the requirements of the SDWA. USEPA's promulgation of analytical methods is authorized under these sections of the SDWA as well as the general rulemaking authority in SDWA section 1450(a), (42 U.S.C. 300j–9(a)).

Today's action proposes to approve USEPA Method 515.4 for the determination of 2,4-D (as acid, salts and esters), 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon; USEPA Method 531.2 for the determination of carbofuran and oxamyl and an additional industry developed method for the determination of atrazine in drinking water using an immunoassay-based technology and colorimetric determination, as required in § 141.24(e) to support monitoring required under § 141.24(h). Today's rule also proposes to approve seven additional industry developed methods: a method using a micro-scale hard distillation apparatus followed by colorimetric determination of total cyanide and a method using an ultra-violet digester system for the determination of total and available cyanide to support monitoring required under § 141.23 (k)(1); two methods for the determination of the presence or absence of total coliforms and *E. coli* in drinking waters using a liquid culture or membrane filter method, a method for the determination of the presence or absence of total coliforms and *E. coli* using a liquid culture enzyme-substrate procedure for monitoring required under § 141.21, a method for the determination of heterotrophic bacteria for monitoring and a laser based nephelometric system for the determination of turbidity for monitoring required under § 141.74.

Please note that USEPA is not requesting comment on any aspect of the UCMR other than those changes proposed today. Specifically, USEPA is not requesting comment on the UCMR list of contaminants other than the use of USEPA Method 1605 for the analysis of *Aeromonas* and the MRL being proposed. USEPA is not seeking comment on any aspect of the monitoring required under § 141.24 other than the applicability of: USEPA Method 515.4 for the analysis of 2,4-D (as acid, salts and esters), 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon; USEPA Method 531.2 for the analysis of carbofuran and oxamyl; or the additional industry developed method for the analysis of atrazine. USEPA is not seeking comment on the monitoring required under § 141.21, § 141.23 or § 141.74 beyond the applicability of the seven additional industry developed methods proposed which include: two methods for the determination of cyanide, three methods for the determination of total coliforms and *E. coli*, a method for the determination of heterotrophic bacteria and a method for the determination of turbidity.

II. *Aeromonas* Related Actions

A. Relation to the UCMR

Prior actions (66 FR 2273, January 11, 2001 and 66 FR 46221, September 4, 2001), specify the methods to be used for analysis of List 2 chemicals to be monitored in 2001 and 2002. Today's proposal specifies the analytical method and associated MRL for a List 2 contaminant, *Aeromonas*. Methods for the other two remaining List 2 contaminants, RDX and Alachlor ESA and other acetanilide pesticides, need to be refined for analysis in treated drinking water and thus may be proposed at a later time. The List 2 Rule specified the timing, frequency, and other requirements for *Aeromonas* monitoring. (66 FR 2273, January 11, 2001) Today's proposal completes the *Aeromonas* monitoring requirements by specifying the analytical method and MRL.

As specified in these prior actions, USEPA will pay for the shipping, analysis and reporting of results for samples from the 180 small systems serving 10,000 or fewer persons which were selected to conduct this monitoring. The 120 large systems selected to perform this monitoring must arrange and pay for the monitoring, shipping, analysis and reporting of results for *Aeromonas* samples. Only the 180 small systems and the 120 large systems that were selected must monitor for *Aeromonas*. No other systems must monitor for *Aeromonas*. A listing of the systems selected to perform *Aeromonas* monitoring is available at *http://www.epa.gov/safewater/standard/ucmr/systems.html.*

As promulgated in the UCMR List 2 Rule (66 FR 2273, January 11, 2001), large systems must use laboratories approved for this analysis. Large PWSs must arrange for the analysis for *Aeromonas* using USEPA Method 1605, as identified in List 2 of Table 1 (today's action), by a laboratory certified under § 141.28 for compliance analysis using an USEPA-approved membrane filtration method for the analysis of coliform indicator bacteria. As required in § 141.40 (a)(5)(ii)(G)(*3*), laboratories performing USEPA Method 1605 must participate in and successfully pass one of potentially two performance testing (PT) studies, the first to be conducted by USEPA 45 days after promulgation of this regulation, and a second to be conducted prior to the start of the List 2 *Aeromonas* monitoring in 2003, time permitting.

B. Contaminant and Analytical Methods

In today's proposal, USEPA is proposing the use of USEPA Method 1605 for the monitoring of *Aeromonas* as specified in List 2 of Table 1 with an MRL of 0.2 Colony Forming Units (CFU)/100 mL. The proposed MRL is based upon precision data derived during the primary laboratory's methods development and then verified in a second laboratory. Ten laboratories provided precision data using samples, fortified with a single strain of *Aeromonas*, which were provided by USEPA. The mean precision reported for reagent water samples analyzed by these laboratories was 27% and for finished water samples was 57%.

C. Laboratory Approval and Certification

This rule proposes that laboratories wishing to analyze samples for *Aeromonas* for the UCMR must use USEPA Method 1605 (described later). USEPA has previously specified, in § 141.40 (a)(5)(ii)(G)(*3*) (66 FR 2273, January 11, 2001), that *Aeromonas* analyses must be performed by laboratories certified under § 141.28 for compliance analyses of coliform indicator bacteria using an USEPA approved membrane filtration procedure. Because of differences between USEPA Method 1605 and existing membrane filtration methods for coliform indicator bacteria, laboratories performing USEPA Method 1605 must also participate in performance testing (PT) studies to be conducted by USEPA. Laboratories wishing to be approved to use Method 1605 for this monitoring must submit a ''request to participate'' letter to USEPA and to analyze 10 samples for *Aeromonas* using Method 1605. USEPA has established 45 days following the publication of the final rule as the latest date by which it will accept the ''request to participate'' letter. A second PT study

will only be conducted if more than 90 days remain between the reporting of the results of the first study and the beginning of *Aeromonas* monitoring, January 2003, to provide utilities with at least 45 days to contract with laboratories that have received approval. Upon completion of the *Aeromonas* PT Program, USEPA will provide each successful laboratory with an approval letter identifying the laboratory by name and the approval date. This letter and a copy of the laboratory's certification under § 141.28 for compliance analysis of coliform indicator bacteria using an USEPA approved membrane filtration procedure, may then be presented to any PWS as evidence of laboratory approval for *Aeromonas* analysis supporting the UCMR. Laboratory approval is contingent upon the laboratory maintaining certification to perform drinking water compliance monitoring using an approved coliform membrane filtration method. USEPA intends to post a listing of the laboratories that have successfully completed each PT study at *www.epa.gov/safewater.*

All large and small systems selected for the Screening Survey will be notified by their State Drinking Water Authority or USEPA at least 90 days before the dates established for collecting and submitting UCMR field samples to determine the presence of *Aeromonas*. Large systems must send samples to approved laboratories and then report the results to USEPA as specified in § 141.35. All small system shipping and analytical costs will be paid by USEPA, however, small systems will be responsible for collecting these samples.

D. Summary of USEPA Method 1605

The proposed *Aeromonas* method for List 2 monitoring is USEPA Method 1605 ''*Aeromonas* in Finished Water by Membrane Filtration using Ampicillin-Dextrin Agar with Vancomycin (ADA–V),'' October 2001 EPA # 821–R–01–034 (see *www.epa.gov/microbes* or the docket for this proposal for a copy of the proposed method). This method is a membrane filter assay based on the ampicillin-dextrin (ADA) method of Havelaar *et al.* (1987). The ADA medium has been modified by the addition of vancomycin to inhibit gram positive bacteria including *Bacillus* species, that may grow on ADA medium, and by the addition of a second stage, which includes three tests for confirmation, cytochrome oxidase, trehalose fermentation, and the production of indole as determined by Kovac's reagent. This method identifies *Aeromonas* to the genus level and detects *A. hydrophila* and a majority of the other aeromonad species.

III. Primary and Secondary Drinking Water Regulation Related Actions

A. Contaminants and Analytical Methods

In today's action, USEPA is proposing two new USEPA developed methods and eight additional industry developed methods, for use in National Primary Drinking Water Regulation (NPDWR) monitoring under § 141.24. The proposed methods, and the contaminants (analytes), are shown in Table 1.

TABLE 1.—REGULATED CONTAMINANTS AND PROPOSED NEW ANALYTICAL METHODS

Contaminant	Method
2,4-D (as acid, salts, and esters)	USEPA Method 515.4.
2,4,5-TP (Silvex)	USEPA Method 515.4.
Dinoseb	USEPA Method 515.4.
Pentachlorophenol	USEPA Method 515.4.
Picloram	USEPA Method 515.4.
Dalapon	USEPA Method 515.4.
Carbofuran	USEPA Method 531.2.
Oxamyl	USEPA Method 531.2.
Atrazine	Syngenta AG–625.
Cyanide	QuikChem 10–204–00–1–X. Kelada 01.
Total coliforms	Readycult® Coliforms 100 Presence/Absence Test. Membrane Filter Technique using Chromocult® Coliform Agar. Colitag® Test.
E. coli	Readycult® Coliforms 100 Presence/Absence Test. Membrane Filter Technique using Chromocult® Coliform Agar. Colitag® Test.
Heterotrophic bacteria	SimPlate.
Turbidity	Hach FilterTrak 10133.

USEPA Method 515.4 was previously approved for use for UCMR List 1 contaminants in § 141.40, Table 1 List 1 (66 FR 2273, January 11, 2001), but was not approved for monitoring compliance with NPDWRs. Also, in a supplemental action (66 FR 46221, September 4, 2001), laboratories certified to conduct compliance monitoring using USEPA Method 515.3 were automatically approved to use USEPA Method 515.4 for UCMR analyses. Approving USEPA Method 515.4 for use in NPDWR compliance monitoring will allow public water systems and their laboratories to analyze one water sample for both UCMR and NPDWR purposes, reducing monitoring costs. It will also provide greater method flexibility for monitoring in the long term.

USEPA Method 531.2 improves the sample preservation procedures required in USEPA Method 531.1 and Standard Method 6610 and updates the method performance tables using data generated with more up to date equipment. Use of USEPA Method 531.2 will improve safety for analysts and sample collection personnel by approving the use of a less toxic preservation reagent. Accuracy, precision and detection limit data generated using USEPA Method 531.2 is superior to that generated with either of the currently approved methods. It will also provide greater method flexibility for monitoring in the long term.

For the additional industry developed methods, the submitting organization provided data to support the validation of the new or modified method. The Agency reviewed these validation packages and is proposing those methods that USEPA has determined are satisfactory compliance methods,

capable of providing the quality of monitoring data required.

B. Summary of Primary and Secondary Drinking Water Regulation Methods

1. USEPA Method 515.4

USEPA Method 515.4 is a gas chromatography (GC) method for the determination of chlorinated acids in drinking waters. Accuracy, precision, and detection limit data have been generated for the method analytes in reagent water and finished ground and surface waters. Accuracy, precision, and detection limit data generated using USEPA Method 515.4 are equivalent to that generated using USEPA Method 515.3 which is currently approved to perform this monitoring.

USEPA Method 515.4 is applicable to the determination of salts and esters of analyte acids. The form of each acid is not distinguished by this method. Results are calculated and reported for each listed analyte as the total free acid. This method is able to quantify the mono- and di-acid forms of DCPA (Dacthal) without contribution from the parent compound.

A 40-mL volume of sample is adjusted to pH ≥ 12 with 4 Normal (N) sodium hydroxide and allowed to sit for one hour at room temperature to hydrolyze derivatives. Following hydrolysis, a wash step using a hexane: methyl tert-butyl ether (MTBE) mixture is performed as a sample cleanup and to remove Dacthal. The aqueous sample is then acidified with sulfuric acid to a pH of less than 1 and extracted with 4-mL of MTBE. The chlorinated acids that have been partitioned into the MTBE are then converted to methyl esters by derivatization with diazomethane. The target esters are separated and identified by fast capillary column gas chromatography (conditions for standard gas chromatography are also included) using an electron capture detector (GC/ECD). Peer reviews for USEPA Method 515.4 were conducted both within USEPA and by personnel from Montgomery Watson Laboratories, Philadelphia Suburban Water Company, and the American Water Works Service Company. All of the technical peer review comments were positive and the only changes requested were editorial in nature.

USEPA Method 515.4, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection,'' Revision 1.0, April 2000, USEPA #815/B–00/001, is available from the docket for this proposal or by requesting a copy from the USEPA Safe Drinking Water Hotline at 800–426–4791 (hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time). Alternatively, the method can be accessed and downloaded directly on-line at *www.epa.gov/safewater/methods/sourcalt.html.* Tables of method validation data are included in the written method.

2. USEPA Method 531.2

USEPA Method 531.2 is a high performance liquid chromatographic (HPLC) method applicable to the determination of certain N-methylcarbamoyloximes and N-methylcarbamates in finished drinking waters. Accuracy, precision, and detection limit data generated using USEPA Method 531.2 are superior to that generated using the currently approved methods, USEPA Method 531.1 or Standard Method 6610.

The water sample is filtered. Method analytes are chromatographically separated by injecting an aliquot (400 to 1000 uL) into a high performance liquid chromatographic (HPLC) system equipped with a reversed phase (C_{18}) column. After elution from the column, the analytes are hydrolyzed in a postcolumn reaction with 0.05 N sodium hydroxide (NaOH) at 80 °C to form methyl amine. The methyl amine is reacted with o-phthalaldehyde (OPA) and 2-mercaptoethanol (or N,N-dimethyl-2-mercaptoethylamine) to form a highly fluorescent isoindole which is detected by a fluorescence detector. Analytes are quantitated using the external standard technique. A second laboratory validation for USEPA Method 531.2 was performed at the American Water Works Service Company and demonstrated good agreement with the performance data generated during the development of the method.

USEPA Method 531.2, ''Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization,'' Revision 1.0, September 2001, is available in the docket for this proposal or by requesting a copy from the USEPA Safe Drinking Water Hotline within the United States at 800–426–4791 (hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time). Tables of method validation data are included in the written method.

3. Syngenta Method AG–625

Syngenta Crop Protection, Inc.'s ''Atrazine in Drinking Water by Immunoassay'' (Method AG–625) is an additional industry developed method that employs immunoassay technology to determine atrazine in drinking water. Atrazine is determined by using a color-based immunoassay method. Atrazine in a sample is detected by adding sample and enzyme conjugate solution to a culture tube that has been pre-coated with atrazine antibodies. Atrazine competes with the conjugate for antibody binding sites. The culture tube is washed, and an enzyme substrate solution is added. The substrate is enzymatically converted from a colorless to a blue solution, the absorption of which is inversely proportional to atrazine concentration.

Method performance was characterized using data from a 19 laboratory validation study. Average recovery of atrazine from drinking water was 96%, and the relative standard deviation was less than 20%. The stated method detection limit is 0.05 ug/L. Based on these results, USEPA believes that Method AG–625 is a satisfactory compliance method for atrazine in drinking water.

Method AG–625 is available in the docket for this proposal or from Syngenta Crop Protection, Inc. Contact: James Brady, Syngenta Crop Protection, Inc., 410 Swing Road, Post Office Box 18300, Greensboro, NC 27419, telephone (336) 632–6000.

4. QuikChem 10–204–00–1–X

Lachat Instruments ''Digestion and Distillation of Total Cyanide in Drinking and Wastewaters using MICRO DIST and determination of cyanide by flow injection analysis'' (QuikChem Method 10–204–00–1–X) is an additional industry developed method that determines total cyanide in drinking water. The method employs the MICRO DIST apparatus, a reduced volume disposable distillation apparatus. MICRO DIST reduces distillation time, sample and reagent wastes, and allows for multiple distillations simultaneously (one distillation heating block accommodates 21 MICRO DIST distillation devices).

Total cyanide is determined by distilling the sample and measuring cyanide generated using colorimetry or some other method for cyanide ion detection. Six milliliters of sample are added to a distillation tube along with standard cyanide distillation reagents (sulfuric acid, magnesium chloride). A cyanide collector tube, which consists of a gas permeable membrane and sodium hydroxide absorber solution, is attached to the distillation tube; the distillation and collector tubes together comprise the MICRO DIST unit. The

sample is heated for ½ hour, during which hydrogen cyanide gas distills from the sample, passes through the gas permeable membrane, and collects in the sodium hydroxide absorber solution. Using method write-up 10–204–00–1–X, the absorber solution is analyzed using an automated colorimeter; however, the absorber solution may be analyzed using another procedure (e.g., ion selective electrode) as well, provided all precautions in the method write-up are acknowledged (e.g., pH of the absorber solution and standards are adjusted to match).

Method performance was characterized in single laboratory studies, and an eight laboratory validation study. Single laboratory studies, performed by Lachat and by Research Triangle Institute, demonstrated recovery of complex cyanides using MICRO DIST and macro distillations were substantially equivalent by measuring a variety of cyanide complexes using both distillations. The eight laboratory validation study demonstrated that the QuikChem 10–204–00–1–X method is a satisfactory compliance method. Based on these results, USEPA believes that this method is a satisfactory compliance method for total cyanides in drinking water.

Method 10–204–00–1–X is available in the docket for this proposal or from Lachat Instruments, 6645 W. Mill Rd., Milwaukee, WI 53218, USA. Phone: 414–358–4200.

5. Kelada 01

Dr. Nabih Kelada's ''Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, and Thiocyanate'' (Kelada 01), USEPA # 821–B–01–009 is an additional industry developed automated procedure that determines total cyanide and acid dissociable cyanide in drinking water. The procedure makes use of a two-stage sample digestion system to determine total cyanide. A sample is introduced into a flow analysis system. The sample then passes through an irradiation coil, where it is exposed to intense ultraviolet (UV) light from a 550 Watt UV photochemical bulb. The UV light breaks down cyanide complexes (include strong ferro- and ferri-cyanide complexes) to free cyanide. The irradiated sample containing free cyanide then passes though a distillation coil from which the free cyanide is distilled into a flow colorimetry system (similar to that used in USEPA Method 335.4) where cyanide concentration is determined. All complex cyanides determined using total cyanide manual distillations are also determined using the Kelada 01 method.

When the irradiation coil is by—passed ''exposing sample only to a distillation coil—''acid dissociable'' cyanide is determined. The complexes measured are substantially equivalent to those measured using cyanide amenable to chlorination (CATC) or procedures which measure available cyanide, according to a single laboratory study performed by the Metropolitan Water Reclamation District of Greater Chicago.

The Kelada 01method offers advantages over currently approved methods. First, it reduces analysis time from 1.5 hours (using manual distillation and analysis) to minutes. Second, the method reduces the effects of many chemical interferences encountered using traditional manual distillation methods.

The method was validated in both single laboratory and multi-laboratory validation studies, including studies involving eight laboratories which was conducted by the Metropolitan Water Reclamation District of Greater Chicago and through a multi-laboratory study involving 31 laboratories managed by Environment Canada. Studies showed total and acid dissociable cyanide recoveries from samples between 90% and 110%, and relative standard deviations of less than 10%. The reported lower limit of detection is 0.5 μg/L. Based on these results, USEPA believes that the Kelada 01method is a satisfactory compliance method for total cyanide in drinking water.

The Kelada 01method is available in the docket for this proposal.

6. Readycult® Coliforms 100 Presence/Absence Test

The Readycult® Coliforms 100 Presence/Absence Test simultaneously determines the presence of total coliforms and *E. coli,* both of which must be monitored under the Total Coliform Rule at § 141.21. The tests involve adding the contents of a blister pack to a 100-mL water sample, followed by incubation at 36 ± 1°C for 24 ± 1 hours. If coliform bacteria are present, the medium changes color from slightly yellow to blue-green. In addition, if *E. coli* is present, the medium will emit a bright blue fluorescence when subjected to a long wave (366 nm) ultraviolet (UV) light, and will form a red ring when indole reagent is added.

The Readycult test is based upon the detection of three enzymes, β-galactosidase, which is specific to the total coliform group, and β-glucuronidase and tryptophanase, both of which are characteristic of *E. coli.* For detection of β-galactosidase, the medium contains the chromogenic enzyme substrate 5-bromo-4-chloro-3-indolyl-β-D-galactopyranoside (X-GAL). Upon hydrolysis by β-D-galactosidase, X-GAL releases a chromogenic compound (indigo-blue) that turns the medium from slightly yellow to a blue-green color. For detection of β-glucuronidase, the medium contains the fluorogenic enzyme substrate 4-methyl-umbelliferyl-β-D-glucuronide (MUG). Upon hydrolysis by β-glucuronidase, MUG releases 4-methylumbelliferone that fluoresces when exposed to ultraviolet light. For detection of tryptophanase, the medium contains the enzyme substrate tryptophan. Upon cleavage by tryptophanase, tryptophan releases indole that immediately forms a red ring when Kovac's indole reagent is added directly to the broth. The presence of this red ring confirms the presence of *E. coli*

USEPA has evaluated false positive and false negative data submitted by the manufacturer and has determined that results obtained with the Readycult test are substantially equivalent to the Agency's previously approved reference method for total coliforms and *E. coli,* however, USEPA has not yet determined a fully substantiated false negative rate for the USEPA reference method. The manufacturer observed a false-positive error of 7% for total coliforms and 5% for *E. coli.* (The false-positive error for total coliforms was based upon whether the isolate was also positive in lauryl tryptose broth (LTB) and brilliant green lactose bile broth. The false-positive error for *E. coli* was based upon whether the isolate was also positive in LTB and EC+MUG.) The false-negative rate, respectively, was 5.1% and 6.86%. Based on these results, USEPA believes that the Readycult test is a satisfactory compliance method for total coliforms and *E. coli* in drinking water.

The method description for the Readycult test is available in the docket for this proposal or from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Their telephone number is (800) 222–0342.

7. Membrane Filter Technique using Chromocult® Coliform Agar

Chromocult® Coliform Agar is a membrane filter medium that simultaneously determines the presence of total coliforms and *E. coli,* both of which must be monitored under the Total Coliform Rule at § 141.21. For the test, a 100-mL water sample is passed through the membrane that retains the bacteria. Following filtration, the

membrane containing bacterial cells is placed on the media and incubated at 36 ± 1°C for 24 ± 1 h. Salmon to red colonies are recorded as total coliforms (without *E. coli*). In contrast, dark-blue to violet colonies are recorded as *E. coli.*

The membrane filter method using Chromocult® Coliform Agar is based upon the detection of three enzymes; β-galactosidase, which is specific to the total coliform group, and β-glucuronidase and tryptophanase, both of which are characteristic of *E. coli.* For detection of β-galactosidase, the medium contains the chromogenic enzyme substrate 6-chloro-3-indolyl-3-β-D-galactopyranoside (SALMON-GAL). Upon hydrolysis by β-D-galactosidase, SALMON-GAL releases a chromogenic compound (chloroindigo) that forms salmon to red-colored colonies. For detection of β-glucuronidase, the medium contains another chromogenic enzyme substrate, 5-bromo-4-chloro-3-indoxyl-β-D-glucuronic acid, cyclohexylammonium salt (X-GLUC). Upon hydrolysis by β-glucuronidase, X-GLUC releases a chromogenic compound (bromochloroindigo) that forms light-blue to turquoise colonies. *E. coli* produces both β-galactosidase and β-glucuronidase that cleave both SALMON-GAL and X-GLUC, respectively. The simultaneous hydrolysis of these chromogenic substrates forms dark-blue to violet colonies that are easily distinguished from other coliform colonies. For detection of tryptophanase, the medium contains the enzyme substrate tryptophan. Upon cleavage by tryptophanase, tryptophan releases indole that immediately forms a cherry-red color when Kovac's indole reagent is added directly to dark-blue to violet colonies. This reaction thus confirms the presence of *E. coli* in dark-blue to violet colonies.

USEPA has evaluated data submitted by the manufacturer and has determined that more positives were reported with Chromocult® Coliform Agar than the Agency's previously approved reference method for total coliforms and *E. coli,* (USEPA has not yet determined a fully substantiated false negative rate for the USEPA reference method, however, USEPA believes that it is higher than the false negative rate observed for Chromocult® Coliform Agar and that this is responsible for the observed higher positive rate). The manufacturer observed a false-positive error of 13% for total coliforms and 6% for *E. coli.* (The false-positive error for total coliforms was based on whether the isolate was also positive in lauryl tryptose broth (LTB) and brilliant green lactose bile broth. The false-positive error for *E. coli* was based on whether the isolate was also positive in LTB and EC+MUG.) The false-negative rate using the Chromocult® Coliform Agar was 0% for both total coliforms and *E. coli.* Based on these results, USEPA believes that Chromocult® Coliform Agar is a satisfactory medium for use under the Total Coliform Rule to detect total coliforms and *E. coli* in drinking water.

The method description for Chromocult® Coliform Agar is available in the docket for this proposal or from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Their telephone number is (800) 222–0342.

8. Colitag® Test

The ''Colitag® Product as a Test for Detection and Identification of Coliforms and *E. coli* Bacteria in Drinking Water and Source Water as required in National Primary Drinking Water Regulations'' is a liquid culture enzyme-substrate procedure that simultaneously determines the presence of total coliforms and *E. coli,* both of which must be monitored under the Total Coliform Rule at § 141.21. To determine total coliforms, the Colitag® test medium contains chromogenic enzyme substrate ortho-β-D-galactopyranoside (ONPG) for the detection of β-galactosidase, an enzyme indicative of the coliform group. Upon hydrolysis by β-galactosidase, ONPG produces a distinct yellow color that can be observed visually, indicating the presence of coliforms. To determine *E. coli,* Colitag medium contains chromogenic enzyme substrate, 4-methyl-umbelliferyl-β-D-glucuronide (MUG) for detection of β-glucuronidase, an enzyme specific to *E. coli.* Upon hydrolysis by β-glucuronidase, MUG produces the fluorescent compound 4-methylumbelliferone, which fluoresces when exposed to ultraviolet light.

The method differs from currently approved enzymatic methods by the addition of trimethylamine-N-oxide (TMAO) to the list of ingredients. TMAO allows the pH of the medium to increase from 6.2 to 7.0 during incubation, thereby enhancing the recovery of chlorine injured/stressed organisms.

USEPA has evaluated comparability data submitted by the manufacturer and has determined that results obtained with the Colitag® test are statistically equivalent to the Agency's reference method for total coliforms and *E. coli,* however, USEPA has not yet determined a fully substantiated false negative rate for the USEPA reference method. The manufacturer observed a false-positive error of 2.0% for total coliforms and 2.0% for *E. coli.* The false-negative rates were 0% and 0%, respectively. Based on these results, USEPA believes that the Colitag® test is a satisfactory compliance method for total coliforms and *E. coli* in drinking water.

The method description for the Colitag® test is available in the docket for this proposal or from CPI, International, Inc., 5580 Skylane Blvd., Santa Rosa, CA, 95403, telephone (800) 878–7654, Fax (707) 545–7901, e-mail *www.cpiinternational.com.*

9. SimPlate

Under the Surface Water Treatment Rule (SWTR), § 141, Subpart H, a system using surface water or ground water under the direct influence of surface water must, among other requirements, maintain a disinfectant residual in the distribution system. The disinfectant residual in the distribution system cannot be undetectable in more than 5% of the samples each month, for any two consecutive months that the system serves water to the public. However, § 141.72(b)(3) allows a system that does not detect a residual at a particular site to determine the concentration of heterotrophic bacteria at that site. For compliance purposes, a concentration of 500 colonies/mL or fewer, as measured by the pour plate method (Standard Method 9215), is considered to be equivalent to a detectable disinfectant residual.

Because the measured density of heterotrophic bacteria is method-dependent, USEPA to date has only approved one method. Recently, however, USEPA has determined that another test for heterotrophic bacteria, the SimPlate method, provides results substantially equivalent to the pour plate method, given the intended application. Consequently, the Agency is proposing to approve the SimPlate method as an optional procedure for determining the density of heterotrophic bacteria under § 141.72(b)(3).

SimPlate is a substrate-based medium in which the substrates are hydrolyzed by microbial enzymes causing the release of 4-methylumbelliferone, which fluoresces under 365-nm ultraviolet light. The medium is dehydrated when purchased. Two SimPlate formats are available: a unit-dose format and a multi-dose format. The unit-dose format consists of adding 10-mL of test sample to a test tube containing the dehydrated SimPlate medium, and then pouring the dissolved mixture to the center of a plate containing 84 small wells. In contrast, under the multi-dose format, the dehydrated medium needs to be reconstituted first by filling the medium

vessel to the 100-mL mark with sterile diluent, and shaking to dissolve. A 1.0-mL test sample is then pipetted to the center of the plate, followed by 9.0 mL of the reconstituted SimPlate medium. The plate is then gently swirled to mix the sample and medium. The next steps are the same for both formats. The mixture is evenly distributed to the 84 wells on the plate, and the excess liquid drained into an absorbent pad on the plate. The plate is then inverted (the fluid in each well is held in place by surface tension) and incubated for 45–72 hours at 35°C. Bacterial density is determined by counting the number of wells that fluoresce under a 365-nm UV light, and converting this value to a Most Probable Number (MPN) using the table provided, taking into account any dilution factor that may have been used during sample preparation to ensure a proper counting range.

USEPA has evaluated data submitted by the manufacturer from a side-by-side comparison of the SimPlate and the USEPA-approved pour plate method, and has determined that while statistically significant differences were observed in individual matrices those differences were acceptable based upon the intended application of the method. Thus, the Agency believes that the SimPlate method is satisfactory as an additional method for determining the density of heterotrophic bacteria in the distribution system under the SWTR (§ 141.72(b)(3)).

The method description for SimPlate is available in the docket for this proposal or from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. Their telephone number is (800) 321–0207. Their website is *www.idexx.com.*

10. Hach Filter Trak

Hach Filter Trak (Method 10133) ''Determination of Turbidity by Laser Nephelometry'' is an additional industry developed method that employs a laser nephelometer to determine the turbidity of finished drinking waters. Method 10133 uses the Hach FilterTrak 660 nephelometer, which functions like a standard nephelometer but has the sensitivity of a particle counter. The method can be used both in a laboratory and on-line fashion.

Turbidity is determined by measuring the scatter of a laser beam onto a photomultiplier detector whose response spectrum significantly overlaps the spectra of the incident light source. Response is compared to the response of Hach Stablcal formazin standards to quantify sample turbidity. Method 10133's FilterTrak 660 system is designed to reduce background light scatter that can artificially raise turbidity measurements when using currently approved methods. Method 10133, by employing the FilterTrak 660, provides increased sensitivity to particle ''events'' (changes in particle concentration). Detection of particle ''events'' is critical to assessing performance of the filtration systems, which in turn is critical to protecting drinking water quality.

Method performance, laboratory and on-line, was characterized using a three laboratory validation study. The method demonstrated good correlation to approved methods and reduced interference from background light scatter. Also, Method 10133 provides quality control requirements to ensure proper operator use. USEPA believes that Method 10133 is a satisfactory additional method for the measurement of turbidity.

Method 10133 is available in the docket for this proposal or from Hach Co., P.O. Box 389, Loveland, Colorado, 80539–0389. Phone: 800–227–4224.

11. MI Agar Medium for Total Coliforms and *E. coli.*

USEPA approved 4-methylumbelliferyl-beta-D-galactopyranoside-indoxyl-beta-D-glucuronide (MI) agar medium as an alternative membrane filter medium for the detection of total coliforms and *E. coli* under the Total Coliform Rule and for enumerating total coliforms under the Surface Water Treatment Rule. (64 FR 67450, December 1, 1999) This approval is reflected in § 141.21(f)(3) and § 141.21(f)(6)(v) and in § 141.74(a)(1). In granting approval, however, USEPA inadvertently did not clearly indicate that colony verification on MI agar was not required. The false-positive rate for MI agar was 4.9% for total coliforms and 4.3% for *E. coli.* Based on these data, USEPA believes that colony verification should not be required and proposes to amend the regulatory language in footnote 6 of the table at § 141.21(f)(3) and in § 141.74(a)(1) to clarify this point.

Finally, USEPA is proposing to correct a typographical error found in section § 141.21(f) by replacing the citation for the ''Presence-Absence (P–A) Coliform Test'' which currently reads ''9221'' with ''9221D.'' USEPA previously proposed for approval and requested comment on (52 FR 42224, November 3, 1987) Method 9221D. USEPA approved Method 9221D on June 29, 1989 (54 FR 27544). The ''D'' was inadvertently dropped by a drinking water method update rule published on December 1, 1999, 64 FR 67450.

IV. Cost of the Rule

Today's proposed amendment to the UCMR adds Method 1605 for analysis of *Aeromonas,* a UCMR (1999) List 2 contaminant. The monitoring requirements for *Aeromonas* were proposed in June 2000 and subject to public comment and review. Following consideration of public comment, the requirements were promulgated in the January 11, 2001 UCMR. As specified in that rule, 180 small systems and 120 large systems were randomly selected to conduct *Aeromonas* monitoring. These systems were selected from the list of systems previously selected to conduct UCMR Assessment Monitoring.

USEPA has estimated system and Agency costs associated with *Aeromonas* monitoring and analysis, based on the burden associated with collecting samples and the analytical costs for Method 1605. There are no costs that will be incurred by States as a result of today's action. State costs attributed to UCMR during this first implementation cycle of 2001–2005 were covered within the UCMR (1999) cost estimations (64 FR 50556, September 17, 1999), and are accounted for in the UCMR discussion within the current ICR (OMB No. 2040–0204—Titled: ''Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Information Collection Request'').

The collection of *Aeromonas* will necessitate some minimal additional labor burden for participating systems to collect samples. In many cases, the *Aeromonas* samples can be collected at the same time and place as other required distribution system sampling (such as that for the Total Coliform Rule (TCR)). For coincident monitoring, USEPA assumes 0.25 hours per sampling period per system. For monitoring periods in which coincident sampling is not possible, USEPA assumes one hour of labor per system per period. And finally, for monitoring periods in which sampling can only be partially coincident with other monitoring (such as for systems that only have to collect only one TCR sample per month), USEPA assumes 0.75 hours of labor per system per period. In addition, large systems were assumed to incur a small amount of labor burden associated with review of monitoring results, as reported to USEPA's UCMR database by their analytical laboratories. Small system reporting is being handled through USEPA's contract laboratories.

In addition to labor costs, non-labor costs will be incurred by USEPA and by participating large PWSs. Non-labor costs from this rule are solely attributed to the laboratory fees that will be charged for analysis of *Aeromonas* and to shipping charges for sending the sample bottles to the appropriate laboratory. USEPA will cover these costs for small system testing; however, participating large systems will be responsible for these analytical and shipping expenses. USEPA estimates that the average laboratory fee for Method 1605 will be $25. The additional costs for this laboratory analysis are calculated as follows: the number of systems multiplied by three sampling points in the distribution systems, multiplied by the sampling frequency of six times throughout the year 2003, and then multiplied by the $25 cost of the analysis. This cost would apply to the 120 large systems and to USEPA for the cost analyses for the 180 small systems. USEPA will also pay for quality assurance sampling for 10 percent of the small system samples.

In addition, USEPA estimates that *Aeromonas* will be detected in 10 percent of samples. Each of these positive *Aeromonas* samples (i.e., estimated as 10 percent of all samples, including the quality assurance samples for small systems) would incur an additional $25 cost for confirmation tests at the genus level (such tests are part of Method 1605). This would be the total cost to large systems. For small systems, where *Aeromonas* has been found, USEPA will pay for further genotyping at an estimated additional $100 per sample. For the cost estimations presented, USEPA assumes it will pay for genotyping for the estimated 10 percent of positive small system samples.

Today's rule also proposes to approve USEPA Methods 515.4 and 531.2 to support monitoring already required under Phase II/V monitoring (§ 141.24), and proposes eight additional industry developed analytical methods. This part of today's proposed rule merely allows for the optional use of additional standardized methods, offering systems and their laboratories further operational flexibility. Thus, USEPA believes that there is no cost or burden to public water systems associated with the addition of these additional methods. These additional methods may even reduce costs for the testing and analysis of contaminants. However, these potential savings to systems are not estimated here, since use of these methods is voluntary. In addition, because State adoption of these additional analytical methods is voluntary, no costs are estimated for States related to the additional analytical methods that are included in today's proposed rule. Moreover, States that do adopt additional methods often adopt such Federal regulation by reference, or may incorporate these voluntary options when the next set of required regulatory revisions are being incorporated.

The details of USEPA's cost assumptions and estimates regarding implementation of the *Aeromonas* Rule can be found in the proposed Information Collection Request (ICR) (ICR number 2040–0204). This ICR presents estimated cost and burden for the 2001–2005 period. Copies of the proposed ICR may be obtained from Susan Auby by mail at: Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at: *auby.susan@epa.gov,* or by calling: (202) 260–4901. A copy may also be downloaded from the Internet at: *http://www.epa.gov/icr.*

In preparing these cost estimates, USEPA relied on standard assumptions and data sources used in the preparation of other drinking water program ICRs. These include the public water system inventory and labor rates. USEPA expects that States will incur no additional labor or non-labor costs associated with the Screening Survey component of the UCMR.

USEPA estimates that the total cost for one year of Screening Survey 2 monitoring for *Aeromonas* (in 2003) is approximately $247,320. These total estimated costs are incurred as follows:

TOTAL ESTIMATED COSTS

USEPA	$150,930 (for testing and sample shipping costs for small systems).
States	$0 (no additional burden associated with Screening Survey component of UCMR).
Small systems	$18,260 (labor only).
Large systems	$78,130 (labor and non-labor testing and sample shipping costs).

Over the five year UCMR implementation period of 2001–2005, the estimated average annual cost for each of the 120 large systems conducting *Aeromonas* monitoring is $12 (0.5 hours) per year for labor costs, and $118 for non-labor costs associated with testing and shipping. For the 180 small systems participating in *Aeromonas* monitoring in 2003, the average annual cost per system over that same period is $20.30 (0.84 hours) per year for labor costs (USEPA pays for all non-labor costs for small systems).

V. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that USEPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not ''economically significant'' as defined

under Executive Order 12866. Further, this proposed rule does not concern an environmental health or safety risk that USEPA has reason to believe may have a disproportionate effect on children.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under UMRA section 202, USEPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an USEPA rule for which a written statement is needed, UMRA section 205 generally requires USEPA 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 USEPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative, if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before USEPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under UMRA section 203 a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of USEPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

USEPA has determined that today's proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or for the private sector in any one year. Total annual costs of today's rule (across the UCMR implementation period of 2001–2005), for State, local, and Tribal governments and the private sector, are estimated to be $49,500, of which USEPA will pay $30,200, or approximately 61 percent. State drinking water programs are assumed to incur no additional costs associated with the *Aeromonas* Screening Survey component of the UCMR. No costs are estimated/incurred for the other methods included in this proposed rule since they represent additional methods that public water systems may elect to use but that are not required. Thus, today's proposed rule is not subject to the requirements of UMRA sections 202 and 205.

USEPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because USEPA will pay for the reasonable costs of sample testing for the small PWSs required to sample and test for *Aeromonas* under this proposed rule, including those owned and operated by small governments. The only costs that small systems will incur are those attributed to collecting the *Aeromonas* samples and packing them for shipping to the laboratory (USEPA will also pay for shipping). These costs are minimal. They are not significant or unique. Again, no costs are estimated/incurred for the other methods. Thus, today's rule is not subject to the requirements of UMRA section 203.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* USEPA prepared an Information Collection Request (ICR) document (ICR No. 1896.03). A copy may be obtained from Susan Auby by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by e-mail at: *auby.susan@epa.gov;* or by calling (202) 260–2740. A copy may also be downloaded from the internet at: *http://www.epa.gov/icr.*

The information to be collected under today's proposed rule fulfills the statutory requirements of section 1445(a)(2) of the Safe Drinking Water Act, as amended in 1996. The data to be collected will describe the source water, location, and test results for samples taken from PWSs. The rate of occurrence of *Aeromonas* will be evaluated regarding health effects and will be considered for future regulation accordingly. Reporting is mandatory. The data are not subject to confidentiality protection. The cost estimates described below for *Aeromonas* monitoring are attributed to laboratory fees, shipping costs, and some minimal labor burden for reading of requirements and for collecting samples. For large systems, labor burden estimates also consider activities related to reporting of results to USEPA's UCMR database.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and use 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.

Average annual non-labor costs during the five year ICR period (2001–2005) are estimated to be: $197 for each large system. USEPA will incur no additional labor costs for implementation of today's proposed rule. The Agency's annual non-labor costs for the ICR period are estimated to be $50,300. These non-labor costs are solely attributed to the cost of sample testing and sample kit shipping for the 180 small systems. A detailed discussion of these costs is presented in section IV.

Today's rule also proposes to approve USEPA Methods 515.4 and 531.2 to support monitoring already required under Phase II/V monitoring (§ 141.24), and proposes eight additional industry developed analytical methods. This part of today's proposed rule merely allows for the use of additional standardized methods, offering systems and their laboratories further operational flexibility. Thus, USEPA believes that there is no cost or burden to public water systems associated with the addition of these additional methods. In addition, because State adoption of analytical methods is voluntary, no costs are estimated for States related to the additional analytical methods that are included in today's proposed rule.

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 USEPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods

for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the proposed ICR to the Director, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for USEPA.'' Include the ICR number (OMB No. 2040–0204) in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after March 7, 2002, a comment to OMB is best assured of having its full effect if OMB receives it by April 8, 2002. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, ''which are appropriate to the activities of the agency'' after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with SBA's Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's proposed rule on small entities, USEPA considered small entities to be systems serving 10,000. This is the cut-off level specified by Congress in the 1996 Amendments to the Safe Drinking Water Act for small system flexibility provisions. In accordance with the RFA requirements, USEPA proposed using this alternative definition in the **Federal Register** (63 FR 7620, February 13, 1998), requested public comment, consulted with SBA, and expressed its intention to use the alternative definition for all future drinking water regulations in the Consumer Confidence Reports regulation, (63 FR 44511, August 19, 1998). As stated in that final rule, the alternative definition would be applied to this regulation as well.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

As for the UCMR, published on September 17, 1999, USEPA analyzed separately the impact on small privately and publicly owned water systems because of the different economic characteristics of these ownership types. For publicly owned systems, USEPA used the ''revenue test,'' which compares a system's annual costs attributed to the rule with the system's annual revenues. USEPA used a ''sales test'' for privately owned systems, which involves the analogous comparison of UCMR-related costs to a privately owned system's sales. Because USEPA does not know the ownership types of the systems selected for *Aeromonas* monitoring, the Agency assumes that the distribution of the national representative sample of small systems will reflect the proportions of publicly and privately owned systems in the national inventory (as estimated by USEPA's 1995 Community Water System Survey, http://www.epa.gov/safewater/cwssvr.html). The estimated distribution of the sample for today's proposed rule, categorized by ownership type, source water, and system size, is presented in the following table.

NUMBER OF PUBLICLY AND PRIVATELY OWNED SMALL SYSTEMS TO PARTICIPATE IN SCREENING SURVEY TWO FOR AEROMONAS

Size category	Publicly owned systems	Privately owned systems	Total—all systems
GROUND WATER SYSTEMS			
500 and under	8	29	37
501 to 3,300	35	16	51
3,301 to 10,000	27	7	34
Subtotal Ground	70	52	122
SURFACE WATER SYSTEMS			
500 and under	5	13	18
501 to 3,300	10	4	14
3,301 to 10,000	20	6	26
Subtotal Surface	35	23	58
Total	105	75	180

The basis for the UCMR RFA certification for today's proposed rule, which approves Method 1605 for the analysis of *Aeromonas,* was determined by evaluating average annual costs as a percentage of system revenues/sales. In the worst-case-scenario, the smallest system size category (i.e., 500 and under) is estimated to have revenues/sales of approximately $16,000 per year. The annual cost related to *Aeromonas* monitoring for these 55 systems represents less than 0.2 percent of their annual revenue/sales. The impact for larger systems will be even less significant. USEPA specifically structured the rule to avoid significantly affecting small entities by assuming all

costs for laboratory analyses, shipping, and quality control for small entities. USEPA incurs the entirety of the non-labor costs associated with *Aeromonas* monitoring, or 89 percent of all costs. Small systems only incur labor costs associated with the collection of *Aeromonas* samples, and for reading about their sampling requirements, with an average annual labor cost per system over the 5 years of UCMR implementation of $20.30. USEPA continues to be interested in the potential impacts this proposal has on small entities and welcomes comments on issues related to such impacts.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs USEPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs USEPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. USEPA identified no voluntary consensus standards for *Aeromonas.* Therefore, USEPA proposes to use USEPA Method 1605.

Concerning the approval of USEPA Method 515.4, while the Agency identified two new methods (ASTM D5317–98, and SM 6640 B) for the acid herbicides as being potentially applicable, we do not propose to include them in this rulemaking. USEPA decided not to approve SM 6640 B. The use of this voluntary consensus standard would have been impractical because of significant shortcomings in the sample preparation and quality control sections of the method instructions. USEPA previously approved ASTM Method D5317–93 for acid herbicides. ASTM D5317–98 is an updated version of ASTM D5317–93 with no changes in the basic procedure and with limited changes to ''Table 4 Acceptance Criteria for Initial Demonstration of Proficiency'' and the addition of a table of acceptance criteria for quality control samples. While these tables are slightly different than those in ASTM D5317–93, they still permit acceptance windows for the initial demonstration of proficiency for laboratory fortified blank samples that are as large as 0% to 223% recovery for picloram, with tighter criteria for other regulated contaminants. When ASTM D5317–93 was originally proposed, a set of fixed acceptance limits of 70% to 130% recovery was also proposed. Due to adverse public comments concerning the ability of laboratories to meet this criteria due to low recovery expectations for picloram (and other analytes not currently regulated), this criteria was withdrawn. USEPA is currently considering alternate procedures for determining useful acceptance criteria for these methods, however, a discussion and proposal of those procedures is beyond the scope of this regulation. Therefore, USEPA is proposing to add approval only for USEPA Method 515.4 for the acid herbicides at this time.

Concerning the approval of USEPA Method 531.2, while the Agency identified two new methods (Standard Method 6610, 20th Edition, and Standard Method 6610, 20th Supplemental Edition) for the carbamates as being potentially applicable, we do not propose to use them in this rulemaking. Standard Method 6610, 20th Edition has previously been proposed for compliance monitoring in (66 FR 3466, January 16, 2001). Since it is currently in the rulemaking process it is not included in this regulation. USEPA has concerns about the Standard Method 6610, 20th Supplemental Edition. This version of Method 6610 permits the use of a strong acid, hydrochloric acid (HCL), as a preservative. The preservatives in all of the other approved USEPA and Standard Methods procedures for these analytes are weak acids that adjust the pH to a specific value based upon the pKa of the preservative. The use of HCL would require accurate determinations of the pH of the sample in the field and could be subject to considerable error and possible changes in pH upon storage. Although not observed for oxamyl or carbofuran, structurally similar pesticides will degrade over time when kept at pH 3. Therefore, USEPA is concerned about the use of a strong acid such as HCL when positive control of the pH is critical. Therefore, USEPA is proposing to add approval only for USEPA Method 531.2 for determining oxamyl and carbofuran, at this time.

The eight analytical methods developed by industry being proposed in this regulation are additional analytic methods for use in drinking water compliance monitoring proposed to USEPA by industry. These industry methods will supplement existing approved methods, some of which are voluntary consensus standards.

USEPA welcomes comments on this aspect of the proposed rulemaking and specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

G. Executive Order 12898—Federal Actions To Address Environmental Justice in Minority Populations and Low—Income Populations

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low—Income Populations'' (February 11, 1994), focuses Federal attention on the environmental and human health conditions of minority and low—income populations with the goal of achieving environmental protection for all communities. This proposal adds new analytic methods to Part 141. It does not withdraw any currently approved methods nor does it add nor alter any current monitoring requirement. The purpose of this proposal is to provide additional analytical methods for drinking water utilities to use to meet the currently existing monitoring requirements. USEPA has determined that there are no environmental justice issues in this rulemaking.

H. Executive Order 13132—Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires USEPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The objective of this proposed rule is to specify

approved analytical methods, thereby allowing *Aeromonas* to be included in the UCMR Screening Survey program, and to add USEPA Methods 515.4 and 531.2 and eight additional industry developed methods that public water systems may use to conduct analyses previously required. The cost to State and local governments is minimal, and the rule does not preempt State law. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with USEPA policy to promote communications between USEPA and State and local governments, USEPA specifically solicits comment on this proposed rule from State and local officials.

I. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires USEPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' ''Policies that have Tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The objective of this proposed rule is to specify approved analytical methods, thereby allowing *Aeromonas* to be included in the UCMR Screening Survey program and to add USEPA Methods 515.4, 531.2 and eight additional industry developed methods that public water systems may use to conduct analyses previously required. Only one small Indian Tribal system was selected for *Aeromonas* monitoring. Since this utility will be receiving sampling assistance from the State of Montana and the USEPA will pay for all shipping and analysis costs, the cost to the Tribal government will be minimal. The rule does not preempt Tribal law. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with USEPA policy to promote communications between USEPA and Tribal governments USEPA specifically solicits additional comment on this proposed rule from Tribal officials.

J. Plain Language Directive

Executive Order 12866 requires each agency to write all rules in plain language. USEPA invites public comment on how to make this proposed rule easier to understand. Comments may address the following questions and other factors, as well:

A. Has USEPA organized the material to suit your needs?

B. Are the requirements in the rule clearly stated?

C. Does the rule contain technical wording or jargon that is not clear?

D. Would a different format (grouping or order of sections, use of headings, paragraphing) make the rule easier to understand?

E. Would more (but shorter) sections be better?

F. Could USEPA improve clarity by using additional tables, lists or diagrams?

G. What else could USEPA do to make the rule easier to understand?

K. Executive Order 13211—Energy Effects

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

VI. References

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Altwegg, M., A.G. Steigerwalt, R. Altwegg-Bissig, J. Lüthy-Hottenstein, and D.J. Brenner. 1990. Biochemical Identification of *Aeromonas* Genospecies Isolated from Humans. *Journal of Clinical Microbiology*. 28(2):258–264.

Borrell, N., M.J. Figueras, and J. Guarro. 1998. Phenotypic Identification of *Aeromonas* Genomospecies from Clinical and Environmental Sources. *Canadian Journal of Microbiology*. 44:103–108.

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Janda, J.M. 1991. Recent Advances in the Study of the Taxonomy, Pathogenicity, and Infectious Syndromes Associated with the Genus *Aeromonas. Clinical Microbiology Reviews*. 4(4):397–410.

Kelada, Nabih, validation report for the ''Kelada Automated Test Methods for Total Cyanide, and Thiocyanate'' (Undated).

Lachat Instruments Division, ''Validation Study Report for Tier 3 for Modification of Part 136 Reference Method 335.2 and Part 141 Reference Method 335.4'', May 11, 1999

MERCK Corporation, Readycult and Chromocult Coliform Agar Validation Report, March 20, 2000.

Morgan, D., P.C. Johnson, H.L. DuPont, T.K. Satterwhite, and L.V. Wood. 1985. Lack of correlation between known virulence properties of *Aeromonas hydrophila* and enteropathogenicity for humans. *Infection and Immunity*. 50:62–65.

Novartis Crop Protection, Inc., ''Validation Study of an Atrazine immunoassay for Drinking Water Monitoring in Compliance with the Safe Drinking Water Act'', May 26, 1999.

Palumbo, S., G.N. Stelma Jr., and C. Abeyta. 2000. The *Aeromonas hydrophila* group. In: The Microbiological Safety and Quality of Food, B.M. Lund, T.C. Baird-Parker, and G.W. Gould (eds.), Aspen Publishers, Inc. Gaithersburg, MD.

USEPA. 2001. Results of the Interlaboratory Validation of Method 1605: *Aeromonas* in Finished Water, December 2001, EPA # 821–R–01–038.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indians-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: March 1, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code

of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.21 is amended:

a. By revising the Table in paragraph (f)(3),

b. By adding paragraphs (f)(6) (viii) through (x).

The revision and additions read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(3) * * *

Organism	Methodology [12]	Citation [1]
Total Coliforms [2]	Total Coliform Fermentation Technique [3,4,5]	9221 A, B.
	Total Coliform Membrane Filter Technique [6]	9222 A, B, C.
	Presence-Absence (P–A) Coliform Test [5,7]	9221 D.
	ONPG–MUG Test [8]	9223.
	Colisure Test [9].	
	E*Colite® Test [10].	
	m-ColiBlue24® Test [11].	
	Readycult® Coliforms 100 Presence/Absence Test [13].	
	Membrane Filter Technique using Chromocult® Coliform Agar [14].	
	Colitag® Test [15].	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1, 6, 8, 9, 10 and 11 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M. St. SW., Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of FEDERAL REGISTER, 800 North Capitol Street, NW., Suite 700, Washington, DC 20408.

[1] Methods 9221 A, B; 9222 A, B, C; 9221 D and 9223 are contained in Standard Methods for the Examination of Water and Wastewater, 18th edition (1992) and 19th edition (1995) American Public Health Association, 1015 Fifteenth Street NW., Washington, DC 20005; either edition may be used.

[2] The time from sample collection to initiation of analysis may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10 deg. C during transit.

[3] Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform, using lactose broth, is less than 10 percent.

[4] If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half to two-thirds after the sample is added.

[5] No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

[6] MI agar also may be used. Preparation and use of MI agar is set forth in the article, ''New medium for the simultaneous detection of total coliform and *Escherichia coli* in water'' by Brenner, K.P., et. al., 1993, Appl. Environ. Microbiol. 59:3534–3544. Also available from the Office of Water Resource Center (RC–4100), 401 M. Street SW., Washington DC 20460, EPA/600/J–99/225. Verification of colonies is not required.

[7] Six-times formulation strength may be used if the medium is filter-sterilized rather than autoclaved.

[8] The ONPG-MUG Test is also known as the Autoanalysis Colilert System.

[9] A description of the Colisure Test, Feb 28, 1994, may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. The Colisure Test may be read after an incubation time of 24 hours.

[10] A description of the E*Colite® Test, ''Presence/Absence for Coliforms and E. Coli in Water,'' Dec 21, 1997, is available from Charm Sciences, Inc., 36 Franklin Street, Malden, MA 02148–4120.

[11] A description of the m-ColiBlue24® Test, Aug 17, 1999, is available from the Hach Company, 100 Dayton Avenue, Ames, IA 50010.

[12] EPA strongly recommends that laboratories evaluate the false-positive and negative rates for the method(s) they use for monitoring total coliforms. EPA also encourages laboratories to establish false-positive and false-negative rates within their own laboratory and sample matrix (drinking water or source water) with the intent that if the method they choose has an unacceptable false-positive or negative rate, another method can be used. The Agency suggests that laboratories perform these studies on a minimum of 5% of all total coliform-positive samples, except for those methods where verification/confirmation is already required, e.g., the M-Endo and LES Endo Membrane Filter Tests, Standard Total Coliform Fermentation Technique, and Presence-Absence Coliform Test. Methods for establishing false-positive and negative-rates may be based on lactose fermentation, the rapid test for β-galactosidase and cytochrome oxidase, multi-test identification systems, or equivalent confirmation tests. False-positive and false-negative information is often available in published studies and/or from the manufacturer(s).

[13] The Readycult® Coliforms 100 Presence/Absence Test is described in the document, ''Readycult® Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters'', November 2000, Version 1.0, available from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Telephone number is (800) 222–0342, e-mail address is: adellenbusch@emscience.com.

[14] Membrane Filter Technique using Chromocult® Coliform Agar is described in the document, ''Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters'', November 2000, Version 1.0, available from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Telephone number is (800) 222–0342, e-mail address is: adellenbusch@emscience.com.

[15] Colitag® Test is described in the document, ''Colitag® Product as a Test for Detection and Identification of Coliforms and *Esherichia coli* Bacteria in Drinking Water and Source Water as required in National Primary Drinking Water Regulations'', available from CPI International, Inc., 5580 Skylane Blvd., Santa Rosa, CA 95403, telephone (800) 878–7654, fax (707) 545–7901, internet address is www.cpiinternational.com.

* * * * *

(6) * * *

(viii) Readycult® Coliforms 100 Presence/Absence Test, a description of which is cited in footnote 13 to the table at paragraph (f)(3) of this section.

(ix) Membrane Filter Technique using Chromocult® Coliform Agar, a description of which is cited in footnote 14 to the table at paragraph (f)(3) of this section.

(x) Colitag® Test, a description of which is cited in footnote 15 to the table at paragraph (f)(3) of this section.

* * * * *

3. Section 141.23 is amended by revising the entry for ''Cyanide'' in the table in paragraph (a)(4)(i) and in the table in paragraph (k)(1) to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

* * * * *

(a) * * *

(4) * * *

(i) * * *

DETECTION LIMITS FOR INORGANIC CONTAMINANTS

Contaminant	MCL (mg/L)	Methodology	Detection limit (mg/L)
* * *		* * *	*
Cyanide	0.2	Distillation, Spectrophotometric [3]	0.02
		Distillation, Automated, Spectrophotometric [3]	0.005
		Distillation, Selective Eleectrode [3]	0.05
		Distillation, Amenable, Spectrophotometric [4]	0.02
		UV, Distillation, Spectrophotometric	0.05
		Distillation, Spectrophotometric	0.0006
* * *		* * *	*

* * * * * * *

[3] Screening method for total cyanides.

[4] Measures ''free'' cyanides.

* * * * * * *

(k) * * *

(1) * * *

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4]	Other
* * *		*	*	* *
Cyanide: Manual Distillation followed by		D2036–91A	4500–CN–C	
Spectrophotometric, Amenable		D2036–91B	4500–CN–G	
Spectrophotometric, Manual		D2036–91A	4500–CN–E	I–3300–85 [5]
Spectrophotometric, Semi-automated	[6]335.4			
Selective Electrode			4500–CN–F	
Distillation/Spectrophotometric				QuikChem 10–204–00–1–X [16]
UV /Distillation/Spectrophotometric				Kelada 01 [17]
* * *		*	*	* *

* * * * * * *

[3] Annual Book of ASTM Standards, 1994 and 1996, Vols. 11.01 and 11.02, American Society for Testing and Materials. The previous versions of D1688–95A, D1688–95C (copper), D3559–95D (lead), D1293–95 (pH), D1125–91A (conductivity) and D859–94 (silica) are also approved. These previous versions D1688–90A, C; D3559–90D, D1293–84, D1125–91A and D859–88, respectively are located in the Annual Book of ASTM Standards, 1994, Vols. 11.01. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4] 18th and 19th editions of Standard Methods for the Examination of Water and Wastewater, 1992 and 1995, respectively, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[5] Method I–2601–90, Methods for Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, Open File Report 93–125, 1993; For Methods I–1030–85; I–1601–85; I–1700–85; I–2598–85; I–2700–85; and I–3300–85 See Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A–1, 3rd ed., 1989; Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225–0425.

[6] ''Methods for the Determination of Inorganic Substances in Environmental Samples'', EPA/600/R–93/100, August 1993. Available at NTIS, PB94–120821.

* * * * * * *

[13] Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. For direct analysis of cadmium and arsenic by Method 200.7, and arsenic by Method 3120 B sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by Method 200.9; antimony and lead by Method 3113 B; and lead by Method D3559–90D unless multiple in–furnace depositions are made.

* * * * * * *

[16] The description for the QuikChem Method 10–204–00–1–X, Revision 2.1, November 30, 2000 for cyanide is available from Lachat Instruments, 6645 W. Mill Rd., Milwaukee, WI 53218, USA. Phone: 414–358–4200.

[17] The description for the Kelada 01 Method, Revision 1.2, August 2001, USEPA # 821–B–01–009 for cyanide is available from the National Technical Information Service (NTIS), PB 2001–108275, 5285 Port Royal Road, Springfield, VA 22161. The toll free telephone number is 800-553–6847.

* * * * * * *

4. Section 141.24 is amended by revising paragraph (e)(1) and by revising the table in paragraph (e)(1) to read as follows:

§ 141.24 Organic chemical, sampling and analytical requirements

* * * * *

(e) * * *

(1) The following documents are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at EPA's Drinking Water

Docket, 401 M Street, SW, Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. Method 508A and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water,* EPA/600/4–88–039, December 1988, Revised, July 1991. Methods 547, 550 and 550.1 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement I,* EPA/600–4–90–020, July 1990. Methods 548.1, 549.1, 552.1 and 555 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II,* EPA/600/R–92–129, August 1992. Methods 502.2, 504.1, 505, 506, 507, 508, 508.1, 515.2, 524.2 525.2, 531.1, 551.1 and 552.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III,* EPA/600/R–95–131, August 1995. Method 1613 is titled ''Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS'', EPA/821-B–94–005, October 1994. These documents are available from the National Technical Information Service, NTIS PB91–231480, PB91–146027, PB92–207703, PB95–261616 and PB95–104774, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. Method 6651 shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater,* 18th edition, 1992 and 19th edition, 1995, American Public Health Association (APHA); either edition may be used. Method 6610 shall be followed in accordance with the *Supplement to the 18th edition of Standard Methods for the Examination of Water and Wastewater,* 1994 or with the 19th edition of *Standard Methods for the Examination of Water and Wastewater,* 1995, APHA; either publication may be used. The APHA documents are available from APHA, 1015 Fifteenth Street NW, Washington, DC 20005. Other required analytical test procedures germane to the conduct of these analyses are contained in *Technical Notes on Drinking Water Methods,* EPA/600/R–94–173, October 1994, NTIS PB95–104766. EPA Methods 515.3 and 549.2 are available from U.S. Environmental Protection Agency, National Exposure Research Laboratory (NERL)—Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268. ASTM Method D 5317–93 is available in the *Annual Book of ASTM Standards,* 1996, Vol. 11.02, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or in any edition published after 1993. EPA Method 515.4, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection,'' Revision 1.0, April 2000, EPA /815/B–00/001. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time). Alternatively, the method can be assessed and downloaded directly on-line at *www.epa.gov/safewater/methods/sourcalt.html.* The Syngenta AG–625 is available from Syngenta Crop Protection, Inc., 410 Swing Road, Post Office Box 18300, Greensboro, NC 27419, Phone number (336) 632–6000. Method 531.2 ''Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization,'' Revision 1.0, September 2001. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time).

Contaminant	EPA method [1]	Standard methods	ASTM	Other
Benzene	502.2, 524.2.			
Carbon tetrachloride	502.2, 524.2, 551.1.			
Chlorobenzene	502.2, 524.2.			
1,2-Dichlorobenzene	502.2, 524.2.			
1,4-Dichlorobenzene	502.2, 524.2.			
1,2-Dichloroethane	502.2, 524.2.			
cis-Dichloroethylene	502.2, 524.2.			
trans-Dichloroethylene	502.2, 524.2.			
Dichloromethane	502.2, 524.2.			
1,2-Dichloropropane	502.2, 524.2.			
Ethylbenzene	502.2, 524.2.			
Styrene	502.2, 524.2.			
Tetrachloroethylene	502.2, 524.2, 551.1.			
1,1,1-Trichloroethane	502.2, 524.2, 551.1.			
Trichloroethylene	502.2, 524.2, 551.1.			
Toluene	502.2, 524.2.			
1,2,4-Trichlorobenzene	502.2, 524.2.			
1,1-Dichloroethylene	502.2, 524.2.			
1,1,2-Trichloroethane 5	502.2, 524.2, 551.1.			
Vinyl chloride	502.2, 524.2.			
Xylenes (total)	502.2, 524.2.			
2,3,7,8-TCDD (dioxin)	1613.			
2,4-D [4] (as acid, salts and esters)	515.2, 555, 515.1, 515.3, 515.4		D5317–93.	
2,4,5-TP [4] (Silvex)	515.2, 555, 515.1, 515.3, 515.4		D5317–93.	
Alachlor [2]	507, 525.2, 508.1, 505, 551.1.			
Atrazine [2]	507, 525.2, 508.1, 505, 551.1			Syngenta AG–625
Benzo(a)pyrene	525.2, 550, 550.1.			
Carbofuran	531.1, 531.2	6610		
Chlordane	508, 525.2, 508.1, 505.			
Dalapon	552.1, 515.1, 552.2, 515.3, 515.4.			
Di(2-ethylhexyl)adipate	506, 525.2.			
Di(2-ethylhexyl)phthalate	506, 525.2.			
Dibromochloropropane (DBCP)	504.1, 551.1.			
Dinoseb [4]	515.2, 555, 515.1, 515.3, 515.4.			

Contaminant	EPA method [1]	Standard methods	ASTM	Other
Diquat	549.2.			
Endothall	548.1.			
Endrin	508, 525.2, 508.1, 505, 551.1.			
Ethylene dibromide (EDB)	504.1, 551.1.			
Glyphosate	547	6651		
Heptachlor	508, 525.2, 508.1, 505, 551.1.			
Heptachlor Epoxide	508, 525.2, 508.1, 505, 551.1.			
Hexachlorobenzene	508, 525.2, 508.l, 505, 551.1.			
Hexachlorocyclopentadiene	508, 525.2, 508.1, 505, 551.1.			
Lindane	508, 525.2, 508.1, 505, 551.1.			
Methoxychlor	508, 525.2, 508.1, 505, 551.1.			
Oxamyl	531.1, 531.2	6610		
PCBs [3] (as decachlorobiphenyl)	508A.			
PCBs [3] (as Aroclors)	508.1, 508, 525.2, 505.			
Pentachlorophenol	515.2, 525.2, 555, 515.1, 515.3, 515.4		D5317–93.	
Picloram [4]	515.2, 555, 515.1, 515.3, 515.4		D5317–93.	
Simazine [2]	507, 525.2, 508.1, 505, 551.1.			
Toxaphene	508, 508.1, 525.2, 505.			
Total Trihalomethanes	502.2, 524.2, 551.1.			

[1] For previously approved EPA methods which remain available for compliance monitoring until June 1, 2001, see paragraph (e)(2) of this section.

[2] Substitution of the detector specified in Method 505, 507, 508 or 508.1 for the purpose of achieving lower detection limits is allowed as follows. Either an electron capture or nitrogen phosphorous detector may be used provided all regulatory requirements and quality control criteria are met.

[3] PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl. Users of Method 505 may have more difficulty in achieving the required detection limits than users of Methods 508.1, 525.2 or 508.

[4] Accurate determination of the chlorinated esters requires hydrolysis of the sample as described in EPA Methods 515.1, 515.2, 515.3, 515.4 and 555 and ASTM Method D5317–93.

* * * * * * *

5. Section 141.40 is amended in paragraph (a)(3), table 1, by revising the second List 2 table including the title, and by revising footnotes f and h, to read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) * * *

(3) * * *

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REGULATION (1999) LIST

1—Contaminant	2—Identification number	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Period during which monitoring to be completed
*	*	*	*	*	*
List 2—Screening Survey Microbiological Contaminants					
Aeromonas	NA	EPA Method 1605 [h]	0.2 CFU/100mL [f]	Distribution System [g]	2003

Column headings are:

1—Chemical or microbiological contaminant: the name of the contaminants to be analyzed.

2—CAS (Chemical Abstract Service Number) Registry No. or Identification Number: a unique number identifying the chemical contaminants.

3—Analytical Methods: method numbers identifying the methods that must be used to test the contaminants.

4—Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods.

5—Sampling Location: the locations within a PWS at which samples must be collected.

6—Years During Which Monitoring to be Completed: the years during which the sampling and testing are to occur for the indicated contaminant.

* * * * * * *

Minimum Reporting Level represents the value of the lowest concentration precision and accuracy determination made during methods development and documented in the method. If method options are permitted, the concentration used was for the least sensitive option.

[g] Three samples must be taken from the distribution system, which is owned or controlled by the selected PWS. The sample locations must include one sample from a point (MD from § 141.35(d)(3), Table 1) where the disinfectant residual is representative of the distribution system. This sample location may be selected from sample locations which have been previously identified for samples to be analyzed for coliform indicator bacteria. Coliform sample locations encompass a variety of sites including midpoint samples which may contain a disinfectant residual that is typical of the system. Coliform sample locations are described in 40 CFR 141.21. This same approach must be used for the Aeromonas midpoint sample where the disinfectant residual would not have declined and would be typical for the distribution system. Additionally, two samples must be taken from two different locations: the distal or dead—end location in the distribution system (MR from § 141.35(d)(3), Table 1), avoiding disinfectant booster stations, and from a location where previous determinations have indicated the lowest disinfectant residual in the distribution system (LD from § 141.35(d)(3), Table 1). If these two locations of distal and low disinfectant residual sites coincide, then the second sample must be taken at a location between the MD and MR sites. Locations in the distribution system where the disinfectant residual is expected to be low are similar to TTHM sampling points. Sampling locations for TTHMs are described in 63 FR 69468.

[h] EPA Method 1605 ''*Aeromonas* in Finished Water by Membrane Filtration using Ampicillin-Dextrin Agar with Vancomycin (ADA–V)'', October 2001, EPA # 821–R–01–034. Available by requesting a copy from the EPA Safe Drinking Water Hotline within the United States at 800–426–4791 (Hours are Monday through Friday, excluding Federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Time). Alternatively, the method can be assessed and downloaded directly on-line at *www.epa.gov/microbes.*

* * * * *

6. Section 141.74 is amended by revising the table in paragraph (a)(1) and adding footnotes 11 and 12 to read as follows:

§ 141.74 Analytical and monitoring requirements.

(a) * * *

(1) * * *

Organism	Methodology	Citation [1]
Total Coliform [2]	Total Coliform Fermentation Technique [3 4 5]	9221 A, B, C.
	Total Coliform Membrane Filter Technique [6]	9222 A, B, C.
	ONPG–MUG Test [7]	9223.
Fecal Coliforms [2]	Fecal Coliform Procedure [8]	9221 E.
	Fecal Coliforms Filter Procedure	9222 D.
Heterotrophic bacteria [2]	Pour Plate Method	9215 B.
	SimPlate [11]	
Turbidity	Nephelometric Method	2130 B.
	Nephelometric Method	180.1 [9].
	Great Lakes Instruments	Method 2 [10].
	Hach FilterTrak	10133 [12].

Note: The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1, 6, 7, 9 and 10 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M. Street, SW, Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C. 20408.

[1] Except where noted, all methods refer to Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992 and 19th edition, 1995, American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005; either edition may be used.

[2] The time from sample collection to initiation of analysis may not exceed 8 hours. Systems must hold samples below 10 deg. C during transit.

[3] Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false—positive rate and false—negative rate for total coliform, using lactose broth, is less than 10 percent.

[4] Media should cover inverted tubes at least one—half to two—thirds after the sample is added.

[5] No requirement exists to run the completed phase on 10 percent of all total coliform—positive confirmed tubes.

[6] MI agar also may be used. Preparation and use of MI agar is set forth in the article, ''New medium for the simultaneous detection of total coliform and *Escherichia coli* in water'' by Brenner, K.P., et. al., 1993, Appl. Environ. Microbiol. 59:3534–3544. Also available from the Office of Water Resource Center (RC–4100), 401 M. Street SW, Washington D.C., 20460, EPA/600/J–99/225. Verification of colonies is not required.

[7] The ONPG—MUG Test is also known as the Autoanalysis Colilert System.

[8] A–1 Broth may be held up to three months in a tightly closed screw cap tube at 4 deg. C.

[9] ''Methods for the Determination of Inorganic Substances in Environmental Samples'', EPA/600/R–93/100, August 1993. Available at NTIS, PB94–121811.

[10] GLI Method 2, ''Turbidity'', November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, Wisconsin 53223.

[11] A description of the SimPlate method can be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092, telephone (800) 321–0207.

[12] A description of the Hach FilterTrak method 10133 can be obtained from; Hach Co., P.O. Box 389, Loveland, Colorado, 80539–0389. Phone: 800–227–4224.

* * * * *

[FR Doc. 02–5447 Filed 3–6–02; 8:45 am]

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Federal Register

Thursday,
March 7, 2002

Part V

The President

Proclamation 7529—To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products

Memorandum of March 5, 2002—Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products

Federal Register
Vol. 67, No. 45
Thursday, March 7, 2002

Presidential Documents

Title 3—

The President

Proclamation 7529 of March 5, 2002

To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products

By the President of the United States of America

A Proclamation

1. On December 19, 2001, the United States International Trade Commission (ITC) transmitted to the President a report on its investigation under section 202 of the Trade Act of 1974, as amended (the ''Trade Act'') (19 U.S.C. 2252), with respect to imports of certain steel products.

2. The ITC reached affirmative determinations under section 202(b) of the Trade Act that the following products are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles: (a) certain carbon flat- rolled steel, including carbon and alloy steel slabs (''slabs''); plate (including cut-to-length plate and clad plate) (''plate''); hot-rolled steel (including plate in coils) (''hot-rolled steel''); cold-rolled steel (other than grain-oriented electrical steel) (''cold-rolled steel''); and corrosion-resistant and other coated steel (''coated steel'') (collectively, ''certain flat steel''); (b) carbon and alloy hot-rolled bar and light shapes (''hot-rolled bar''); (c) carbon and alloy cold-finished bar (''cold-finished bar''); (d) carbon and alloy rebar (''rebar''); (e) carbon and alloy welded tubular products (other than oil country tubular goods) (''certain tubular products''); (f) carbon and alloy flanges, fittings, and tool joints (''carbon and alloy fittings''); (g) stainless steel bar and light shapes (''stainless steel bar''); and (h) stainless steel rod. The ITC commissioners were equally divided with respect to the determination required under section 202(b) regarding whether (i) carbon and alloy tin mill products (''tin mill products'') and (j) stainless steel wire.

3. The ITC provided detailed definitions of the products included in categories (a) through (j) of paragraph 2, and their corresponding subheadings, under the Harmonized Tariff Schedule of the United States (HTS) in Appendix A to its determination, set out at 66 Fed. Reg. 67304, 67308-67311 (December 28, 2001). By February 4, 2002, the ITC provided additional information in response to a request by the United States Trade Representative (USTR) under section 203(a)(5) of the Trade Act (19 U.S. 2253(a)(5)) (the ''supplemental report'').

4. Section 330(d)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1330(d)(1)), provides that, when the ITC is required to determine under section 202(b) of the Trade Act whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the ITC. Having considered the determinations of the commissioners with regard to tin mill products and stainless steel wire, I have decided to consider the determinations of the groups of commissioners voting in the affirmative with regard to each of these products to be the determination of the ITC.

5. Pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act'') (19 U.S.C. 3371(a)),

the ITC made findings as to whether imports from Canada and Mexico, considered individually, account for a substantial share of total imports and contribute importantly to the serious injury, or threat thereof, caused by imports. The ITC made negative findings with respect to imports from Canada of certain flat steel, tin mill products, rebar, stainless steel rod, and stainless steel wire; and the ITC also made negative findings with respect to imports from Mexico of tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, stainless steel bar, stainless steel rod, and stainless steel wire. The ITC made affirmative findings with respect to imports from Canada of hot-rolled bar, cold-finished bar, carbon and alloy fittings, and stainless steel bar; and the ITC also made affirmative findings with respect to imports from Mexico of certain flat steel, and carbon and alloy steel fittings. The ITC commissioners were equally divided with respect to imports from Canada of certain tubular products.

6. The ITC commissioners voting in the affirmative under section 202(b) of the Trade Act also transmitted to the President their recommendations made pursuant to section 202(e) of the Trade Act (19 U.S.C. 2252(e)) with respect to the actions that, in their view, would address the serious injury, or threat thereof, to the domestic industries and be most effective in facilitating the efforts of those industries to make a positive adjustment to import competition.

7. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), and after taking into account the considerations specified in section 203(a)(2) of the Trade Act and the ITC supplemental report, I have determined to implement action of a type described in section 203(a)(3) (a ''safeguard measure'') with regard to the following steel products:

(a) certain flat steel, consisting of: slabs provided for in the superior text to subheadings 9903.72.30 through 9903.72.48 in the Annex to this proclamation; plate provided for in the superior text to subheadings 9903.72.50 through 9903.72.62 in the Annex to this proclamation; hot-rolled steel provided for in the superior text to subheadings 9903.72.65 through 9903.72.82 in the Annex to this proclamation; cold-rolled steel provided for in the superior text to subheadings 9903.72.85 through 9903.73.04 in the Annex to this proclamation; and coated steel provided for in the superior text to subheadings 9903.73.07 through 9903.73.23 in the Annex to this proclamation;

(b) hot-rolled bar provided for in the superior text to subheadings 9903.73.42 through 9903.73.52 in the Annex to this proclamation;

(c) cold-finished bar provided for in the superior text to subheadings 9903.73.55 through 9903.73.62 in the Annex to this proclamation;

(d) rebar provided for in the superior text to subheadings 9903.73.65 through 9903.73.71 in the Annex to this proclamation;

(e) certain tubular products provided for in the superior text to subheadings 9903.73.74 through 9903.73.86 in the Annex to this proclamation;

(f) carbon and alloy fittings provided for in the superior text to subheadings 9903.73.88 through 9903.73.95 in the Annex to this proclamation;

(g) stainless steel bar provided for in the superior text to subheadings 9903.73.97 through 9903.74.06 in the Annex to this proclamation;

(h) stainless steel rod provided for in the superior text to subheadings 9903.74.08 through 9903.74.16 in the Annex to this proclamation;

(i) tin mill products provided for in the superior text to subheadings 9903.73.26 through 9903.73.39 in the Annex to this proclamation; and

(j) stainless steel wire provided for in the superior text to subheadings 9903.74.18 through 9903.74.24 in the Annex to this proclamation. The steel products listed in clauses (i) through (ix) of subdivision (b) of U.S. Note 11 to subchapter III of chapter 99 of the HTS (''Note 11'') in the Annex to this proclamation were excluded from the determinations of the ITC

described in paragraph 2, and are excluded from these safeguard measures. I have also determined to exclude from these safeguard measures the steel products listed in the subsequent clauses of subdivision (b) of Note 11 in the Annex to this proclamation.

8. Pursuant to section 312(a) of the NAFTA Implementation Act (19 U.S.C. 3372(a)), I have determined after considering the report and supplemental report of the ITC that imports from each of Canada and Mexico of certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, and stainless steel wire, considered individually, do not account for a substantial share of total imports or do not contribute importantly to the serious injury or threat of serious injury found by the ITC. Accordingly, pursuant to section 312(b) of the NAFTA Implementation Act (19 U.S.C. 3372(b)), I have excluded certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, and stainless steel wire the product of Mexico or Canada from the actions I am taking under section 203 of the Trade Act.

9. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), the actions I have determined to take shall be safeguard measures in the form of:

(a) a tariff rate quota on imports of slabs described in paragraph 7, imposed for a period of 3 years plus 1 day, with annual increases in the within-quota quantities and annual reductions in the rates of duty applicable to goods entered in excess of those quantities in the second and third years; and

(b) an increase in duties on imports of certain flat steel, other than slabs (including plate, hot-rolled steel, cold-rolled steel and coated steel), hot-rolled bar, cold-finished bar, rebar, certain welded tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire, as described in paragraph 7, imposed for a period of 3 years plus 1 day, with annual reductions in the rates of duty in the second and third years, as provided in the Annex to this proclamation.

10. The safeguard measures described in paragraph 9 shall not apply to the products listed in clauses following clause (ix) in subdivision (b) of Note 11 in the Annex to this proclamation.

11. These safeguard measures shall apply to imports from all countries, except for products of Canada, Israel, Jordan, and Mexico.

12. These safeguard measures shall not apply to imports of any product described in paragraph 7 of a developing country that is a member of the World Trade Organization (WTO), as long as that country's share of total imports of the product, based on imports during a recent representative period, does not exceed 3 percent, provided that imports that are the product of all such countries with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product. If I determine that a surge in imports of a product described in paragraph 7 of a developing country WTO member undermines the effectiveness of the pertinent safeguard measure, the safeguard measure shall be modified to apply to such product from such country.

13. The in-quota quantity in each year under the tariff rate quota described in paragraph 9 shall be allocated among all countries except those countries the products of which are excluded from such tariff rate quota pursuant to paragraphs 11 and 12.

14. Pursuant to section 203(a)(1)(A) of the Trade Act (19 U.S.C. 2253(a)(1)(A)), I have further determined that these safeguard measures will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. If I determine that further action is appropriate and feasible to facilitate efforts by the pertinent domestic industry to make a positive adjustment to import competition and to provide greater economic and social benefits than costs, or

if I determine that the conditions under section 204(b)(1) of the Trade Act are met, I shall reduce, modify, or terminate the action established in this proclamation accordingly. In addition, if I determine within 30 days of the date of this proclamation, as a result of consultations between the United States and other WTO members pursuant to Article 12.3 of the WTO Agreement on Safeguards that it is necessary to reduce, modify, or terminate a safeguard measure, I shall proclaim the corresponding reduction, modification, or termination of the safeguard measure within 40 days.

15. Section 604 of the Trade Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 203 and 604 of the Trade Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to establish increases in duty and a tariff rate quota on imports of the certain steel products described in paragraph 7 (other than excluded products), subchapter III of chapter 99 of the HTS is modified as provided in the Annex to this proclamation. Any merchandise subject to a safeguard measure that is admitted into U.S. foreign trade zones on or after March 20, 2002, must be admitted as ''privileged foreign status'' as defined in 19 CFR 146.41, and will be subject upon entry to any quantitative restrictions or tariffs related to the classification under the applicable HTS subheading.

(2) Such imports of certain steel that are the product of Canada, Israel, Jordan, or Mexico shall be excluded from the safeguard measures established by this proclamation, and such imports shall not be counted toward the tariff rate quota limits that trigger the over-quota rates of duty.

(3) Except as provided in clause (4) below, imports of certain steel that are the product of WTO member developing countries, as provided in subdivision (d)(i) of Note 11 in the Annex to this proclamation, shall be excluded from the safeguard measures established by this proclamation, and such imports shall not be counted toward the tariff rate quota limits that trigger the over-quota rates of duties.

(4) Clause (3) above shall not apply to imports of a product that is the product of a country listed in subdivision (d)(i) of Note 11 in the Annex to this proclamation if subdivision (d)(ii) of such Note indicates that such country's share of total imports of the product exceeds 3 percent, or that imports of the product from all listed countries with less than 3 percent import share collectively account for more than 9 percent of total imports of the product. The USTR is authorized to determine whether a surge in imports of a product that is the product of a country listed in subdivision (d)(i) undermines the effectiveness of the pertinent safeguard measure and, if so, upon publication of a notice in the **Federal Register**, to revise subdivision (d) of Note 11 in the Annex to this proclamation to indicate that such product from such country is not excluded from such safeguard measure.

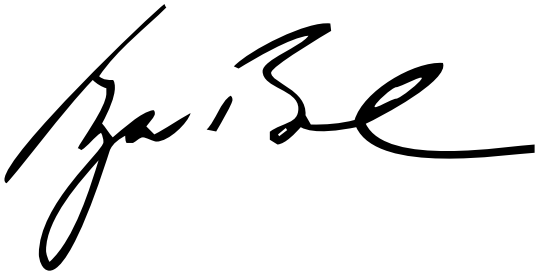
(5) Within 120 days after the date of this proclamation, the USTR is authorized to further consider any request for exclusion of a particular product submitted in accordance with the procedures set out in 66 Fed. Reg. 54321, 54322-54323 (October 26, 2001) and, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to this proclamation to exclude such particular product from the pertinent safeguard measure established by this proclamation.

(6) In March of each year in which any safeguard measure established by this proclamation remains in effect, the USTR is authorized, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to this proclamation to exclude such particular product from the pertinent safeguard measure established by this proclamation.

(7) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

(8) The modifications to the HTS made by this proclamation, including the Annex hereto, shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, on March 20, 2002, and shall continue in effect as provided in the Annex to this proclamation, unless such actions are earlier expressly reduced, modified, or terminated. Effective at the close of March 21, 2006, or such other date that is 1 year from the close of the safeguard measures established in this proclamation, the U.S. note and tariff provisions established in the Annex to this proclamation shall be deleted from the HTS.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of March, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.



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ANNEX

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 20, 2002, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by inserting in numerical sequence the following new U.S. note, subheadings and superior text thereto, with the language inserted in the columns entitled " Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

"11. (a) Except as provided in this note, subheadings 9903.72.30 through 9903.74.24, inclusive, and superior text thereto apply to the specified goods entered, or withdrawn from warehouse for consumption, on or after March 20, 2002, from any country other than those expressly exempted herein. The rates of duty in such subheadings either incorporate the duty rates specified for such goods in chapters 72 or 73 of the tariff schedule or are unchanged from the pertinent provisions of such chapters. Whenever a provision covers " goods excluded from the application of relief," that term refers to specific steel products that fall within the applicable superior text to such provision but are enumerated in subdivision (b) or (c) of this note. The application of this note to goods of particular countries shall be determined by the terms of such subheadings and superior text thereto and by the provisions of subdivision (d) of this note. Goods that are--

(i) described in the superior text to subheadings 9903.72.01 through 9903.72.15, inclusive, or the superior text to subheadings 9903.72.20 through 9903.72.25, inclusive;

(ii) flat-rolled products of ball bearing steel (as defined in additional U.S. note 1(h) to chapter 72), provided for in heading 7225 or 7226; and

(iii) tubing of nonalloy steel, coated with zinc, of a diameter not exceeding 114.3 mm, internally coated or lined with a non-electrically insulating coating material, suitable for use as electrical conduit,

shall be excluded from the subheadings enumerated in the first sentence of this paragraph and no such goods shall be permitted entry under such subheadings.

(b) For purposes of this note, the following goods, enumerated with the designation assigned to facilitate the administration of this note, shall be excluded from the application of import relief under one or more subheadings enumerated in the first sentence of subdivision (a) of this note, but the appropriate 8-digit subheading number shall be reported for such goods in addition to the 10-digit statistical reporting number appearing in chapters 1 through 97 which would be applicable but for the provisions of this subchapter.

(i) wire rod products described in note 9(a) through (h) of this subchapter and designated as X-501;

(ii) arctic grade line pipe as defined in note 10 to this subchapter and designated as X-502;

(iii) oil country casing and tubing containing by weight 10.5 percent or more of chromium and designated as X-503;

(iv) certain bars and wire rods of stainless steel having the following specifications and designated as X-504:

(A) "SF20T" containing by weight not more than 0.05 percent of carbon, 2 percent of manganese, 0.05 percent of phosphorus, 0.15 percent of sulfur and 1 percent of silicon; 19 percent or more but not more than 21 percent of chromium; 1.50 percent or more but not more than 2.50 percent of molybdenum; 0.10 percent or more but not more than 0.30 percent of added lead and 0.03 percent or more of added tellurium;

(B) "K-M35FL" containing by weight not more than 0.015 percent of carbon; 0.70 or more but

ANNEX (continued)
2

not more than 1.00 percent of silicon; not more than 0.40 percent of manganese, 0.04 percent of phosphorus, 0.03 percent of sulfur and 0.30 percent of nickel; 12.50 percent or more but not more than 14 percent of chromium; 0.10 percent or more but not more than 0.30 percent of lead and 0.20 percent or more but not more than 0.35 percent of aluminum;

(C) "Kanthal A-1" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.40 percent of manganese; 5.30 percent or more but not more than 6.30 percent of aluminum; and 20.50 percent or more but not more than 23.50 percent of chromium;

(D) "Kanthal AF" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.40 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.80 percent or more but not more than 5.80 percent of aluminum;

(E) "Kanthal A" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.80 percent or more but not more than 5.80 percent of aluminum;

(F) "Kanthal D" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.30 percent or more but not more than 5.30 percent of aluminum;

(G) "Kanthal DT" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.60 percent or more but not more than 5.60 percent of aluminum;

(H) "Alkrothal 14" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 14 percent or more but not more than 16 percent of chromium; and 3.80 percent or more but not more than 4.80 percent of aluminum;

(I) "Alkrothal 720" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.70 percent of manganese; 12 percent or more but not more than 14 percent of chromium; and 3.50 percent or more but not more than 4.50 percent of aluminum; or

(J) "Nikrothal 40" containing by weight not more than 0.10 percent of carbon and 1 percent of manganese; 1.60 percent or more but not more than 2.50 percent of silicon; 18 percent or more but not more than 21 percent of chromium; and 34 percent or more but not more than 37 percent of nickel;

(v) semifinished products of alloy or nonalloy steel designated as X-505 (provided for in subheading 7207.19.00, 7207.20.00 or 7224.90.00), of circular cross section, of a diameter of 250 mm or more but not more than 680 mm, of a length not less than 3657 mm, limited to the following grades:

(A) for products described in industry usage as of carbon steel, goods covered by American Iron and Steel Institute (AISI) specifications 1552, 1022, 1045, 1029 or 1020; and

(B) for products of alloy steel, goods covered by AISI specifications 4140, 4150, 4130 or 4330 or by ASTM specifications A694 or A350;

(vi) flat-rolled corrosion-resistant products described in industry usage as of carbon steel, measuring less than 4.75 mm in composite thickness, clad on both sides with stainless steel in a 20 percent - 60 percent - 20 percent ratio, and designated as X-506;

(vii) flat-rolled products designated as X-507, as provided below:

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(A) doctor blades described in industry usage as of carbon steel coil or strip, plated with nickel phosphorus, having a thickness of 0.1524 mm, a width of at least 31.75 mm but not more than 50.80 mm, a core hardness of from 580 to 630 HV, a surface hardness of from 900 to 990 HV, and containing by weight 0.90 percent or more but not more than 1.05 percent of carbon, 0.15 percent or more but not more than 0.35 percent of silicon, 0.30 percent or more but not more than 0.50 percent of manganese, not more than 0.03 percent of phosphorus, not more than 0.006 percent of sulfur, 0.24 percent of other elements and the remainder of iron;

(B) products described in industry usage as of carbon steel, measuring 1.64 mm in thickness and 19.5 mm in width, consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy containing by weight 10 percent or more but not more than 15 percent of tin, 1 percent or more but not more than 3 percent of lead, 0.7 percent or more but not more than 1.3 percent of copper, 1.8 percent or more but not more than 3.5 percent of silicon, 0.1 percent or more but not more than 0.7 percent of chromium and less than 1 percent of other materials, and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys;

(C) products described in industry usage as of carbon steel, measuring 0.975 mm in thickness and 8.8 mms in width, consisting of carbon steel coil (SAE 1012) clad with a two-layer lining, the first layer consisting of a copper-lead alloy powder that contains by weight 9 percent or more but not more than 11 percent of tin, 9 percent or more but not more than 11 percent of lead and maximum 1 percent of other materials, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, with the second layer containing by weight 13 percent or more but not more than 17 percent of carbon, 13 percent or more but not more than 17 percent of aromatic polyester, and the remainder (approx. 66-74 percent) of polytetrafluorethylene (PTFE);

(D) products described in industry usage as of carbon steel, measuring 1.02 mm in thickness and 10.7 mm in width, consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that contains by weight 9 percent or more but not more than 11 percent of tin, 9 percent or more but not more than 11 percent of lead and less than 0.35 percent of iron, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, with the second layer containing by weight 45 percent or more but not more than 55 percent of lead, 3 percent or more but not more than 5 percent of molybdenum disulfide, and the remainder (approx. 40-52 percent) of PTFE;

(E) coil or strip described in industry usage as of carbon steel, measuring 1.93 mm or 2.75 mm in thickness, 87.3 mm or 99 mm in width, with a low carbon steel back containing by weight less than 8 percent of carbon, less than 0.4 percent of manganese, less than 0.04 percent of phosphorus and less than 0.05 percent of sulfur, clad with aluminum alloy containing by weight 0.7 percent of copper, 12 percent of tin, 1.7 percent of lead, 0.3 percent of antimony, 2.5 percent of silicon, not more than 1 percent in the aggregate of other elements (including iron), and the remainder of aluminum;

(F) coil or strip described in industry usage as of carbon steel, clad with aluminum, measuring 1.75 mm in thickness, 89 mm or 94 mm in width, with a low carbon steel back containing by weight less than 8 percent of carbon, less than 0.4 percent of manganese, 0.04 percent of phosphorus and less than 0.05 percent of sulfur, clad with aluminum alloy containing by weight 0.7 percent of copper, 12 percent of tin, 1.7 percent of lead, 2.5 percent of silicon, 0.3 percent of antimony, 1 percent in the aggregate of other elements (including iron), and the remainder of aluminum;

(G) corrosion-resistant products described in industry usage as of carbon steel and meeting the following specifications: (1) widths ranging from 10 mm through 100 mm; (2) thicknesses, including coatings, ranging from 0.11 mm through 0.60 mm; and (3) a coating that is from 0.003 mm through 0.005 mm in thickness and that comprises either two evenly applied layers, the first layer consisting by weight of 99 percent zinc, 0.5 percent cobalt and 0.5 percent molybdenum followed by a layer consisting of chromate, or three evenly applied

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layers, the first layer consisting by weight of 99 percent zinc, 0.5 percent cobalt, and 0.5 percent molybdenum, followed by a layer consisting of chromate, and finally a layer consisting of silicate;

(H) products described in industry usage as of carbon steel, measuring 1.84 mm in thickness and 43.6 mm or 16.1 mm in width, consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that contains by weight 20 percent tin, 1 percent copper, 0.3 percent silicon, 0.15 percent nickel and less than 1 percent in the aggregate other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys;

(I) products described in industry usage as of carbon steel, measuring 0.97 mm in thickness and 20 mm in width, consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that contains by weight 9 percent or more but not more than 11 percent of tin, 9 percent or more but not more than 11 percent of lead, less than 1 percent of zinc and less than 1 percent in the aggregate of other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, with the second layer consisting by weight of 45 percent or more but not more than 55 percent of lead, 38 percent or more but not more than 50 percent of PTFE, 3 percent or more but not more than 5 percent of molybdenum disulfide and less than 2 percent in the aggregate of other materials; and

(J) corrosion-resistant products, described in industry usage as of carbon steel, comprising deep-drawing carbon steel strip, roll-clad on both sides with aluminum (AlSi) foils in accordance with St3 LG as to EN 10139/10140, with a chemical composition encompassing a core material of U St 23 (continuous casting) containing by weight less than 0.08 percent of carbon, less than 0.30 percent of manganese, less than 0.20 percent of phosphorus, less than 0.015 percent of sulfur and less than 0.01 percent of aluminum, and the cladding material containing by weight a minimum of 99 percent of aluminum with silicon/copper/iron of less than 1 percent, the foregoing products in strips with thicknesses of 0.07 mm to 4.0 mm (inclusive) and widths of 5 mm to 800 mm (inclusive), with a thickness ratio of aluminum on either side of steel ranging from 3 percent/94 percent/3 percent to 10 percent/80 percent/10 percent;

(viii) flat-rolled products designated as X-508, as provided below:

(A) shadow mask steel, comprising aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, having a thickness from 0.025 to 0.0254 mm, inclusive, and a width from 381 to 813 mm, inclusive, and with a carbon content of less than 0.002 percent, by weight;

(B) flapper valve steel, hardened and tempered, surface polished, measuring in thickness less than or equal to 1.0 mm and in width less than or equal to 152.4 mm, containing by weight a carbon content greater than or equal to 0.90 percent and less than or equal to 1.05 percent, a silicon content greater than or equal to 0.15 percent and less than or equal to 0.35 percent, a magnesium content greater than or equal to 0.30 percent and less than or equal to 0.50 percent, a phosphorus content of less than or equal to 0.03 percent and a sulfur content less than or equal to 0.006 percent, the foregoing having a tensile strength greater than or equal to 162 kgf/mm^2 and hardness greater than or equal to 475 Vickers hardness number, having flatness less than 0.2 percent of nominal strip width, completely free from decarburization, spheroidal and fine within 1 percent to 4 percent (area percentage) and undissolved in the uniform tempered martensite, having non-metallic sulfide inclusion with area percentage less than or equal to 0.04 percent and oxide inclusion with area percentage less than or equal to 0.05 percent, having a compressive stress of 10 to 40 Kgf/mm^2; having the following surface roughness specifications: if thickness is less than or equal to 0.209 mm, will have roughness (RZ) less than or equal to 0.5 micrometer; if thickness is greater than 0.209 mm but less than or equal to 0.310 mm, will have roughness (RZ) of less than or equal to 0.6 micrometer; if thickness is greater than 0.310 mm but less than or equal to 0.440 mm, will have roughness (RZ) less than or equal to 0.7 micrometer; if thickness is greater than 0.440

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mm but less than or equal to 0.560 mm, will have roughness (RZ) less than or equal to 0.8 micrometer; if thickness is greater than 0.560 mm, will have roughness (RZ) less than or equal to 1.0 micrometer;

(C) ultra thin gauge steel strip, of a thickness less than or equal to 0.100 mm (+/- 7 percent) and a width of 100 to 600 mm; chemical composition: carbon content less than or equal to 0.07 percent by weight, manganese content greater than or equal to 0.2 but less than or equal to 0.5 percent by weight, phosphorus content less than or equal to 0.05 percent by weight, sulfur content less than or equal to 0.05 percent by weight and aluminum content less than or equal to 0.07 percent by weight; mechanical properties: hardness equals full hard (HV 180 minimum); total elongation less than 3 percent; and tensile strength of 600 to 850 N/mm^2; physical properties: surface finish less than or equal to 0.3 micron; camber (in 2.0 m) less than 3.0 mm; flatness (in 2.0 m) less than or equal to 0.5 mm; edge burr less than 0.01 mm greater than thickness; and coil set (in 1.0 m) less than 75.0 mm;

(D) silicon steel of a thickness of 0.61 mm +/- 0.038 mm and a width from 838 to 1156 mm, inclusive; chemical composition: minimum silicon content of 0.65 percent, by weight, maximum carbon content of 0.004 percent, by weight, maximum manganese content of 0.4 percent, by weight, maximum phosphorus content of 0.09 percent, by weight, maximum sulfur content of 0.009 percent, by weight, maximum aluminum content of 0.4 percent, by weight; mechanical properties: hardness of B 60-75 (aim 65); physical properties: smooth finish (0.76-1.52 microns), gamma crown (in 127 mm) of 0.013 mm, with measurement beginning 6 mm from slit edge; flatness of 20 i-unit maximum; coating of C3a - 0.08a maximum (A2 coating acceptable); camber (in any 3000 mm) of 1.59 mm; coil size inside diameter of 508 mm; magnetic properties: core loss (1.5T/60 Hz) NAAS of 8.4 watts/kg maximum; and permeability (1.5T/60 Hz) NAAS of 1700 gauss/oersted typical 1500 minimum;

(E) aperture mask steel having an ultra-flat surface flatness, of a thickness from 0.025 mm to 0.245 mm and a width from 381 mm to 1000 mm; chemical composition: carbon content of less than 0.01 percent, by weight, nitrogen content greater than or equal to 0.004 and less than or equal to 0.007 percent, by weight, and aluminum content of less than 0.007 percent, by weight;

(F) annealed and temper-rolled cold-rolled continuously cast steel meeting the following characteristics: chemical composition: carbon content of minimum 0.02 and maximum 0.06 percent, by weight; manganese content of minimum 0.20 and maximum 0.40 percent, by weight; maximum phosphorus content of 0.02 percent, by weight; maximum sulfur content of 0.023 (aiming 0.018 maximum) percent, by weight; maximum silicon content of 0.03 percent, by weight; minimum aluminum content of 0.03 percent, by weight and maximum 0.08 (aiming 0.05) percent, by weight; maximum arsenic content of 0.02 percent, by weight; maximum copper content of 0.08 percent, by weight; nitrogen content of minimum 0.003 percent, by weight and maximum 0.008 (aiming 0.005) percent, by weight; non-metallic inclusions: examination with the S.E.M. shall not reveal individual oxides greater than 1 micron and inclusion groups or clusters shall not exceed 5 microns in length; surface treatment as follows: the surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating; and surface finish shall be extra bright with roughness (RA) of 0 microns to 0.2 microns with an aim of 0.1 microns;

(G) annealed and temper-rolled cold-rolled continuously cast steel, in coils, which includes a certificate of analysis per cable systems international (CSI) specification 96012 and meets the following characteristics: chemical composition: maximum carbon content of 0.13 percent, by weight; maximum manganese content of 0.60 percent, by weight; maximum phosphorus content of 0.02 percent, by weight; maximum sulfur content of 0.05 percent, by weight; additional properties: theoretical thickness of 0.15 mm,+/- 10 percent of theoretical thickness; width of 787 mm; tensile strength of 310 to 379 MPa; and elongation of a minimum of 15 percent in 50 mm;

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(H) continuous cast cold-rolled drawing quality sheet steel, ASTM a-620-97, Type B, or single reduced black plate, ASTM A-625-92, Type D, T-1, ASTM A-625-76 and ASTM A-366-96, T1-T2-T3 commercial bright/luster 7A both sides, RMS 12 maximum, with thickness range of 0.22 to 0.97 mm, width of 584 to 937 mm;

(I) single reduced black plate, meeting ASTM A-625-98 specifications, 0.148 mm thick, with a temper classification of T-2 (49-57 hardness using the Rockwell 30 T scale);

(J) single reduced black plate, meeting ASTM A-625-76 specifications, 0.15 mm thick, MR type matte finish, TH basic tolerance as per A263 trimmed;

(K) single reduced black plate, meeting ASTM A-625-98 specifications, 0.18 mm thick, with a temper classification of T-3 (53-61 hardness using the Rockwell 30 T scale);

(L) cold-rolled black plate bare steel strip, meeting ASTM A-625 specifications and having the following characteristics: thickness: 0.15 mm +/- 0.008 mm; chemical composition: maximum carbon content of 0.13 percent, by weight; maximum manganese content of 0.60 percent, by weight; maximum phosphorus content of 0.02 percent, by weight; maximum sulfur content of 0.05 percent, by weight; mechanical properties: hardness: T2/hr 30t 50-60 aiming; elongation of greater or equal to fifteen percent; and tensile strength aiming for 352 MPa +/- 28 MPa;

(M) cold-rolled black plate bare steel strip, in coils, meeting ASTM A-623, table ii, Type MR specifications, which meet the following characteristics: thickness: 0.15 mm +/-0.013 mm; width of up to and including 254 mm + 9.5 mm/-0; chemical composition: maximum carbon content of 0.13 percent, by weight; maximum manganese content of 0.60 percent, by weight; maximum phosphorus content of 0.04 percent, by weight; maximum sulfur content of 0.05 percent, by weight; mechanical properties: elongation of 15 percent in 50.8 mm, minimum; and tensile strength of 379 MPa maximum;

(N) "blued steel" coil (also know as "steamed blue steel" or "blue oxide") with a thickness and size of 0.30 mm x 0.42 mm and width of 609 mm to 1219 mm, in coil form;

(O) cold-rolled steel sheet, coated with porcelain enameling prior to importation, which meets the following characteristics: nominal thickness: less than or equal to 0.48 mm; width of 889 mm to 1524 mm; chemical composition: maximum carbon content of 0.004 percent, by weight; minimum oxygen content of 0.010 percent, by weight; and minimum boron content of 0.012 percent, by weight;

(P) cold-rolled steel meeting the following characteristics: width: greater than 1676 mm; chemical composition: maximum carbon content of 0.07 percent, by weight; maximum manganese content of 0.67 percent, by weight; maximum phosphorus content of 0.14 percent, by weight; maximum silicon content of 0.03 percent, by weight; physical and mechanical properties: thickness range of 0.800 to 2.000 mm; yield point (MPa) of 265 to 365; minimum tensile strength (MPa) of 440; and minimum elongation of 26 percent;

(Q) band saw steel meeting the following characteristics: thickness less than or equal to 1.31 mm; width less than or equal to 80 mm; chemical composition: carbon content of 1.2 to 1.3 percent, by weight; silicon content of 0.15 to 0.35 percent, by weight; manganese content of 0.20 to 0.35 percent, by weight; phosphorus content less than or equal to 0.03 percent, by weight; sulfur content less than or equal to 0.007 percent, by weight; chromium content of 0.30 to 0.5 percent, by weight; and nickel content less than or equal to 0.25 percent, by weight; other properties: carbide: fully spheroidized having greater than 80 percent of carbides, which are less than or equal to 0.003 mm and uniformly dispersed; surface finish: bright finish free from pits, scratches, rust, cracks, or seams; smooth edges; edge camber (in each 300 mm of length) of less than or equal to 7 mm arc height; and cross bow (per 25.4 mm of width) of 0.015 mm max;

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(R) transformation-induced plasticity (TRIP) steel meeting the following characteristics:

(I) Variety 1: chemical composition: carbon content of 0.09 to 0.13 percent, by weight; silicon content of 1.0 to 2.1 percent, by weight; manganese content of 0.90 to 1.7 percent, by weight; physical and mechanical properties: thickness range of 1.000 to 2.300 mm (inclusive); yield point (MPa) of 320 to 480; minimum tensile strength (MPa) of 590; minimum elongation of 24 percent if 1.000 to 1.199 mm thickness range; minimum elongation of 25 percent if 1.200 to 1.599 mm thickness range; minimum elongation of 26 percent if 1.600 to 1.999 mm thickness range; and minimum elongation of 27 percent if 2.000 to 2.300 mm thickness range;

(II) Variety 2: chemical composition: carbon content of 0.12 to 0.16 percent, by weight; silicon content of 1.5 to 2.1 percent, by weight; manganese content of 1.1 to 1.9 percent, by weight; physical and mechanical properties: thickness range of 1.000 to 2.300 mm (inclusive); yield point (MPa) of 340 to 520; minimum tensile strength (MPa) of 690; minimum elongation of 21 percent if 1.000 to 1.199 mm thickness range; minimum elongation of 22 percent if 1.200 to 1.599 mm thickness range; minimum elongation of 23 percent if 1.600 to 1.999 mm thickness range; and minimum elongation of 24 percent if 2.000 to 2.300 mm thickness range; or

(III) Variety 3: chemical composition: carbon content of 0.13 to 0.21 percent, by weight; silicon content of 1.3 to 2.0 percent, by weight; manganese content of 1.5 to 2.0 percent, by weight; physical and mechanical properties: thickness range of 1.200 to 2.300 mm (inclusive); yield point (MPa) of 370 to 570; minimum tensile strength (MPa) of 780; minimum elongation of 18 percent if 1.200 to 1.599 mm thickness range; minimum elongation of 19 percent if 1.600 to 1.999 mm thickness range; and minimum elongation of 20 percent if 2.000 to 2.300 mm thickness range;

(S) cold-rolled steel meeting the following characteristics:

(I) Variety 1: chemical composition: maximum carbon content of 0.10 percent, by weight; maximum manganese content of 0.40 percent, by weight; maximum phosphorus content of 0.10 percent, by weight; copper content of 0.15 to 0.35 percent, by weight; physical and mechanical properties: thickness range of 0.600 to 0.800 mm; yield point (MPa) of 185 to 285; minimum tensile strength (MPa) of 340; and minimum elongation of 31 percent (ASTM standard 31 percent equals JIS standard 35 percent);

(II) Variety 2: chemical composition: maximum carbon content of 0.05 percent, by weight; maximum manganese content of 0.40 percent, by weight; maximum phosphorus content of 0.08 percent, by weight; copper content of 0.15 to 0.35 percent, by weight; physical and mechanical properties: thickness range of 0.800 to 1.000 mm; yield point (MPa) of 145 to 245; minimum tensile strength (MPa) of 295; and minimum elongation of 31 percent (ASTM standard 31 percent equals JIS standard 35 percent); or

(III) Variety 3: chemical composition: maximum carbon content of 0.01 percent, by weight; maximum silicon content of 0.05 percent, by weight; maximum manganese content of 0.40 percent, by weight; maximum phosphorus content of 0.10 percent, by weight; maximum sulfur content of 0.023 percent, by weight; copper content of 0.15 to 0.35 percent, by weight; maximum nickel content of 0.35 percent, by weight; maximum aluminum content of 0.10 percent, by weight; maximum niobium content of 0.10 percent, by weight; maximum titanium content of 0.10 percent, by weight; maximum vanadium content of 0.10 percent, by weight; maximum boron content of 0.10 percent, by weight; maximum molybdenum content of 0.30 percent, by weight; physical and mechanical properties: thickness of 0.7 mm; and elongation of greater than or equal to 35 percent; or

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(T) porcelain enameling sheet, drawing quality, in coils, 0.36 mm in thickness, +0.002, -0.000, meeting ASTM A-424-96 type 1 specifications, and suitable for two coats;

(ix) tin-mill flat-rolled products designated as X-509, as described below:

(A) single reduced electrolytically chromium coated steel with a thickness 0.238 mm (±10%) or 0.251 mm (±10%) or 0.255 mm (±10%) with 770 mm (minimum width) (-0/+1.588 mm) by 900 mm (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T 21/2 anneal temper, with a yield strength of 214 to 290 MPa; with a tensile strength of 296 to 400 MPa; with a chrome coating restricted to 32 to 150 mg/m^2 with a chrome oxide coating restricted to 6 to 25 mg/m^2 with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m^2 as type DOS, or 3.5 to 6.5 mg/m^2 as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 204 °C for 100 minutes followed by a cool to room temperature);

(B) single reduced electrolytically chromium- or tin-coated steel in the gauges of 0.102 mm nominal, 0.114 mm nominal, 0.127 mm nominal, 0.155 mm nominal, 0.168 mm nominal, and 0.183 mm nominal, regardless of width, temper, finish, coating or other properties;

(C) single reduced electrolytically chromium coated steel in the gauge of 0.61 mm, with widths of 686 mm or 800 mm, and with T-1 temper properties;

(D) single reduced electrolytically chromium coated steel, with a chemical composition by weight of not more than 0.005 percent of carbon, 0.030 percent of silicon, 0.25 percent of manganese, 0.025 percent of phosphorus, 0.025 percent of sulfur and 0.070 percent of aluminum, and the remainder iron, with a metallic chromium layer of 70-130 mg/m^2, with a chromium oxide layer of 5-30 mg/m^2, with a tensile strength of 260-440 N/mm^2; with an elongation of 28-48 percent, with a hardness (HR-30T) of 40-58, with a surface roughness of 0.5-1.5 microns Ra, with magnetic properties of B_m (kG) 10.0 minimum, B_r (KG) 8.0 minimum, Hc (Oe) 2.5-3.8, and μ1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU-60;

(E) electrolytically chromium coated steel having ultra flat shape known as oil can steel, maximum depth of 2.0 mm and edge wave maximum of 2.0 mm and no wave to penetrate more than 51.0 mm from the strip edge and coilset or curling requirements of average maximum of 2.0 mm (based on six readings, three across each cut edge of a 61 cm long sample with no single reading exceeding 3.2 mm and no more than two readings at 3.2 mm) and (for product having a thickness of 0.239 mm only, crossbuckle maximums of 0.0025 mm average having no reading above 0.127 mm), with a camber maximum of 6.3 mm per 6.1 m, capable of being bent 120 degrees on a 0.05 mm radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/m^2 and chromium oxide of 10 mg/m^2, containing by weight 0.13 percent maximum carbon, 0.60 percent maximum manganese, 0.15 percent maximum silicon, 0.20 percent maximum copper, 0.04 percent maximum phosphorus, 0.05 percent maximum sulfur, and 0.20 percent maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS-A oil at an aim level of 2 mg/m^2, with not more than 15 inclusions/foreign matter in 15 feet (4.6 m) (with inclusions not to exceed 0.8 mm in width and 1.2 mm in length), with thickness/temper combinations of either 0.168 mm double reduced CADR8 temper in widths of 635.0 mm, 685.8 mm, 698.5 mm, 711.2 mm, 717.6 mm, 723.9 mm, 749.3 mm, 755.7 mm, 768.4 mm, 787.4 mm, 831.9 mm, 857.3 mm, 908.1 mm, 920.8 mm, 990.6 mm or 1092.2 mm, or 0.239 mm single reduced CAT4 temper in widths of 635.0 mm, 685.8 mm, 711.2 mm, 762.0 mm, 838.2 mm, 857.3 mm, 908.1 mm, 920.8 mm or 1092.2 mm, with width tolerance of -/+3.2 mm, with a thickness tolerance of -/+0.013 mm, with a maximum coil weight of 9071.0 kg, with a

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minimum coil weight of 8164.8 kg with a coil inside diameter of 40.64 cm with a steel core, with a coil maximum outside diameter of 151.13 cm, with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes and rust;

(x) Versa-bars, the foregoing which are semi-finished products of continuous cast gray or ductile iron, of square or rectangular cross section, containing, by weight, carbon of between 2.9 and 3.7 percent, silicon of between 1.6 and 2.7 percent, and manganese of between 0.5 and 0.8 percent (provided for in subheading 7207.20.00), the foregoing designated as X-137;

(xi) products known as "Superplast SP 300," the foregoing which are plates, pre-forged and rolled blocks or forged extra-heavy section blocks, with thickness of 152 and 1270 mm, inclusive, widths of 1990 mm, and lengths of 3048 to 3810 mm, inclusive; containing, by weight, carbon of between 0.235 and 0.265 percent, chromium of between 1.20 and 1.40 percent, manganese of between 1.20 and 1.40 percent, nickel of 0.30 percent maximum, molybdenum of between 0.35 and 0.45 percent, silicon of between 0.05 and 0.15 percent, boron of between 0.002 and 0.004 percent, sulphur of between 0.015 and 0.020 percent; exhibiting oxygen of 20 ppm (parts per million) and hydrogen of 2 ppm; if measuring between 152 and 203 mm displaying through hardness of 269 to 320 Brinnell, with a maximum dispersion of 15 bhn throughout; if measuring 203 and 1270 mm having through hardness of 290 to 320 Brinnell, with a maximum dispersion of 30 bhn throughout; all such products conforming to ultrasonic testing requirements of American Society of Testing and Materials (ASTM) A578-S9, with a 2mm flat bottom hole, and homogenous product (free of hardspots) cleanliness guaranteed per ASTM 345 method A, worst field ratings A: 1.5 maximum, B: 1.5 maximum, C: 1.0 maximum, D: 1.5 maximum, all the foregoing designated as X-083;

(xii) products known as "NAK 55," the foregoing which are double-melted hot-rolled plastic mold steel products containing, by weight, carbon of 0.15 percent, manganese of 1.50 percent, sulfur of 0.10 percent, copper of 1.00 percent, silicon of 0.30 percent, molybdenum of 0.30 percent, nickel of 3.00 percent, and aluminum of 1.00 percent; displaying the following mechanical properties: hardness of HRc 40, yield strength (0.2 percent offset, 41 HRc) of 1010 MPa, tensile strength of 1255 MPa, reduction of 39.8 percent; elongation (in 50 mm) of 15.6 percent; modulus of elasticity at room temperature of 30.0×10^6 psi; with Charpy-notch impact strength longitudinal 9.8 J and transverse of 7.6 J; displaying the following physical properties: coefficient of thermal expansion from 20 °C to 100 °C of 11.3×10^{-6} °C^{-1}, from 20 °C to 200 °C of 12.6×10^{-6} °C^{-1} and from 20 °C to 300 °C of 13.5×10^{-6} °C^{-1}; coefficient of thermal conductivity J/smK at 93 °C = 41.4 or at 204 °C = 42.2; having magnetic properties of maximum magnetic permeability of 380, saturated magnetism of 16,350 Gauss and residual magnetism of 8,500 Gauss, all the foregoing designated as X-134;

(xiii) flat-rolled ripper shank alloy steel, having rounded corners with radii of at least 6 mm but not more than 25 mm; of SAE 41B30 modified chemistry containing manganese of at least 1.00 percent but not more than 1.30 percent by weight, and containing chromium of at least 0.40 percent but not more than 0.65 percent by weight; with a thickness of at least 72 mm but not more than 77 mm and a width of at least 327 mm but not more than 337 mm, or with a thickness of at least 86.5 mm but not more than 91.5 mm and a width of at least 352 mm but not more than 362 mm, or with a thickness of at least 86.5 mm but not more than 91.5 mm and a width of at least 377 mm but not more than 387 mm, or with a thickness of at least 96.5 mm but not more than 101.5 mm and a width of at least 395 mm but not more than 405 mm, or with a thickness of at least 106.5 mm but not more than 111.5 mm and a width of at least 444.5m m but not more than 455.5 mm, the foregoing products designated as X-115 or X-148;

(xiv) flat-rolled steel products, hot-rolled, designated as X-100, the foregoing manufactured to API Grade X-52 or higher, supplied in widths greater than 3810 mm;

(xv) 13 percent manganese austenitic sheet, not further worked than hot rolled, containing, by weight, carbon of between 0.80 and 0.90 percent, silicon of between 0.10 and 0.45 percent, manganese of between 12.00 and 14.00 percent, phosphorus of 0.035 percent maximum, sulfur of 0.040 percent maximum, chromium of 0.50 percent maximum, molybdenum of 0.15 percent maximum, and nickel of 0.40 percent, the foregoing designated as X-032;

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(xvi) hot-rolled products designated as X-046, as described below:

(A) products known as "Domex 110," not further processed than hot rolled, in thicknesses of between 4.55 and 11.1 mm, inclusive, and widths of between 889 and 1600 mm, inclusive; containing, by weight, carbon of 0.12 percent maximum, silicon of 0.60 percent maximum, manganese of 2.0 percent maximum, phosphorus of 0.025 percent maximum, sulphur of 0.010 percent maximum, aluminum of at least 0.015 percent, columbium of 0.09 percent maximum and titanium of 0.20 percent maximum; exhibiting yield strength of 758 MPa, tensile strength of 813 MPa, elongation of 15 percent, bendability of 1.6 to 1.8xt, and impact toughness of 27 J at -40° C (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70), the foregoing also designated as X-108; or

(B) products known as "Domex Wear," not further processed than hot rolled, in thicknesses of between 3.00 and 6.35 mm, inclusive, and widths of between 889 and 1600 mm, inclusive; containing, by weight, carbon of 0.17 percent typical value (TV), silicon of 0.30 percent TV, manganese of 1.8 percent TV, phosphorus of 0.01 percent TV, sulphur of 0.010 percent maximum, chromium of 0.3 percent TV, molybdenum of 0.10 percent TV, aluminum of 0.04 percent TV and titanium of 0.16 percent TV; exhibiting yield strength of 793 MPa, tensile strength of 931 MPa, elongation of 15 percent, bendability of 2xt and impact toughness of 27 J at -40° C (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70), the foregoing also designated as X-108;

(xvii) hot-rolled transformation-induced plasticity (TRIP) steel designated as X-061, as described below:

(A) TRIP steel, Variety 1, not further worked than hot-rolled, with the following chemical composition, by weight: carbon, up to 0.21 percent; silicon, up to 2.2 percent; manganese, up to 1.8 percent; phosphorus, up to 0.025 percent; sulfur, up to 0.01 percent; physical and mechanical properties: thickness from 1.4 to 6.0 mm (inclusive); minimum yield point (MPa) of 390; minimum tensile strength (MPa) of 590; minimum elongation of 25 percent if 1400 mm to 1999 mm thickness range; minimum elongation of 26 percent if 2000 mm to 2499 mm thickness range; minimum elongation of 27 percent if 2500 mm to 3249 mm thickness range; minimum elongation of 28 percent if 3250 mm to 3999 mm thickness range; or minimum elongation of 28 percent if 4000 mm to 6000 mm thickness range;

(B) TRIP steel, Variety 2, not further worked than hot-rolled, with the following chemical composition, by weight: carbon, up to 0.23 percent, silicon, up to 2.2 percent, manganese, up to 2.0 percent; phosphorus, up to 0.025 percent; sulfur, up to 0.01 percent; physical and mechanical properties: thickness range from 1.4 to 6.0 mm (inclusive); minimum yield point (MPa) of 440; minimum tensile strength (MPa) of 690; minimum elongation of 22 percent if 1400 mm to 1999 mm thickness range; minimum elongation of 23 percent if 2000 mm to 2499 mm thickness range; minimum elongation of 24 percent if 2500 mm to 3249 mm thickness range; minimum elongation of 25 percent if 3250 mm to 3999 mm thickness range; or minimum elongation of 26 percent if 4000 mm to 6000 mm thickness range;

(C) TRIP steel, Variety 3, not further worked than hot-rolled, with the following chemical composition, by weight: carbon, up to 0.25 percent; silicon, up to 2.2 percent; manganese, up to 2.2 percent; phosphorus, up to 0.025 percent; sulfur, up to 0.01 percent; physical and mechanical properties: thickness range from 1.4 to 6.0 mm (inclusive); minimum yield point (MPa) of 490; minimum tensile strength (MPa) of 780; minimum elongation of 20 percent if 1400 mm to 1999 mm thickness range; minimum elongation of 21 percent if 2000 mm to 2499 mm thickness range; minimum elongation of 22 percent if 2500 mm to 3249 mm thickness range; minimum elongation of 23 percent if 3250 mm to 3999 mm thickness range; or minimum elongation of 24 percent if 4000 mm to 6000 mm thickness range; or

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(D) hot-rolled, flat-rolled, dual-phase steel product, phase-hardened, primarily with a ferritic-martensitic microstructure, containing, by weight, from 0.9 percent to 1.5 percent silicon; further characterized, for thicknesses greater than or equal to 2 mm, either by a tensile strength of from 540 N/mm^2 to 640 N/mm^2 with an elongation percentage of greater than or equal to 26 percent, or by a tensile strength of from 590 N/mm^2 to 690 N/mm^2 with an elongation percentage of greater than or equal to 23 percent, the foregoing also designated as X-011;

(xviii) hot-rolled dual phase low silicon steel, the foregoing which is a phase-hardened ferritic-martensitic steel containing, by weight, silicon of up to 0.25 percent, phosphorus of up to 0.05 percent and sulfur of 0.03 percent, and has a tensile strength of between 580 and 670 MPa, yield strength of between 300 and 470 MPa, and elongation of greater than, or equal to, 24 percent, the foregoing designated as X-075;

(xix) hot-rolled products designated as X-108, as described below:

(A) products known as "Domex Defend 250," not further processed than hot rolled, in thicknesses of between 3.00 and 6.00 mm, inclusive, and widths of between 889 mm and 1245 mm, inclusive; containing, by weight, carbon of 0.12 percent typical value (TV), silicon of 0.40 percent TV, manganese of 2.0 percent TV, phosphorus of 0.025 percent TV, sulphur of 0.010 percent TV, aluminum of 0.015 percent TV, with micro-alloying elements of niobium, vanadium, titanium and molybdenum; exhibiting a hardness rating of 250 Hv (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70);

(B) products known as "Domex Defend 300," not further processed than hot rolled, in thicknesses of between 3.00 and 6.00 mm, inclusive, and widths of between 889 mm and 1245 mm, inclusive; containing, by weight, carbon of 0.17 percent TV, silicon of 0.30 percent TV, manganese of 1.8 percent TV, phosphorus of 0.025 percent TV, sulphur of 0.010 percent TV, aluminum of 0.015 percent TV, with micro-alloying elements of chromium, molybdenum, and titanium; exhibiting a hardness rating of 300 Hv (provided for in subheadings 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70); or

(C) products known as "Domex Defend 500," not further processed than hot-rolled, in thicknesses of between 2.00 and 6.00 mm, inclusive, and widths of between 889 mm and 1245 mm, inclusive; containing, by weight, carbon of 0.29 percent TV, silicon of 0.30 percent TV, manganese of 1.3 percent TV, phosphorus of 0.035 percent TV, sulphur of 0.025 percent TV, with micro-alloying elements of chromium, niobium, molybdenum, and boron; exhibiting a hardness rating of 500 Hv (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70);

(xx) flat-rolled products of other alloy steel, not further processed than hot rolled, of the grade known as ALFORM" or "ALFORM 890/900," of a thickness of less than 4.75 mm, whether in coils or in cut-to-length form (provided for in subheading 7225.30.70 or 7225.40.70), the foregoing designated as X-116;

(xxi) hot-rolled products designated as X-122, as described below:

(A) hot-rolled complex phase steel with mainly fine grained ferritic-bainitic-martensitic microstructure characterized by either a tensile strength over 800 MPa and elongation percentage over 10% for thicknesses up to 5.0 mm; a tensile strength over 880 MPa and an elongation percentage over 10% for thicknesses up to 4.0 mm; or a tensile strength over 950 MPa and an elongation percentage over 10% for thicknesses up to 4.0 mm;

(B) hot-rolled martensitic phase steel with mainly martensitic microstructure characterized by either (I) a tensile strength over 1000 MPa and elongation percentage over 5 percent for thicknesses up to 3.5 mm, or (II) a tensile strength over 1200 MPa and an elongation percentage over 5 percent for thicknesses up to 4.0 mm; or

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(C) hot-rolled TRIP steel with mainly ferritic-bainitic matrix with dispersed residual austenite islands with the following properties: tensile strength over 700 MPa and an elongation percentage over 25 percent for thickness between 1.6 and 5.0 mm;

(xxii) plastic mold steel products designated as X-134, as described below:

(A) products known as "NAK 80," which is a plastic mold steel used for applications such as clear lens molds and extremely critical diamond finish applications, with the following chemical composition (nominal, by weight): carbon 0.15 percent, manganese 1.50 percent, molybdenum 0.30 percent, copper 1.00 percent, silicon 0.30 percent, nickel 3.00 percent, aluminum 1.00 percent; mechanical properties: HRc 40; tensile strength, 1264 MPa; reduction 41.9 percent; yield strength (0.2 percent offset, 41 HRc) 1018 MPa; elongation in 50 mm (longitudinal) 16.1 percent; modulus of elasticity (room temp.) 200 GPa.; Charpy V-Notch impact strength (toughness): longitudinal 11.0 J.; transverse 11.5 J.; hardness 40 HRc; physical properties: coefficient of thermal expansion (10^{-6} /K), 20°C to 100°C = 11.3, 20°C to 200°C = 12.6, 20°C to 300°C = 13.5; coefficient of thermal conductivity (J/s·m·K) at 93°C = 41.4, at 204 °C = 42.2; magnetic properties: maximum magnetic permeability 380, saturated magnetism (gauss) 16,360, residual magnetism (gauss) 8,500, and coercive force (Oersted) 14.0; double melted, first in an electric furnace then a vacuum arc re-melt furnace, hot-rolled or forged to shape and age hardened to HRc 40; produced through a super clean, vacuum-arc remelt manufacturing process;

(B) products known as "PX5," which is a plastic mold steel used in all types of plastic molding and design, and is superior to AISI grade P20-type steels in terms of machining, stability, and welding; with the following chemical composition (nominal, by weight): carbon 0.20 percent, manganese 1.90 percent, sulfur 0.035 percent, molybdenum 0.45 percent, copper 0.10 percent, silicon 0.10 percent, phosphorus 0.010 percent, nickel 0.20 percent, aluminum 0.030 percent, chromium 2.10 percent; mechanical properties: HRc 30 - 33; tensile strength, 1034 MPa; reduction 48 percent; yield strength 917 MPa; elongation in 50 mm (longitudinal) 20 percent; physical properties: coefficient of thermal expansion (10^{-6}/K), 20°C to 100°C = 11.9, 20°C to 200°C = 12.8, 20°C to 300°C = 13.1, 20°C to 400°C = 13.5, 20°C to 600°C = 14.0; coefficient of thermal conductivity (J/s·mK) at 20°C = 42.5, at100 °C = 42.4, at 200°C = 42.1, at300 °C = 39.2, at 400°C = 38.8. PX5 is produced by electric furnace melting, ladle degassed and refined; proprietary forging, rolling and heat-treating practices are utilized to produce an exceptionally fine-grained, stable, tough and easy to machine and weld mold steel;

(C) products known as "CX1," which is is a proprietary cold work die steel that is supplied heat treated to hardness of HRc 50, and can also be machined at this hardness, with the following chemical composition (nominal, by weight): carbon 0.80 percent, manganese 1.30 percent, chromium 1.00 percent, molybdenum 0.80 percent; mechanical properties (as supplied): HRc 50; tensile strength 1786 MPa; yield strength 1641 MPa; elongation 8 percent; reduction in area 19 percent; physical properties: coefficient of linear thermal expansion (10^{-6}/K): 20°C to 200°C = 12.9; 20°C to 425°C = 13.9; coefficient of thermal conductivity (J/s·m·K) at 20° C = 30.7; density: 7.71 (Mg/m^3); produced by electric furnace melting, ladle degassing and refining; proprietary forging, rolling and heat-treating practices utilized to produce an exceptionally fine-grained, stable, tough and easy to machine and weld die steel; or

(D) products known as "Super NAK" ("NAK HH"), which is a plastic mold steel that provides a unique combination of high hardness and ability to machine-work the steel; with the following chemical composition (nominal, by weight): carbon 0.11 percent, manganese 1.4 percent, copper 1.0 percent, chromium 1.6 percent, aluminum 1.0 percent, silicon 0.30 percent, sulfur - 0.35 percent, nickel 3.0 percent, molybdenum 0.3 percent; physical properties: HRc 45; tensile strength 1385 MPa longitudinal, 1359 MPa transverse; yield strength 1031 MPa longitudinal, 1009 transverse, elongation 11 percent longitudinal, 4

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percent transverse, reduction of area 22 percent longitudinal, 6 percent transverse; density of 7.78 Mg/m^3; produced in an electric furnace then vacuum arc re-melt furnace; hot-rolled or forged to shape; age hardened to HRc 45-48;

(xxiii) hot-rolled products designated as X-142, known as "SCM 415," with the following chemical composition: carbon, 0.13 - 0.18 percent; silicon, 0.15 - 0.35 percent; manganese, 0.60 - 0.85 percent; phosphorus, equal to or less than 0.03 percent; sulfur, equal to or less than 0.03 percent; chromium, 0.90 - 1.20 percent; molybdenum, 0.15 - 0.30 percent; hardness: HRB of 87; tensile strength of 500 N/mm^2; elongation of 30 percent; yield ratio of 80 percent; thickness: 2.6 - 4.0 mm; width: 1066 mm - 1321mm; edge: square cut edge free of burrs, rice marks, protrusions or damage;

(xxiv) flat-rolled products (provided for in subheadings 7208.25.30 through 7208.25.60), designated as X-139 or X-087, weighing more than 17.8 kg per mm of width, having a camber tolerance of not more than 25.4 mm per 914.40 cm, a width tolerance of not more than 12.70 mm, and

(A) in thicknesses ranging from 2.03 to 4.57 mm and having a gauge tolerance of +/- 0.05 mm, in widths from 756 to 1410 mm, or

(B) in thicknesses ranging from 2.31 to 4.57 mm and having a gauge tolerance of +/- 2 percent, in widths from 775 to 1373 mm, and having a carbon content of 0.001-0.004, or

(C) in thickness ranging from 2.03 to 2.92 mm and having a gauge tolerance of +/- 0.05 mm, in widths from 760 to 968 mm,

all the foregoing certified by the importer of record to be used for rerolling, and in an aggregate annual quantity not to exceed 750,000 metric tons;

(xxv) blue finish band saw steel meeting the following characteristics: thickness less than or equal to 1.31 mm; width less than or equal to 80 mm; chemical composition: carbon content of 1.2 to 1.3 percent, by weight; silicon content of 0.15 to 0.35 percent, by weight; manganese content of 0.20 to 0.35 percent, by weight; phosphorus content less than or equal to 0.03 percent, by weight; sulphur content less than or equal to 0.007 percent, by weight; chromium content of 0.30 to 0.5 percent, by weight; and nickel content less than or equal to 0.25 percent, by weight; with the following other properties: carbides fully spheroidized, having greater than 80 percent of carbides, which are less than or equal to 0.003 mm and uniformly dispersed; surface finish is blue finish free from pits, scratches, rust, cracks, or seams; smooth edges; edge camber (in each 300 mm of length) of less than or equal to 7 mm arc height; and cross bow (per mm of width) of 0.015 mm maximum, the foregoing designated as X-010;

(xxvi) cold-rolled products designated as X-015, as described below:

(A) uncoated flat products, less than 4.75 mm in thickness, not further worked than cold-rolled, comprising either–

(I) products known as "Grade C80M" in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.70 percent carbon, 0.30 percent silicon, and 0.30 percent manganese and also containing, by weight, 0.03 percent phosphorus, 0.02 percent sulfur, 0.35 percent chromium, 0.10 percent copper, 0.20 percent nickel, 0.02 percent aluminum, 0.001 percent oxide, 0.003 percent titanium and 0.01 percent tin;

(II) products known as "Grade16MnCr5M2" described in industry usage as of carbon steel, produced in widths less than 300mm and thickness greater than 0.25 mm containing, by weight, 0.11 percent carbon, 0.20 percent silicon, and 0.85 percent manganese and also containing, by weight, 0.025 percent phosphorus and 0.01 percent sulfur with the combination of phosphorous and sulphur not to exceed 0.03 percent, 0.95 percent chromium, 0.15 percent copper, 0.15 percent nickel and 0.08 percent aluminum; or

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(B) bonderized (phosphate coated) cold-rolled, flat-rolled products, less than 4.75 mm in thickness, comprising--

(I) products known as "Grade C15M," which are bonderized flat-rolled products described in industry usage as of carbon steel, produced in widths of less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.16 percent carbon, 0.20 percent silicon, 0.40 percent manganese, 0.25 percent phosphorus, 0.20 percent sulfur, 0.30 percent chromium, 0.30 percent copper, 0.45 percent nickel and 0.15 percent aluminum;

(II) products known as "Grade MRST443," which are bonderized flat-rolled products described in industry usage as of carbon steel, produced in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.10 percent carbon, 0.10 percent silicon, 0.80 percent manganese, 0.04 percent phosphorus, 0.03 percent sulfur, 0.007 percent nitrogen and 0.18 percent aluminum;

(III) products known as "Grade 16MnCr5M," which are bonderized flat-rolled products described in industry usage as of carbon steel, produced in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.13 percent carbon, 0.20 percent silicon, 1.25 percent manganese, 0.02 percent phosphorus, 0.01 percent sulfur, with the combination of phosphorus and sulphur not to exceed 0.03 percent and also containing, by weight, 1.2 percent chromium, 0.12 percent copper, 0.15 percent nickel, 0.008 percent nitrogen, and 0.15 percent aluminum; or

(IV) products known as "Grade C16M," which are bonderized flat-rolled product described in industry usage as of carbon steel, produced in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.20 percent carbon, 0.15 percent silicon, 1.25 percent manganese, 0.025 percent phosphorus, 0.015 percent sulfur, with the combination of phosphorus and sulphur not to exceed 0.03 percent and also containing, by weight, 0.90 percent chromium, 0.15 percent copper, 0.15 percent nickel, 0.009 percent nitrogen and 0.08 percent aluminum;

(xxvii) products designated as X-036, as described below:

(A) certain full-hard cold-rolled continuously cast steel (including tin mill black plate), which meets the following characteristics (ASTM 625-76 D <Modified>); chemical composition (in percent by weight): carbon 0.02 - 0.06, silicon 0.03; manganese 0.20 - 0.40; phosphorus 0.02; sulfur 0.023 (aim 0.018); aluminum 0.03 - 0.08 (aim 0.050); nitrogen 0.003 - 0.008 (aim 0.005); thickness tolerance +/- 5 percent guaranteed from 31.7 mm from width edge, width tolerance -0/+6.98 mm; flatness deviation: 20 'I' units; transverse curvature: 3.17 mm; hardness (HR30T): 53 +/-5; inclusion level: SEM shall not reveal oxides greater than 1 micron and inclusion groups or clusters shall not exceed 5 micron in length; applicable gauge and widths: 0.2081 mm nominal x 862.94 mm, 0.2284 mm nominal x 829.95 mm, 0.2589 mm nominal x 824.87 mm, 0.3096mm nominal x 872.46 mm or 0.3096 mm nominal x 913.71 mm;

(B) certain flat products for battery cell flat products (JIS 3141 - modified), which are continuous annealed cold-rolled continuously cast steel (including tin mill black plate), which meets the following characteristics: chemical composition (in percent by weight): carbon 0.08, silicon 0.03, manganese 0.45, phosphorus 0.02, sulfur 0.02, aluminum 0.08, arsenic 0.02, copper 0.05, nitrogen 0.004, chromium 0.05, nickel 0.05 and molybdenum 0.01; thickness tolerance: +/- 5 percent, guaranteed from 31.7 mm from width edge; width tolerance: -0/+ 6.9 mm; flatness deviation: 10 'I' units; transverse curvature: 2.99 mm; hardness (HR15T): 76-82; tensile strength: 345-414 N/mm^2; yield strength 241-310 N/mm^2; elongation: 25%; grain size (ASTM) 9-11, Delta r value less than +/- 0.2; surface roughness (RA- microns): 0.25- 0.51; nonmetallic inclusions: 0.20 pcs./ m^2 as measured by IDD (Internal Defect Detector) instrument designed by Toyo Kohan;

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(xxviii) flat-rolled products designated as X-054, as described below:

(A) products known as "G-type material," which are aluminum killed cold-rolled steel in coils that have increased tensile strength of 800 to 1200 N/mm^2, ultra-flat, and which meet the following characteristics: thickness 0.025 mm to 0.254 mm, width 380 mm to 888 mm; chemical composition : carbon content less than 0.01 percent by weight, nitrogen content in the range 0.01 - 0.017 percent by weight, and manganese content in the range 0.6 - 0.85 percent by weight; or

(B) products known as "Invar," which are certain aperture mask iron-nickel low thermal expansion Invar-type alloy products used exclusively for manufacturing shadow/aperture masks, which has an ultra-flat surface and which meets the following characteristics: thickness: 0.025 mm to 0.254 mm, width: 380 mm to 888 mm, chemical composition nickel content in the range 30.0 - 37.0 percent, by weight, cobalt content up to 5.0 percent, by weight, and sulfur content not more than 0.0030 percent, by weight; having thermal expansion coefficient not more than 1.5 x 10^{-6} °C;

(xxix) cold-rolled products known as "SPC 120," in coils, having a thickness of 1.6 mm and a width of 1040 mm, having a tensile strength of 827 MPa or more (provided for in subheading 7209.16.00), the foregoing designated as X-065;

(xxx) texture rolled carbon steel flat-rolled product (TRC), not further worked than cold rolled, designated as X-205, the foregoing with a carbon content of 0.70 percent to 0.95 percent, roll-hardened to a minimum tensile strength of 1700 N/mm^2, with a thickness of 0.10 mm to 1.80 mm and a width of 200 mm or less; tensile strength varies depending on the thickness of the product: 2300 - 2500 N/mm^2 for thickness ranging from 0.10 mm to 0.18 mm; 2250-2470 N/mm^2 for thickness ranging from 0.19 mm to 0.25 mm; 1900 - 2400 N/mm^2 for thickness ranging from 0.26 mm to 0.79 mm; and 1750 - 2250 N/mm^2 for thickness ranging from 0.80 mm to 2.00 mm; meeting the specific tensile/pressure requirements or Federal Motor Vehicle Safety Standard 209; having microscopic inclusion level to DIN 50602 Rev. 9/85, section 1: SS max 3, OA, OS max 1, OG max 2; produced with OG being less than 27 microns; with chemical analysis: carbon 0.65 - 0.95 percent, silicon 0.30 percent maximum, manganese 0.55 percent maximum, phosphorus 0.02 percent maximum, sulfur 0.008 percent maximum, chromium 0.15 percent maximum and copper 0.12 percent; with a surface finish that is bright, free of roll marks, scratches, notches and cracks; longitude surface lines maximum 0.003 mm (RT - measurement method) for thickness of less than 0.66 mm and 0.005 mm for thickness over 0.60 mm.; free of complete decarburization;

(xxxi) high-nickel alloy, flat-rolled product, not further worked than cold-rolled, 4.75 mm or greater in thickness, designated as X-083, containing, by weight, at least 14 percent nickel or 25 percent cobalt with or without other elements; controlled expansion alloys are composed according to specifications ASTM F15, ASTM F30, ASTM B753, and ASTM F1684; magnetic alloys composed according to specifications ASTM B753 or ASTM A801;

(xxxii) products designated as X-142, as described below:

(A) non-oriented, high silicon, magnetic steel flat-rolled product, with the following characteristics: thickness 0.05-0.20 mm; width 20-600 mm; chemical composition (by weight in percent): carbon (maximum 0.010), manganese (maximum 0.15), phosphorus (maximum 0.015), sulfur (maximum 0.005), silicon (minimum 5.0, max 7.0), aluminum (maximum 0.004); mechanical properties: hardness of 380-420 μ HV (micro vickers); magnetic properties: magnetostriction (< 1.0 x 10^{-6} (λ 10/400 magnetostriction at 400 Hz, 1T(=10 kG));

(B) cold-rolled carbon steel coils meeting the requirements of one or more of the products listed below (imported under subheading 7209.16.00, 7209.18.15 or 7209.18.25):

(I) product 1: thickness 0.6 mm - less than 0.8 mm; minimum tensile strength 780 N/mm^2; yield strength 420 - 645 N/mm^2; elongation 14 percent - 25 percent; chemical composition: carbon maximum 0.10 percent by weight; silicon maximum

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0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(II) product 2: thickness 0.8 mm - less than 1.0 mm; minimum tensile strength 780 N/mm^2; yield strength 410 N/mm^2 - 635 N/mm^2; elongation 15 - 26 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(III) product 3: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 780 N/mm^2; yield strength 400 - 625 N/mm^2; elongation 16- 27 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(IV) product 4: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 780 N/mm^2; yield strength 400 - 625 N/mm^2; elongation 15 - 28 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(V) product 5: thickness 1.6 mm - 2.3 mm; minimum tensile strength 780 N/mm^2; yield strength 400 - 625 N/mm^2; elongation minimum 18 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight.

(VI) product 6: thickness 0.8 mm - less than 1.0 mm; minimum tensile strength 1180 N/mm^2; yield strength 835 - 1225 N/mm^2; elongation 5 - 10 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(VII) product 7: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 1180 N/mm^2; yield strength 825 - 1215 N/mm^2; elongation 6 - 17 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(VIII) product 8: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 1180 N/mm^2; yield strength 825 - 1215 N/mm^2; elongation 7 - 18 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(IX) product 9: thickness 1.6 mm - 2.3 mm; minimum tensile strength 1180 N/mm^2; yield strength 825 - 1215 N/mm^2; elongation minimum 8 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(X) product 10: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 1270 N/mm^2; yield strength 980 - 1270 N/mm^2; elongation 6- 17 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XI) product 11: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 1270

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N/mm^2; yield strength 980 - 1270 N/mm^2; elongation 6 - 17 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XII) product 12: thickness 1.6 mm - 2.3 mm; minimum tensile strength 1270 N/mm^2; yield strength 980 - 1270 N/mm^2; elongation minimum 6%; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XIII) product 13: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 1470 N/mm^2; yield strength 1040 - 1500 N/mm^2; elongation 3 - 15 percent; chemical composition: carbon maximum 0.21 percent by weight; silicon maximum 0.60 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XIV) product 14: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 1470 N/mm^2; yield strength 1040 - 1500 N/mm^2; elongation 3 - 15 percent; chemical composition: carbon maximum 0.21 percent by weight; silicon maximum 0.60 percent by weight; manganese maximum 2.00 percent by weight; phosphorus: maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight; or

(XV) product 15: thickness 1.6 mm - 2.3 mm; minimum tensile strength 1470 N/mm^2; yield strength 1040 - 1500 N/mm^2; elongation minimum 3 percent; chemical composition: carbon maximum 0.21 percent by weight; silicon maximum 0.60 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight; or

(C) cold-rolled steel for porcelain enameling, the foregoing being continuous annealed cold-reduced steel with a nominal thickness of not more than 0.048 mm and widths from 76.2 mm to 152.4 mm, having a chemical composition, by weight, of not more than 0.004 percent carbon, nor more than 0.010 percent aluminum, 0.006 percent or more of nitrogen, 0.012 percent or more of boron, not more than 0.005 percent silicon, and 0.010 percent or more of oxygen; having no intentional addition of and less than 0.002 percent by weight of titanium, no intentional addition of and less than 0.002 percent by weight of vanadium, no intentional addition of and less than 0.002 percent by weight of niobium, and no intentional addition of and less than 0.002 percent by weight of antimony; having a yield strength of from 179.3 MPa to 344.7 MPa, a tensile strength of from 303.7 MPa to 413.7 MPa, a percent of elongation of from 28 percent to 46 percent on a standard ASTM sample with a 5.08 mm gauge length; for Fishscale resistance: hydrogen traps provided; with a product shape of flat after enameling, with flat defined as less than or equal to 1 I unit with no coil set;

(xxxiii) cold-rolled flat rolled products designated as X-155 and X-057, with specification SAE 1095; surface finish: Brite No. 2; Rockwell hardness: RC 21 - RC 30; decarburization: .0127 mm maximum; thickness tolerance of 5.964 mm and gauge tolerance of +/- 0.0127 mm, thickness tolerance of 0.431 mm and gauge tolerance of +/- 0.0127 mm or thickness tolerance of 0.888 mm and gauge tolerance of +/- 0.025 mm;

(xxxiv) cold-rolled products designated as X-187, as described below:

(A) flat-rolled product, not further worked than cold rolled, known as "C 125 pin point," with carbon content, by weight, of approximately 1.25 percent with a pin point carbide structure that means a very high number of carbide in the material structure; thickness between 0.6mm to 0.9mm and a width between 200mm and 400mm; not hardened and tempered, but only cold-rolled;

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(B) cold-rolled product known as "SORBITEX," flat-rolled, which is a special texture rolled, high carbon spring steel product with a special aligned grain structure, provided for in subheading 7226.92.80; thickness: 0.0990mm - 1.5228mm; width: 2.9959mm - 199.75mm; chemical composition: carbon 0.76 - 0.96 percent by weight, silicon 0.10 - 0.35 percent by weight, manganese 0.30 - 0.60 percent by weight, phosphorus less than 0.025 percent by weight, sulfur less than 0.020 percent by weight, aluminum less than 0.060 percent by weight, chromium less than 0.30 percent by weight, nickel less than 0.20 percent by weight, copper 0.20 percent by weight; tensile strength 1,689 MPa to 2,516 MPa;

(C) cold-rolled product known as feeler gauge carbon strip (H & T), hardened and tempered, provided for in subheading 7211.90.00, grades Eberle 18, 18C (SAE 1095 modified alloyed steel), thickness range 0.025 mm - 1.142 mm, thickness tolerances T2 - T4 international standard, maximum width 12.63 mm, polished surface, tensile strength 1,696 MPa - 2,096 MPa, edges deburred or rounded;

(D) cold-rolled product known as carbon reed steel, hardened and tempered, Eberle 18, 18C (SAE 1095 modified alloyed steel), thickness range 0.0203 mm - 1.015 mm, width range 93.36mm - 11.98 mm, with narrow tolerances +/- 0.03985 mm - 0.05990 mm, tensile strength 1599 MPa - 2199 MPa, bright polished surface Rmax 1.5 - 3.0 micrometers, high precision straightness maximum deviation 0.56mm/m, flatness deviation 0.1 - 0.3 percent of the width, deburred or extra smooth rounded edges;

(E) blank band steel for motor controls, with a thickness exceeding 0.25mm, in the dimension 39.8mm by 3.05mm (121.3 mm^2) and 44.9 by 2.53 (114 mm^2); several individual rings are welded together and are delivered as a continuous, oscillating band on a spool; or

(F) trimetallic product composed of stainless steel flat-rolled product beam welded to two other non-iron based flat-rolled products; width maximum 51 mm, thickness 0.203 mm - 0.51 mm, high precision straightness and flatness, edges machined;

(xxxv) corrosion resistant nickel plated battery cell flat-rolled products, designated X-109, as described below:

(A) nickel-graphite plated, diffusion annealed, tin-nickel plated carbon products, with a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed tin-nickel plated carbon steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of mixture of natural nickel and graphite then electrolytically plated on the top side of the strip of the nickel-tin alloy; having a coating thickness: top side: nickel-graphite, tin-nickel layer = 1.0 micrometers; tin layer only = 0.05 micrometers, nickel-graphite layer only > 0.2 micrometers, and bottom side: nickel layer = 1.0 micrometers;

(B) nickel-graphite, diffusion annealed, nickel plated carbon products, having a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; with both sides of the cold rolled base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion between the nickel and the iron substrate; with an additional layer of natural nickel-graphite then electrolytically plated on the top side of the strip of the nickel plated steel strip; with the nickel-graphite, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-graphite, tin-nickel layer = 1.0 micrometers; nickel-graphite layer = 0.5 micrometers; bottom side: nickel layer = 1.0 micrometers;

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(C) diffusion annealed nickel-graphite plated products, which are cold-rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; having the bottom side of the base metal first electrolytically plated with natural nickel, and the top side of the strip then plated with a nickel-graphite composition; with the strip then annealed to create a diffusion of the nickel-graphite and the iron substrate on the bottom side; with the nickel-graphite and nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having coating thickness: top side: nickel-graphite layer = 1.0 micrometers; bottom side: nickel layer = 1.0 micrometers;

(D) nickel-phosphorous plated diffusion annealed nickel plated carbon product, having a natural composition mixture of nickel and phosphorus electrolytically plated to the top side of a diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion of the nickel and iron substrate; another layer of the natural nickel-phosphorous then electrolytically plated on the top side of the nickel plated steel strip; with the nickel-phosphorous, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-phosphorous, nickel layer = 1.0 micrometers; nickel-phosphorous layer = 0.1 micrometers; bottom side: nickel layer = 1.0 micrometers; or

(E) diffusion annealed, tin-nickel plated products, electrolytically plated with natural nickle to the top side of a diffusion annealed tin-nickel plated cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the cold rolled strip initially electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of natural nickel then electrolytically plated on the top side of the strip of the nickel-tin alloy; sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having coating thickness: top side: nickel-tin-nickel combination layer = 1.0 micron meters; tin layer only = 0.05 micrometers; bottom side: nickel layer = 1.0 micrometers; the foregoing designated as X-109;

(xxxvi) flat-rolled products (provided for in subheading 7210.49.00), designated as X-061 or X-065, other than of high-strength steel, known as "ASE Iron Flash" and either–

(A) having a base layer of zinc-based zinc-iron alloy applied by hot-dipping and a surface layer of iron-zinc alloy applied by electrolytic process, the weight of the coating and plating not over 40 percent by weight of zinc; or

(B) two- layer-coated corrosion-resistant steel with coating composed of (1) a base coating layer of zinc-based zinc-iron alloy by hot-dip galvanizing process, and (2) a surface coating layer of iron-zinc alloy by electro-galvanizing process, having an effective amount of zinc up to 40 percent by weight, the foregoing designated as X-065;

(xxxvii) products designated as X-075, known as alloy aluminized steel sheet, in coils, 0.58 mm minimum by 1214.44 mm by coil, ASTM A463, type 1, DZ, T1-25 coating, latest addition extra smooth, non-chromated, tension leveled, temper rolled, reduction to be 1.25 percent or more tension leveled; flatness to be 3.18 mm maximum deviation in 0.76 m electrostatic oiling; 75 MG each side maximum, no "sag" or "header" lines, no surface defects, 508 - 609.6 mm coil ID; 9071.85 kg maximum coil weights, must enamel without " blisters" or visible surface defects (provided for in subheading 7225.99.00);

(xxxviii) corrosion resistant products designated as X-104, as described below:

(A) flat-rolled products (provided for in subheading 7212.60.00), clad on each surface with aluminum which measures less than 10 percent of the total thickness of the material;

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(B) flat-rolled products (provided for in subheading 7225.99.00), containing less than 24 percent by weight of nickel, having a thickness over 0.27 mm but not over 0.33 mm, coated with aluminum, also designated as X-067; and

(C) flat-rolled products (provided for in subheading 7212.60.00), in coils, of a thickness from 1.10 mm to 4.90 mm, inclusive; of a width from 76 mm to 250 mm, inclusive; and of the following specified content by weight: carbon under 0.10 percent, manganese under 0.40 percent, phosphorus under 0.04 percent, sulfur under 0.05 percent and silicon under 0.05 percent; the forgoing clad with aluminum having the following specified content by weight: copper under 2.51 percent, tin under 15.10 percent, lead under 2.0 percent, antimony under 0.50 percent, silicon under 3.0 percent and other materials less than 1.25 percent; and also designated as X-107;

(xxxix) heat shrinkable (HS) band products designated as X-142, as described below:

(A) products known as "21 RS" (suitable for use in 20" CRTs) or "38 RS" (suitable for use in 36" CRTs), the foregoing which are electrogalvanized steel sheet and coil with the following specifications: tensile strength 45-49 kg/mm^2; yield point 33-37 kg/mm^2, magnetic properties 450μ or more, coating weights of zinc 7 g/m^2 minimum and chromium 20-60 mg/m^2, thickness tolerance ± 5% and chemical composition (in percentage by weight) carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum;

(B) product known as "42 RS" (suitable for use in 40" CRTs), the foregoing which is electrogalvanized steel sheet and coil with the following specifications: tensile strength 45-49 kg/mm^2, yield point 33-37 kg/mm^2, magnetic properties 450μ or more, coating weights of zinc 17 g/m^2 minimum, special chromate treatment with a thickness of film 0.2-0.8μm, thickness tolerance ± 5 percent, with chemical composition (in percentage by weight) carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum and with zinc-nickel alloy electroplating;

(C) products known as "34 RS" (suitable for use in 32" CRTs), the foregoing which are high strength electrolytic zinc coated silicon steel sheets and strips with the following specifications: thickness 1.20 mm, thickness tolerance ± 60 μm, width tolerance -0/+7 mm, tensile strength 41-45 kg/mm^2, yield point 26-30 kg/mm^2, magnetic properties of permeability, thickness of 1.20 mm with specifications of μ=800, with zinc-nickel alloy electroplating, coating weights of zinc 17-24 g/m^2 and chromium 40-70 mg/m^2, chemical treatment 0.5-1.1 g/m^2, maximum deviation from horizontal flat surface of 5 mm maximum; with the camber of mother coils not larger than 2 mm per 2000'mm in length; with chemical composition (in percentage by weight) of carbon 0.005 maximum, silicon 1.0-1.6, manganese 0.6 maximum, phosphorus 0.13 maximum and sulfur 0.03 maximum;

(D) products known as "29 RS" (suitable for use in 27" CRTs), the foregoing which are high strength electrolytic zinc coated silicon steel sheets and strips with the following specifications: thickness 1.0 mm, thickness tolerance ± 50 μ, width tolerance -0/+7 mm, tensile strength 45-49 kg/mm^2, yield point 32-36 kg/mm^2, magnetic properties of permeability thickness of 1.0 mm, with specification of μ=500, zinc-nickel alloy electroplating, coating weights of zinc 17-24 g/m^2 and chromium 45-75 mg/m^2, maximum deviation from horizon flat surface of 5 mm maximum, with the camber of mother coils not larger than 2 mm per 2000 mm in length, with chemical composition (in percent by weight) carbon 0.005 maximum, silicon 1.0-1.6, manganese 0.6 maximum, phosphorus 0.15 maximum and sulfur 0.03 maximum;

(E) products suitable for use in 32V PF and 36V PF picture tubes, the foregoing which are electrolytic zinc-nickel coated steel known as "NKCA440E" with a chemical composition (in percent by weight) of carbon less than 0.010%, manganese less than 0.6%, phosphorus less than 0.15%, sulfur less than 0.03%, silicon 1.0-1.6% and iron the remainder, with a

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thickness of 1.20 mm, thickness tolerance ± 0.09 mm, width tolerance ± 0.2mm, tensile strength 45.9 - 64.2 kg/mm^2, yield point 31.6-36.7 kg/mm^2, permeability 450 - 630 (at the magnetic force of 0.35 Oe, according to JIS C 2550), with coating weight of 20 g/mm^2 (minimum 17 g/mm^2, maximum 26 g/mm^2; approx. thickness 3 μm); or

(F) electrogalvanized flat-rolled products (provided for in subheadings 7225.91.00 or 7226.93.00), annealed, containing from 0.0020 percent to 0.0035 percent by weight of boron, from 0.03 percent to 0.6 percent carbon, having a Rockwell hardness from 45 to 60 and a thickness over 0.312 mm but not over 0.38 mm;

(xl) corrosion-resistant products designated as X-176, as described below:

(A) electrogalvanized flat-rolled products, whether or not including chromate or a chromate-free coating, with the following specifications: tensile strength 45 - 49 kg/mm^2, yield point 33 - 37 kg/mm^2, magnetic properties 450μ or more, zinc-nickel alloy electroplating, coating weights of zinc 17 g/m^2 minimum and if applicable chromium 20 - 60 mg/m^2 and thickness tolerance +/- 5 percent; having the following chemical composition (in percent by weight): carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum;

(B) electrogalvanized flat-rolled products, whether or not including chromate or a chromate-free coating, with the following specifications: tensile strength 45 - 49 kg/mm^2, yield point 33 - 37 kg/mm^2, magnetic properties 450μ or more, zinc-nickel alloy electroplating, coating weights of zinc 17 g/m^2 minimum and if applicable special chromate treatment with a thickness of film of 0.2 - 0.8 μm and thickness tolerance +/- 5 percent; having the following chemical composition (in percent by weight): carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum;

(C) high strength electrolytic zinc-coated silicon steel flat-rolled products, whether or not including a chromate or chromate-free coating, with the following specifications: thickness 1.20 mm, thickness tolerance +/-60 μm, width tolerance -0/+7 mm, tensile strength 41 - 45 kg/mm^2, yield point 26 - 30 kg/mm^2; magnetic properties of permeability: thickness of 1.20 mm with specification of μ = 800; zinc-nickel alloy electroplating, coating weights of zinc 17 - 24 g/m^2 minimum and if applicable chromium 40 - 70 mg/m^2; chemical treatment of 0.5 - 1.1 g/m^2, maximum deviation from horizontal flat surface of 5 mm or more; with the camber of mother coils not larger than 2 mm per 2000 mm in length; having the following chemical composition (in percent by weight): carbon 0.005 maximum, silicon 1.0 - 1.6, manganese 0.6 maximum, phosphorus 0.13 maximum and sulfur 0.03 maximum; or

(D) high strength electrolytic zinc-coated silicon steel flat-rolled products, whether or not including a chromate or chromate-free coating, with the following specifications: thickness 1.0 mm, thickness tolerance +/-50 μ, width tolerance -0/+7 mm, tensile strength 45 - 49 kg/mm^2, yield point 32 - 36 kg/mm^2; magnetic properties of permeability: thickness of 1.00 mm with specification of μ = 500; zinc-nickel alloy electroplating, coating weights of zinc 17 - 24 g/m^2 minimum and if applicable chromium 45 - 75 mg/m^2;, maximum deviation from horizontal flat surface of 5 mm maximum; with the camber of mother coils not larger than 2 mm per 2000 mm in length; having the following chemical composition (in percent by weight): carbon 0.005 maximum, silicon 1.0 - 1.6, manganese 0.6 maximum, phosphorus 0.15 maximum and sulfur 0.03 maximum;

(xli) electrolytically tin-coated steel products, having differential coating with 22.4 g/m^2 box equivalent on the heavy side, with varied coating equivalents on the lighter side (as described below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 5.38 mg/m^2 of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT 5 temper with 22.4/2.24 g/m^2 coating, with a lithograph logo printed in a uniform pattern on the 2.24 g/m^2 coating side with a clear protective coat, with both sides waxed to a level of 108-144 mg/m^2 , with ordered dimension combinations of (1) 0.208 mm thickness and 887.4 mm by 806.4 mm scroll cut dimensions; or (2) 0.208 mm thickness and 868.4

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mm by 738.5 mm scroll cut dimensions; or (3) 0.300 mm thickness and 776.3 mm by 866.8 mm scroll cut dimension, all the foregoing designated as X-039, X-061 or X-075;

(xlii) tin mill products for battery containers, tin and nickel plated on a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel; then annealed to create a diffusion of the nickel and iron substrate; then an additional layer of natural tin electrolytically plated on the top side; and again annealed to create a diffusion of the tin and nickel alloys; with the tin-nickel, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-tin layer together measuring 1 micrometer; tin layer alone measuring 0.05 micrometer; bottom side: nickel layer measuring 1.0 micrometer; the foregoing designated as X-109;

(xliii) steel products coated with a metallic chromium layer between 100 - 200 mg/m^2 and a chromium oxide layer between 5 - 30 mg/m^2, with a chemical composition, by weight, of 0.05 percent maximum carbon, 0.03 percent maximum silicon, 0.60 percent maximum manganese, 0.02 percent maximum phosphorus, and 0.02 percent maximum sulfur; if a product known as "42RSN" having a magnetic flux density ("Br") of 10 KG minimum and a coercive force ("Hc") of 3.8 Oe maximum, the foregoing designated X-142;

(xliv) tin mill products designated as X-160 or X-128, as described below:

(A) products provided for in subheading 7326.90.85, with the following characteristics: ASTM A 657/623, T3 (temper), Base Weight 80, tin free steel, PC023 DRCAN Protact External Coat: Pet 20G, St/Internal Coat; Pet 20C, ST, RP, MR (Steel type), CA (continuous anneal), Light Stone Finish; or

(B) products provided for in subheading 7326.90.85, with the following specifications: laminated -15 microns PET colorless I/S & O/S, or laminated - 15 microns PET colorless I/S and 25 microns PET white O/S: ECCS (tin coating), CA (temper), 5C (surface finish), T5 (temper), MR, ordered width of 855.7 mm; or, ECCS, CA, 5C, T5, MR (ordered width of 846.1 mm; or, ECCS, CA, 5C, T5, MR (ordered widths of 896.9 mm and 900.1 mm);

(xlv) hot-rolled bar (provided for in subheading 7228.30.80), containing by weight 0.80 percent or more but not more than 0.90 percent of carbon, 0.10 percent or more but not more than 0.45 percent of silicon, 12 percent or more but not more than 14 percent of manganese, not more than 0.035 percent of phosphorus, not more than 0.040 percent sulfur, not more than 0.5 percent of chromium, not more than 0.15 percent of molybdenum, and not more than 0.40 percent of nickel and designated as X-032;

(xlvi) products designated as X-045, as described below:

(A) hot rolled profiles known as "T-bulb flanges," of trapezoidal cross-section; with rounded edges of 5 mm radius, with dimensions of the parallel sides of 90 mm to 250 mm, inclusive, and of 20 mm to 30 mm, inclusive; with a thickness of 25 mm or more but not more than 45 mm; certified and die stamped with the mark of a national shipbuilding classification society;

(B) specialized welded steel products known as "shipbuilding T-bulb profiles," engineered with life-cycle attributes to impede corrosion and yield superior strength to weight with reduced surface area while extending the lowest K-factor (fatigue) rating of any current symmetrical shipbuilding profile; with standard web heights of 350 to 1,000 mm and in web thicknesses of 11 to 16 mm; or

(C) specialized steel products known as "shipbuilding L-profiles," engineered with life-cycle attributes to impede corrosion while yielding superior strength to weight with reduced surface area; in sizes of 200 x 90 x 9 x 12 mm to 400 x 120 x 11.5 x 23 mm;

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(xlvii) wire rod products known as "DSUS 70DH wire rod" and designated as X-177, the foregoing of stainless steel, having the following chemical composition (in percent by weight) carbon 0.60 - 0.70; silicon maximum 0.35; manganese 0.60 - 0.80; phosphorus maximum 0.30; sulfur maximum 0.010; chromium 12.50 - 13.50; with a delivered hardness of HRB 99 maximum and hardness after heat treatment of HRC minimum 58 (quenching 1050 °C for 20 - 30 minutes AC, sub-zero -73 °C for 1 HR, tempering 180 °C for 1 Hr AC);

(xlviii) welded pipes and tubes designated as X-066, X-069, X-079, X-071, X-102, X-139 or X-182, as described below:

(A) products having an outside diameter measuring 457.2 mm or more but not more than 558.8 mm, with a wall thickness measuring 19.05 mm or more, regardless of grade;

(B) products having an outside diameter measuring 609.6 mm or more but less than 914.4 mm, the foregoing with a wall thickness measuring over 22.3 mm in grades A, B and X42; a wall thickness measuring over 19.05 mm in grades X52 through X5; or a wall thickness measuring over 17.48 mm in grade X60 or higher;

(C) products having an outside diameter measuring 762 mm or more but less than 914.4 mm, the foregoing with a wall thickness measuring over 31.75 mm in grades A, B and X42; a wall thickness measuring over 25.4 mm in grades X52 through X56; or a wall thickness measuring over 22.3 mm in grades X60 or higher;

(D) products having an outside diameter measuring 914.4 mm or more but less than 1066.8 mm, the foregoing with a wall thickness measuring over 34.93 mm in grades A, B and X42; a wall thickness measuring over 31.75 mm in grades X52 through X56; or a wall thickness measuring over 28.58 mm in grades X60 or greater;

(E) products having an outside diameter measuring1066.8 mm or more but less than 1625.6 mm, the foregoing with a wall thickness measuring over 38.1 mm in grades A, B and X42; a wall thickness measuring over 34.93 mm in grades X52 through X56; or a wall thickness measuring over 31.75 mm in grades X60 or higher;

(F) products having an outside diameter measuring 1219.2 to 1320.8 mm, inclusive, with a wall thickness measuring 20.57 mm or more in grades X-80 or higher; or

(G) products having an outside diameter measuring 1219.2 to 1320.8 mm, inclusive, with a wall thickness of 13.72 mm or more in grades X-100 or higher; or

(xlix) welded pipe and tube products designated as X-132, which are DOM tubing for electric submersible oil pump motors; with outside diameters of 95.25 mm to 171.83 mm, inclusive; having the following chemical composition (in percent by weight): carbon maximum 0.15; silicon 0.25 - 1.00, inclusive; manganese 0.30 - 0.60, inclusive; phosphorus maximum 0.030; sulfur maximum 0.030; chromium 8.00 - 10.00, inclusive; molybdenum 0.90 - 1.10, inclusive.

(c) Goods may also be excluded from the application of relief if they are covered by a determination by the United States Trade Representative (USTR) published in the Federal Register by not later than July 3, 2002, or in March of any subsequent year in which this note remains in effect, that such goods should be exempt from the application of any rate of duty or tariff-rate quota otherwise imposed on goods described in the applicable superior text. Such a determination by the USTR under this subdivision may exempt specific additional steel products when entered from all countries or when entered from enumerated countries only, or may modify the product descriptions in subdivision (b) of this note. The USTR is authorized to modify or terminate any such determination during the effective period of the subheadings specified in the first sentence of subdivision (a) of this note and to specify, subsequent to the effective date specified in this note, that such steel products will be considered "goods excluded from the application of relief" upon publication by the USTR of a notice in the Federal Register. Such "goods excluded from the application of relief" shall not be counted toward any tariff-rate quota quantities specified for any quota period.

(d) (i) For the purposes of this note and the application of subheadings 9903.72.30 through 9903.74.24,

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inclusive, except as otherwise provided in subdivision (d)(ii), the following developing countries that are members of the World Trade Organization shall not be subject to the rates of duty and tariff-rate quotas provided for therein:

Albania, Angola, Antigua and Barbuda, Argentina, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Chile, Colombia, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, Cote d'Ivoire, Croatia, Czech Republic, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Fiji, Gabon, the Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Jamaica, Jordan, Kenya, Kyrgyzstan, Latvia, Lesotho, Lithuania, Madagascar, Malawi, Mali, Mauritania, Mauritius, Moldova, Mongolia, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Slovakia, Solomon Islands, South Africa, Sri Lanka, Suriname, Swaziland, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Uruguay, Venezuela, Zambia and Zimbabwe.

(ii) The following limitations shall apply to the enumeration in subdivision (d)(i):

(A) The exclusion provided for in subdivision (d)(i) of this note for Brazil shall not apply with respect to the application of subheadings 9903.72.30 through 9903.73.39, inclusive.

(B) The exclusion provided for in subdivision (d)(i) of this note for Moldova, Turkey and Venezuela shall not apply with respect to the application of subheadings 9903.73.65 through 9903.73.71, inclusive.

(C) The exclusion provided for in subdivision (d)(i) of this note for Thailand shall not apply with respect to the application of subheadings 9903.73.74 through 9903.73.86, inclusive.

(D) The exclusion provided for in subdivision (d)(i) of this note for India and Romania shall not apply with respect to the application of subheadings 9903.73.88 through 9903.73.95, inclusive.

(iii) The United States Trade Representative is authorized to modify the provisions of subdivision (d)(i) and (d)(ii) upon publication of a notice in the Federal Register and may at any time provide that the exclusion provided for a country enumerated in subdivision (d)(i) shall not apply with respect to any subheading enumerated in the first sentence of subdivision (a) of this note.

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	Semi-finished products of steel (other than stainless steel or tool steel), of rectangular cross section, having a width measuring two or more times the thickness (provided for in subheading 7207.12.00, 7207.20.00 or 7224.90.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.30	Enumerated in U.S. note 11(b)(v) to this subchapter and designated as X-505	No change	No change	No change
9903.72.31	Enumerated in U.S. note 11(b)(x) to this subchapter and designated as X-137	No change	No change	No change
9903.72.34	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
	If entered during the period from March 20, 2002, through March 19, 2003, inclusive:			
9903.72.38	In aggregate quantities of goods the product of a foreign country specified below, after which no such goods the product of such country may be entered during the remainder of such period:			
	Australia.....354,652,505 kg			
	Brazil.....2,539,566,320 kg			
	European Union..149,460,535 kg			
	Japan.....176,781,635 kg			
	Russia.....1,219,781,062 kg			
	Ukraine.....135,535,669 kg			
	All other.....323,021,274 kg	No change	No change	No change
9903.72.40	Other	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
	If entered during the period from March 20, 2003, through March 19, 2004, inclusive:			
9903.72.42	In aggregate quantities of goods the product of a foreign country specified below, after which no such goods the product of such country may be entered during the remainder of such period:			
	Australia.....387,490,700 kg			
	Brazil.....2,774,711,350 kg			
	European Union...163,299,474			
	Japan.....193,150,304 kg			
	Russia.....1,332,723,752 kg			
	Ukraine.....148,085,268 kg			
	All other.....352,930,651 kg	No change	No change	No change

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	[Semifinished...:]			
	[Other:]			
	[If...:]			
9903.72.44	Other	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
	If entered during the period from March 20, 2004, through March 20, 2005, inclusive:			
9903.72.46	In aggregate quantities of goods the product of a foreign country specified below, after which no such goods the product of such country may be entered during the remainder of such period:			
	Australia.....420,328,895 kg			
	Brazil.....3,009,856,379 kg			
	European Union...177,138,412 kg			
	Japan.....209,518,974 kg			
	Russia..... 1,445,666,443 kg			
	Ukraine.....160,634,867 kg			
	All other.....382,640,028 kg	No change	No change	No change
9903.72.48	Other	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel) which are either (i) not cold-rolled, of a thickness of 4.75 mm or more, not in coils and not plated or coated, or (ii) clad but not plated or coated (all the foregoing provided for in subheading 7208.40.30, 7208.51.00, 7208.52.00, 7208.90.00, 7210.90.10, 7211.13.00, 7211.14.00, 7225.40.30, 7225.50.60 or 7226.91.50), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.50	Enumerated in U.S. note 11(b)(xi) to this subchapter and designated as X-083	No change	No change	No change
9903.72.51	Enumerated in U.S. note 11(b)(xii) or (xxii) to this subchapter and designated as X-134	No change	No change	No change
9903.72.52	Enumerated in U.S. note 11(b)(xiii) to this subchapter and designated as X-115 or X-148	No change	No change	No change
9903.72.53	Enumerated in U.S. note 11(b)(xiv) to this subchapter and designated as X-100	No change	No change	No change
9903.72.57	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.72.60	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.72.61	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
	[Flat-rolled...:]			

ANNEX (continued)
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	[Other:]			
9903.72.62	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel) not further worked than hot rolled, the foregoing either (i) in coils or (ii) not in coils and of a thickness of less than 4.75 mm (provided for in subheading 7208.10.15, 7208.10.30, 7208.10.60, 7208.25.30, 7208.26.00, 7208.27.00, 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7211.14.00, 7211.19.15, 7211.19.20, 7211.19.30, 7211.19.45, 7211.19.60, 7211.19.75, 7225.30.30, 7225.30.70, 7225.40.70, 7226.91.70 or 7226.91.80), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.65	Enumerated in U.S. note 11(b)(xv) to this subchapter and designated as X-032	No change	No change	No change
9903.72.66	Enumerated in U.S. note 11(b)(xvi) to this subchapter and designated as X-046	No change	No change	No change
9903.72.67	Enumerated in U.S. note 11(b)(xvii) to this subchapter and designated as X-061	No change	No change	No change
9903.72.68	Enumerated in U.S. note 11(b)(xviii) to this subchapter and designated as X-075	No change	No change	No change
9903.72.69	Enumerated in U.S. note 11(b)(xix) to this subchapter and designated as X-108	No change	No change	No change
9903.72.70	Enumerated in U.S. note 11(b)(xx) to this subchapter and designated as X-116	No change	No change	No change
9903.72.71	Enumerated in U.S. note 11(b)(xxi) to this subchapter and designated as X-122	No change	No change	No change
9903.72.72	Enumerated in U.S. note 11(b)(xxii) to this subchapter and designated as X-134	No change	No change	No change
9903.72.73	Enumerated in U.S. note 11(b)(xxiii) to this subchapter and designated as X-142	No change	No change	No change
9903.72.74	Enumerated in U.S. note 11(b)(xxiv) to this subchapter and designated as X-139 or X-087	No change	No change	No change
9903.72.78	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change

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	[Flat-rolled...(con..):]			
	Other:			
9903.72.80	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.72.81	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.72.82	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel, tool steel or grain-oriented electrical steel), cold-rolled, not clad, plated or coated, whether or not in coils, if in coils of a thickness of less than 4.75 mm (provided for in subheading 7209.15.00, 7209.16.00, 7209.17.00, 7209.18.15, 7209.18.25, 7209.18.60, 7209.25.00, 7209.26.00, 7209.27.00, 7209.28.00, 7209.90.00, 7211.23.15, 7211.23.20, 7211.23.30, 7211.23.45, 7211.23.60, 7211.29.20, 7211.29.45, 7211.29.60, 7211.90.00, 7225.19.00, 7225.50.70, 7225.50.80, 7226.19.10, 7226.19.90, 7226.92.50, 7226.92.70 or 7226.92.80), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.85	Enumerated in U.S. note 11(b)(viii) to this subchapter and designated as X-508	No change	No change	No change
9903.72.86	Enumerated in U.S. note 11(b)(xxv) to this subchapter and designated as X-010	No change	No change	No change
9903.72.87	Enumerated in U.S. note 11(b)(xxvi) to this subchapter and designated as X-015	No change	No change	No change
9903.72.88	Enumerated in U.S. note 11(b)(xxvii) to this subchapter and designated as X-036	No change	No change	No change
9903.72.89	Enumerated in U.S. note 11(b)(xxviii) to this subchapter and designated as X-054	No change	No change	No change
9903.72.90	Enumerated in U.S. note 11(b)(xxix) to this subchapter and designated as X-065	No change	No change	No change
9903.72.92	Enumerated in U.S. note 11(b)(xxx) to this subchapter and designated as X-205	No change	No change	No change
9903.72.93	Enumerated in U.S. note 11(b)(xxxi) to this subchapter and designated as X-083	No change	No change	No change
9903.72.94	Enumerated in U.S. note 11(b)(xxxii) to this subchapter and designated as X-142	No change	No change	No change
	[Flat-rolled...(con.):]			

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	[Goods...(con.):]			
9903.72.95	Enumerated in U.S. note 11(b)(xxxiii) to this subchapter and designated as X-057 or X-155	No change	No change	No change
9903.72.96	Enumerated in U.S. note 11(b)(xxxiv) to this subchapter and designated as X-187	No change	No change	No change
9903.73.00	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.02	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.03	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.04	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel), plated or coated, the foregoing other than products that are (i) clad, (ii) coated or plated with tin and (iii) coated or plated with chromium oxides or chromium and chromium oxides (provided for in subheading 7210.20.00, 7210.30.00, 7210.41.00, 7210.49.00, 7210.61.00, 7210.69.00, 7210.70.30, 7210.70.60, 7210.90.60, 7210.90.90, 7212.20.00, 7212.30.10, 7212.30.30, 7212.30.50, 7212.40.10, 7212.40.50, 7212.50.00, 7212.60.00, 7225.91.00, 7225.92.00, 7226.93.00, 7226.94.00 or 7226.99.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.07	Enumerated in U.S. note 11(b)(vi) to this subchapter and designated as X-506	No change	No change	No change
9903.73.08	Enumerated in U.S. note 11(b)(vii) and designated as X-507	No change	No change	No change
9903.73.09	Enumerated in U.S. note 11(b)(xxxv) to this subchapter and designated as X-109	No change	No change	No change
9903.73.10	Enumerated in U.S. note 11(b)(xxxvi) to this subchapter and designated as X-061 or X-065	No change	No change	No change
9903.73.11	Enumerated in U.S. note 11(b)(xxxvii) to this subchapter and designated as X-075	No change	No change	No change
9903.73.12	Enumerated in U.S. note 11(b)(xxxviii) to this subchapter and designated as X-104, X-067 or X-107	No change	No change	No change
	[Flat-rolled...(con.):]			
	[Goods...(con.):]			

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9903.73.13	Enumerated in U.S. note 11(b)(xxxix) to this subchapter and designated as X-142	No change	No change	No change
9903.73.14	Enumerated in U.S. note 11(b)(xl) to this subchapter and designated as X-176	No change	No change	No change
9903.73.18	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.21	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.22	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.23	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel), the foregoing which are either (i) plated or coated with tin, or (ii) plated or coated with chromium oxides or with chromium and chromium oxides (provided for in subheading 7210.11.00, 7210.12.00, 7210.50.00 or or 7212.10.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.26	Enumerated in U.S. note 11(b)(ix) and designated as X-509	No change	No change	No change
9903.73.27	Enumerated in U.S. note 11(b)(xli) to this subchapter and designated as X-039, X-061 or X-075	No change	No change	No change
9903.73.28	Enumerated in U.S. note 11(b)(xlii) to this subchapter and designated as X-109	No change	No change	No change
9903.73.29	Enumerated in U.S. note 11(b)(xliii) to this subchapter and designated as X-142	No change	No change	No change
9903.73.30	Enumerated in U.S. note 11(b)(xliv) to this subchapter and designated as X-160 or X-128	No change	No change	No change
9903.73.35	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change

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	[Flat-rolled...(con.):]			
	Other:			
9903.73.37	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.38	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.39	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Bars, rods and light shapes of steel (other than stainless or tool steel) (provided for in subheading 7213.20.00, 7213.99.00, 7214.10.00, 7214.30.00, 7214.91.00, 7214.99.00, 7215.90.10, 7215.90.50, 7216.10.00, 7216.21.00, 7216.22.00, 7216.50.00, 7216.61.00, 7216.69.00, 7216.91.00, 7216.99.00, 7227.20.00, 7227.90.10, 7227.90.20, 7227.90.60, 7228.20.10, 7228.30.20, 7228.30.80, 7228.40.00, 7228.60.10, 7228.60.60, 7228 70.30, 7228.70.60 or 7228.80.00), the foregoing except (i) concrete reinforcing bars and rods; (ii) hot-rolled bars and rods of nonalloy steel (other than free-cutting steel), not cold-formed, in irregularly wound coils and with a diameter of less than 19 mm; (iii) cold-formed bars and rods; and (iv) sections not further worked than hot-rolled, hot-drawn or extruded, with a height of 80 mm or more; and other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.42	Enumerated in U.S. note 11(b)(i) and designated as X-501	No change	No change	No change
9903.73.43	Enumerated in U.S. note 11(b)(xlv) to this subchapter and designated as X-032	No change	No change	No change
9903.73.44	Enumerated in U.S. note 11(b)(xlvi) to this subchapter and designated as X-045	No change	No change	No change
9903.73.48	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.50	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.51	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.52	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Cold-formed bars and rods of steel (other than stainless steel			

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	or tool steel) (provided for in subheading 7215.10.00, 7215.50.00, 7215.90.30, 7228.20.50, 7228.50.10, 7228.50.50 or 7228.60.80), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted in U.S. note 11(d) to this subchapter:			
9903.73.55	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.60	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.61	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.62	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Concrete reinforcing bars and rods of nonalloy steel (provided for in subheading 7213.10.00 or 7214.20.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Moldova, Turkey and Venezuela):			
9903.73.65	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.69	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%
9903.73.70	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%
9903.73.71	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%

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	Welded, riveted or similarly closed tubes, pipes and hollow profiles, the foregoing of steel, not of a kind used in drilling for oil or gas (provided for in subheading 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10, 7305.19.50, 7305.31.20, 7305.31.40, 7305.31.60, 7305.39.10, 7305.39.50, 7305.90.10, 7305.90.50, 7306.30.10, 7306.30.50, 7306.50.10, 7306.50.30, 7306.50.50, 7306.60.10, 7306.60.30, 7306.60.50, 7306.60.70, 7306.90.10 or 7306.90.50), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Thailand):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.74	Enumerated in U.S. note 11(b)(ii) to this subchapter and designated as X-502	No change	No change	No change
9903.73.75	Enumerated in U.S. note 11(b)(iii) to this subchapter and designated as X-503	No change	No change	No change
9903.73.76	Enumerated in U.S. note 11(b)(ix) and designated as X-509	No change	No change	No change
9903.73.77	Enumerated in U.S. note 11(b)(xlvii) to this subchapter and designated as X-066, X-069, X-071, X-079, X-102, X-139 or X-182	No change	No change	No change
9903.73.78	Enumerated in U.S. note 11(b)(li) to this subchapter and designated as X-132	No change	No change	No change
9903.73.82	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.84	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 73 + 15%	The rate provided in ch. 73 + 15%	The rate provided in ch. 73 + 15%
9903.73.85	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 73 + 12%	The rate provided in ch. 73 + 12%	The rate provided in ch. 73 + 12%
9903.73.86	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 73 + 9%	The rate provided in ch. 73 + 9%	The rate provided in ch. 73 + 9%

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	Tube and pipe fittings of iron or steel, other than fittings not machined, not tooled and not otherwise processed after forging (all the foregoing provided for in subheading 7307.91.50, 7307.92.30, 7307.92.90, 7307.93.30, 7307.93.60, 7307.93.90 or 7307.99.50), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of India and Romania):			
9903.73.88	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.93	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 73 + 13%	The rate provided in ch. 73 + 13%	The rate provided in ch. 73 + 13%
9903.73.94	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 73 + 10%	The rate provided in ch. 73 + 10%	The rate provided in ch. + 10%
9903.73.95	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 73 + 7%	The rate provided in ch. 73 + 7%	The rate provided in ch. 73 + 7%
	Bars and rods of stainless steel, hot-rolled, in irregularly wound coils, of circular cross section, with a diameter of 19 mm or more; bars and rods of stainless steel, not in irregularly wound coils; angles, shapes and sections of stainless steel (all the foregoing provided for in subheading 7221.00.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00, 7222.40.30 or 7222.40.60), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.97	Enumerated in U.S. note 11(b)(iv) to this subchapter and designated as X-504	No change	No change	No change
9903.73.98	Enumerated in U.S. note 11(b)(xlvii) to this subchapter and designated as X-177	No change	No change	No change
9903.74.01	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.74.04	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%

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	[Bars...:]			
	[Other:]			
9903.74.05	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%
9903.74.06	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%
	Bars and rods of stainless steel, hot-rolled, in irregularly wound coils, other than such products of circular cross section and having a diameter of less than 19 mm (provided for in heading 7221.00.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
9903.74.08	Goods excluded from the application of relief by U.S. note 11(b)(iv) to this subchapter, designated as X-504	No change	No change	No change
9903.74.12	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.74.14	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%
9903.74.15	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%
9903.74.16	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%
	Wire of stainless steel, cold-formed, in coils, of any uniform solid cross-section along the entire length (provided for in subheading 7223.00.10, 7223.00.50 or 7223.00.90), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
9903.74.18	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.74.22	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 8%	The rate provided in ch. 72 + 8%	The rate provided in ch. 72 + 8%
9903.74.23	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 7%	The rate provided in ch. 72 + 7%	The rate provided in ch. 72 + 7%
9903.74.24	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 6%	The rate provided in ch. 72 + 6%	The rate provided in ch. 72 + 6%"

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Federal Register

Thursday,
March 7, 2002

Part V

The President

Proclamation 7529—To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products

Memorandum of March 5, 2002—Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products

Federal Register
Vol. 67, No. 45
Thursday, March 7, 2002

Presidential Documents

Title 3—

The President

Proclamation 7529 of March 5, 2002

To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products

By the President of the United States of America

A Proclamation

1. On December 19, 2001, the United States International Trade Commission (ITC) transmitted to the President a report on its investigation under section 202 of the Trade Act of 1974, as amended (the ''Trade Act'') (19 U.S.C. 2252), with respect to imports of certain steel products.

2. The ITC reached affirmative determinations under section 202(b) of the Trade Act that the following products are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles: (a) certain carbon flat- rolled steel, including carbon and alloy steel slabs (''slabs''); plate (including cut-to-length plate and clad plate) (''plate''); hot-rolled steel (including plate in coils) (''hot-rolled steel''); cold-rolled steel (other than grain-oriented electrical steel) (''cold-rolled steel''); and corrosion-resistant and other coated steel (''coated steel'') (collectively, ''certain flat steel''); (b) carbon and alloy hot-rolled bar and light shapes (''hot-rolled bar''); (c) carbon and alloy cold-finished bar (''cold-finished bar''); (d) carbon and alloy rebar (''rebar''); (e) carbon and alloy welded tubular products (other than oil country tubular goods) (''certain tubular products''); (f) carbon and alloy flanges, fittings, and tool joints (''carbon and alloy fittings''); (g) stainless steel bar and light shapes (''stainless steel bar''); and (h) stainless steel rod. The ITC commissioners were equally divided with respect to the determination required under section 202(b) regarding whether (i) carbon and alloy tin mill products (''tin mill products'') and (j) stainless steel wire.

3. The ITC provided detailed definitions of the products included in categories (a) through (j) of paragraph 2, and their corresponding subheadings, under the Harmonized Tariff Schedule of the United States (HTS) in Appendix A to its determination, set out at 66 Fed. Reg. 67304, 67308-67311 (December 28, 2001). By February 4, 2002, the ITC provided additional information in response to a request by the United States Trade Representative (USTR) under section 203(a)(5) of the Trade Act (19 U.S. 2253(a)(5)) (the ''supplemental report'').

4. Section 330(d)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1330(d)(1)), provides that, when the ITC is required to determine under section 202(b) of the Trade Act whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the ITC. Having considered the determinations of the commissioners with regard to tin mill products and stainless steel wire, I have decided to consider the determinations of the groups of commissioners voting in the affirmative with regard to each of these products to be the determination of the ITC.

5. Pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act'') (19 U.S.C. 3371(a)),

the ITC made findings as to whether imports from Canada and Mexico, considered individually, account for a substantial share of total imports and contribute importantly to the serious injury, or threat thereof, caused by imports. The ITC made negative findings with respect to imports from Canada of certain flat steel, tin mill products, rebar, stainless steel rod, and stainless steel wire; and the ITC also made negative findings with respect to imports from Mexico of tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, stainless steel bar, stainless steel rod, and stainless steel wire. The ITC made affirmative findings with respect to imports from Canada of hot-rolled bar, cold-finished bar, carbon and alloy fittings, and stainless steel bar; and the ITC also made affirmative findings with respect to imports from Mexico of certain flat steel, and carbon and alloy steel fittings. The ITC commissioners were equally divided with respect to imports from Canada of certain tubular products.

6. The ITC commissioners voting in the affirmative under section 202(b) of the Trade Act also transmitted to the President their recommendations made pursuant to section 202(e) of the Trade Act (19 U.S.C. 2252(e)) with respect to the actions that, in their view, would address the serious injury, or threat thereof, to the domestic industries and be most effective in facilitating the efforts of those industries to make a positive adjustment to import competition.

7. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), and after taking into account the considerations specified in section 203(a)(2) of the Trade Act and the ITC supplemental report, I have determined to implement action of a type described in section 203(a)(3) (a ''safeguard measure'') with regard to the following steel products:

(a) certain flat steel, consisting of: slabs provided for in the superior text to subheadings 9903.72.30 through 9903.72.48 in the Annex to this proclamation; plate provided for in the superior text to subheadings 9903.72.50 through 9903.72.62 in the Annex to this proclamation; hot-rolled steel provided for in the superior text to subheadings 9903.72.65 through 9903.72.82 in the Annex to this proclamation; cold-rolled steel provided for in the superior text to subheadings 9903.72.85 through 9903.73.04 in the Annex to this proclamation; and coated steel provided for in the superior text to subheadings 9903.73.07 through 9903.73.23 in the Annex to this proclamation;

(b) hot-rolled bar provided for in the superior text to subheadings 9903.73.42 through 9903.73.52 in the Annex to this proclamation;

(c) cold-finished bar provided for in the superior text to subheadings 9903.73.55 through 9903.73.62 in the Annex to this proclamation;

(d) rebar provided for in the superior text to subheadings 9903.73.65 through 9903.73.71 in the Annex to this proclamation;

(e) certain tubular products provided for in the superior text to subheadings 9903.73.74 through 9903.73.86 in the Annex to this proclamation;

(f) carbon and alloy fittings provided for in the superior text to subheadings 9903.73.88 through 9903.73.95 in the Annex to this proclamation;

(g) stainless steel bar provided for in the superior text to subheadings 9903.73.97 through 9903.74.06 in the Annex to this proclamation;

(h) stainless steel rod provided for in the superior text to subheadings 9903.74.08 through 9903.74.16 in the Annex to this proclamation;

(i) tin mill products provided for in the superior text to subheadings 9903.73.26 through 9903.73.39 in the Annex to this proclamation; and

(j) stainless steel wire provided for in the superior text to subheadings 9903.74.18 through 9903.74.24 in the Annex to this proclamation. The steel products listed in clauses (i) through (ix) of subdivision (b) of U.S. Note 11 to subchapter III of chapter 99 of the HTS (''Note 11'') in the Annex to this proclamation were excluded from the determinations of the ITC

described in paragraph 2, and are excluded from these safeguard measures. I have also determined to exclude from these safeguard measures the steel products listed in the subsequent clauses of subdivision (b) of Note 11 in the Annex to this proclamation.

8. Pursuant to section 312(a) of the NAFTA Implementation Act (19 U.S.C. 3372(a)), I have determined after considering the report and supplemental report of the ITC that imports from each of Canada and Mexico of certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, and stainless steel wire, considered individually, do not account for a substantial share of total imports or do not contribute importantly to the serious injury or threat of serious injury found by the ITC. Accordingly, pursuant to section 312(b) of the NAFTA Implementation Act (19 U.S.C. 3372(b)), I have excluded certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, and stainless steel wire the product of Mexico or Canada from the actions I am taking under section 203 of the Trade Act.

9. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), the actions I have determined to take shall be safeguard measures in the form of:

(a) a tariff rate quota on imports of slabs described in paragraph 7, imposed for a period of 3 years plus 1 day, with annual increases in the within-quota quantities and annual reductions in the rates of duty applicable to goods entered in excess of those quantities in the second and third years; and

(b) an increase in duties on imports of certain flat steel, other than slabs (including plate, hot-rolled steel, cold-rolled steel and coated steel), hot-rolled bar, cold-finished bar, rebar, certain welded tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire, as described in paragraph 7, imposed for a period of 3 years plus 1 day, with annual reductions in the rates of duty in the second and third years, as provided in the Annex to this proclamation.

10. The safeguard measures described in paragraph 9 shall not apply to the products listed in clauses following clause (ix) in subdivision (b) of Note 11 in the Annex to this proclamation.

11. These safeguard measures shall apply to imports from all countries, except for products of Canada, Israel, Jordan, and Mexico.

12. These safeguard measures shall not apply to imports of any product described in paragraph 7 of a developing country that is a member of the World Trade Organization (WTO), as long as that country's share of total imports of the product, based on imports during a recent representative period, does not exceed 3 percent, provided that imports that are the product of all such countries with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product. If I determine that a surge in imports of a product described in paragraph 7 of a developing country WTO member undermines the effectiveness of the pertinent safeguard measure, the safeguard measure shall be modified to apply to such product from such country.

13. The in-quota quantity in each year under the tariff rate quota described in paragraph 9 shall be allocated among all countries except those countries the products of which are excluded from such tariff rate quota pursuant to paragraphs 11 and 12.

14. Pursuant to section 203(a)(1)(A) of the Trade Act (19 U.S.C. 2253(a)(1)(A)), I have further determined that these safeguard measures will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. If I determine that further action is appropriate and feasible to facilitate efforts by the pertinent domestic industry to make a positive adjustment to import competition and to provide greater economic and social benefits than costs, or

if I determine that the conditions under section 204(b)(1) of the Trade Act are met, I shall reduce, modify, or terminate the action established in this proclamation accordingly. In addition, if I determine within 30 days of the date of this proclamation, as a result of consultations between the United States and other WTO members pursuant to Article 12.3 of the WTO Agreement on Safeguards that it is necessary to reduce, modify, or terminate a safeguard measure, I shall proclaim the corresponding reduction, modification, or termination of the safeguard measure within 40 days.

15. Section 604 of the Trade Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 203 and 604 of the Trade Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to establish increases in duty and a tariff rate quota on imports of the certain steel products described in paragraph 7 (other than excluded products), subchapter III of chapter 99 of the HTS is modified as provided in the Annex to this proclamation. Any merchandise subject to a safeguard measure that is admitted into U.S. foreign trade zones on or after March 20, 2002, must be admitted as ''privileged foreign status'' as defined in 19 CFR 146.41, and will be subject upon entry to any quantitative restrictions or tariffs related to the classification under the applicable HTS subheading.

(2) Such imports of certain steel that are the product of Canada, Israel, Jordan, or Mexico shall be excluded from the safeguard measures established by this proclamation, and such imports shall not be counted toward the tariff rate quota limits that trigger the over-quota rates of duty.

(3) Except as provided in clause (4) below, imports of certain steel that are the product of WTO member developing countries, as provided in subdivision (d)(i) of Note 11 in the Annex to this proclamation, shall be excluded from the safeguard measures established by this proclamation, and such imports shall not be counted toward the tariff rate quota limits that trigger the over-quota rates of duties.

(4) Clause (3) above shall not apply to imports of a product that is the product of a country listed in subdivision (d)(i) of Note 11 in the Annex to this proclamation if subdivision (d)(ii) of such Note indicates that such country's share of total imports of the product exceeds 3 percent, or that imports of the product from all listed countries with less than 3 percent import share collectively account for more than 9 percent of total imports of the product. The USTR is authorized to determine whether a surge in imports of a product that is the product of a country listed in subdivision (d)(i) undermines the effectiveness of the pertinent safeguard measure and, if so, upon publication of a notice in the **Federal Register**, to revise subdivision (d) of Note 11 in the Annex to this proclamation to indicate that such product from such country is not excluded from such safeguard measure.

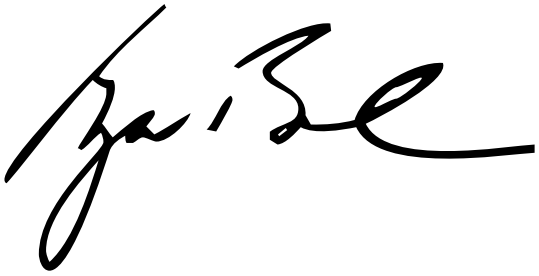
(5) Within 120 days after the date of this proclamation, the USTR is authorized to further consider any request for exclusion of a particular product submitted in accordance with the procedures set out in 66 Fed. Reg. 54321, 54322-54323 (October 26, 2001) and, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to this proclamation to exclude such particular product from the pertinent safeguard measure established by this proclamation.

(6) In March of each year in which any safeguard measure established by this proclamation remains in effect, the USTR is authorized, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to this proclamation to exclude such particular product from the pertinent safeguard measure established by this proclamation.

(7) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

(8) The modifications to the HTS made by this proclamation, including the Annex hereto, shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, on March 20, 2002, and shall continue in effect as provided in the Annex to this proclamation, unless such actions are earlier expressly reduced, modified, or terminated. Effective at the close of March 21, 2006, or such other date that is 1 year from the close of the safeguard measures established in this proclamation, the U.S. note and tariff provisions established in the Annex to this proclamation shall be deleted from the HTS.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of March, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.



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ANNEX

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 20, 2002, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by inserting in numerical sequence the following new U.S. note, subheadings and superior text thereto, with the language inserted in the columns entitled " Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

"11. (a) Except as provided in this note, subheadings 9903.72.30 through 9903.74.24, inclusive, and superior text thereto apply to the specified goods entered, or withdrawn from warehouse for consumption, on or after March 20, 2002, from any country other than those expressly exempted herein. The rates of duty in such subheadings either incorporate the duty rates specified for such goods in chapters 72 or 73 of the tariff schedule or are unchanged from the pertinent provisions of such chapters. Whenever a provision covers " goods excluded from the application of relief," that term refers to specific steel products that fall within the applicable superior text to such provision but are enumerated in subdivision (b) or (c) of this note. The application of this note to goods of particular countries shall be determined by the terms of such subheadings and superior text thereto and by the provisions of subdivision (d) of this note. Goods that are--

(i) described in the superior text to subheadings 9903.72.01 through 9903.72.15, inclusive, or the superior text to subheadings 9903.72.20 through 9903.72.25, inclusive;

(ii) flat-rolled products of ball bearing steel (as defined in additional U.S. note 1(h) to chapter 72), provided for in heading 7225 or 7226; and

(iii) tubing of nonalloy steel, coated with zinc, of a diameter not exceeding 114.3 mm, internally coated or lined with a non-electrically insulating coating material, suitable for use as electrical conduit,

shall be excluded from the subheadings enumerated in the first sentence of this paragraph and no such goods shall be permitted entry under such subheadings.

(b) For purposes of this note, the following goods, enumerated with the designation assigned to facilitate the administration of this note, shall be excluded from the application of import relief under one or more subheadings enumerated in the first sentence of subdivision (a) of this note, but the appropriate 8-digit subheading number shall be reported for such goods in addition to the 10-digit statistical reporting number appearing in chapters 1 through 97 which would be applicable but for the provisions of this subchapter.

(i) wire rod products described in note 9(a) through (h) of this subchapter and designated as X-501;

(ii) arctic grade line pipe as defined in note 10 to this subchapter and designated as X-502;

(iii) oil country casing and tubing containing by weight 10.5 percent or more of chromium and designated as X-503;

(iv) certain bars and wire rods of stainless steel having the following specifications and designated as X-504:

(A) "SF20T" containing by weight not more than 0.05 percent of carbon, 2 percent of manganese, 0.05 percent of phosphorus, 0.15 percent of sulfur and 1 percent of silicon; 19 percent or more but not more than 21 percent of chromium; 1.50 percent or more but not more than 2.50 percent of molybdenum; 0.10 percent or more but not more than 0.30 percent of added lead and 0.03 percent or more of added tellurium;

(B) "K-M35FL" containing by weight not more than 0.015 percent of carbon; 0.70 or more but

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not more than 1.00 percent of silicon; not more than 0.40 percent of manganese, 0.04 percent of phosphorus, 0.03 percent of sulfur and 0.30 percent of nickel; 12.50 percent or more but not more than 14 percent of chromium; 0.10 percent or more but not more than 0.30 percent of lead and 0.20 percent or more but not more than 0.35 percent of aluminum;

(C) "Kanthal A-1" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.40 percent of manganese; 5.30 percent or more but not more than 6.30 percent of aluminum; and 20.50 percent or more but not more than 23.50 percent of chromium;

(D) "Kanthal AF" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.40 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.80 percent or more but not more than 5.80 percent of aluminum;

(E) "Kanthal A" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.80 percent or more but not more than 5.80 percent of aluminum;

(F) "Kanthal D" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.30 percent or more but not more than 5.30 percent of aluminum;

(G) "Kanthal DT" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 20.50 percent or more but not more than 23.50 percent of chromium; and 4.60 percent or more but not more than 5.60 percent of aluminum;

(H) "Alkrothal 14" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.50 percent of manganese; 14 percent or more but not more than 16 percent of chromium; and 3.80 percent or more but not more than 4.80 percent of aluminum;

(I) "Alkrothal 720" containing by weight not more than 0.08 percent of carbon, 0.70 percent of silicon and 0.70 percent of manganese; 12 percent or more but not more than 14 percent of chromium; and 3.50 percent or more but not more than 4.50 percent of aluminum; or

(J) "Nikrothal 40" containing by weight not more than 0.10 percent of carbon and 1 percent of manganese; 1.60 percent or more but not more than 2.50 percent of silicon; 18 percent or more but not more than 21 percent of chromium; and 34 percent or more but not more than 37 percent of nickel;

(v) semifinished products of alloy or nonalloy steel designated as X-505 (provided for in subheading 7207.19.00, 7207.20.00 or 7224.90.00), of circular cross section, of a diameter of 250 mm or more but not more than 680 mm, of a length not less than 3657 mm, limited to the following grades:

(A) for products described in industry usage as of carbon steel, goods covered by American Iron and Steel Institute (AISI) specifications 1552, 1022, 1045, 1029 or 1020; and

(B) for products of alloy steel, goods covered by AISI specifications 4140, 4150, 4130 or 4330 or by ASTM specifications A694 or A350;

(vi) flat-rolled corrosion-resistant products described in industry usage as of carbon steel, measuring less than 4.75 mm in composite thickness, clad on both sides with stainless steel in a 20 percent - 60 percent - 20 percent ratio, and designated as X-506;

(vii) flat-rolled products designated as X-507, as provided below:

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(A) doctor blades described in industry usage as of carbon steel coil or strip, plated with nickel phosphorus, having a thickness of 0.1524 mm, a width of at least 31.75 mm but not more than 50.80 mm, a core hardness of from 580 to 630 HV, a surface hardness of from 900 to 990 HV, and containing by weight 0.90 percent or more but not more than 1.05 percent of carbon, 0.15 percent or more but not more than 0.35 percent of silicon, 0.30 percent or more but not more than 0.50 percent of manganese, not more than 0.03 percent of phosphorus, not more than 0.006 percent of sulfur, 0.24 percent of other elements and the remainder of iron;

(B) products described in industry usage as of carbon steel, measuring 1.64 mm in thickness and 19.5 mm in width, consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy containing by weight 10 percent or more but not more than 15 percent of tin, 1 percent or more but not more than 3 percent of lead, 0.7 percent or more but not more than 1.3 percent of copper, 1.8 percent or more but not more than 3.5 percent of silicon, 0.1 percent or more but not more than 0.7 percent of chromium and less than 1 percent of other materials, and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys;

(C) products described in industry usage as of carbon steel, measuring 0.975 mm in thickness and 8.8 mms in width, consisting of carbon steel coil (SAE 1012) clad with a two-layer lining, the first layer consisting of a copper-lead alloy powder that contains by weight 9 percent or more but not more than 11 percent of tin, 9 percent or more but not more than 11 percent of lead and maximum 1 percent of other materials, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, with the second layer containing by weight 13 percent or more but not more than 17 percent of carbon, 13 percent or more but not more than 17 percent of aromatic polyester, and the remainder (approx. 66-74 percent) of polytetrafluorethylene (PTFE);

(D) products described in industry usage as of carbon steel, measuring 1.02 mm in thickness and 10.7 mm in width, consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that contains by weight 9 percent or more but not more than 11 percent of tin, 9 percent or more but not more than 11 percent of lead and less than 0.35 percent of iron, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, with the second layer containing by weight 45 percent or more but not more than 55 percent of lead, 3 percent or more but not more than 5 percent of molybdenum disulfide, and the remainder (approx. 40-52 percent) of PTFE;

(E) coil or strip described in industry usage as of carbon steel, measuring 1.93 mm or 2.75 mm in thickness, 87.3 mm or 99 mm in width, with a low carbon steel back containing by weight less than 8 percent of carbon, less than 0.4 percent of manganese, less than 0.04 percent of phosphorus and less than 0.05 percent of sulfur, clad with aluminum alloy containing by weight 0.7 percent of copper, 12 percent of tin, 1.7 percent of lead, 0.3 percent of antimony, 2.5 percent of silicon, not more than 1 percent in the aggregate of other elements (including iron), and the remainder of aluminum;

(F) coil or strip described in industry usage as of carbon steel, clad with aluminum, measuring 1.75 mm in thickness, 89 mm or 94 mm in width, with a low carbon steel back containing by weight less than 8 percent of carbon, less than 0.4 percent of manganese, 0.04 percent of phosphorus and less than 0.05 percent of sulfur, clad with aluminum alloy containing by weight 0.7 percent of copper, 12 percent of tin, 1.7 percent of lead, 2.5 percent of silicon, 0.3 percent of antimony, 1 percent in the aggregate of other elements (including iron), and the remainder of aluminum;

(G) corrosion-resistant products described in industry usage as of carbon steel and meeting the following specifications: (1) widths ranging from 10 mm through 100 mm; (2) thicknesses, including coatings, ranging from 0.11 mm through 0.60 mm; and (3) a coating that is from 0.003 mm through 0.005 mm in thickness and that comprises either two evenly applied layers, the first layer consisting by weight of 99 percent zinc, 0.5 percent cobalt and 0.5 percent molybdenum followed by a layer consisting of chromate, or three evenly applied

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layers, the first layer consisting by weight of 99 percent zinc, 0.5 percent cobalt, and 0.5 percent molybdenum, followed by a layer consisting of chromate, and finally a layer consisting of silicate;

(H) products described in industry usage as of carbon steel, measuring 1.84 mm in thickness and 43.6 mm or 16.1 mm in width, consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that contains by weight 20 percent tin, 1 percent copper, 0.3 percent silicon, 0.15 percent nickel and less than 1 percent in the aggregate other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys;

(I) products described in industry usage as of carbon steel, measuring 0.97 mm in thickness and 20 mm in width, consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that contains by weight 9 percent or more but not more than 11 percent of tin, 9 percent or more but not more than 11 percent of lead, less than 1 percent of zinc and less than 1 percent in the aggregate of other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, with the second layer consisting by weight of 45 percent or more but not more than 55 percent of lead, 38 percent or more but not more than 50 percent of PTFE, 3 percent or more but not more than 5 percent of molybdenum disulfide and less than 2 percent in the aggregate of other materials; and

(J) corrosion-resistant products, described in industry usage as of carbon steel, comprising deep-drawing carbon steel strip, roll-clad on both sides with aluminum (AlSi) foils in accordance with St3 LG as to EN 10139/10140, with a chemical composition encompassing a core material of U St 23 (continuous casting) containing by weight less than 0.08 percent of carbon, less than 0.30 percent of manganese, less than 0.20 percent of phosphorus, less than 0.015 percent of sulfur and less than 0.01 percent of aluminum, and the cladding material containing by weight a minimum of 99 percent of aluminum with silicon/copper/iron of less than 1 percent, the foregoing products in strips with thicknesses of 0.07 mm to 4.0 mm (inclusive) and widths of 5 mm to 800 mm (inclusive), with a thickness ratio of aluminum on either side of steel ranging from 3 percent/94 percent/3 percent to 10 percent/80 percent/10 percent;

(viii) flat-rolled products designated as X-508, as provided below:

(A) shadow mask steel, comprising aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, having a thickness from 0.025 to 0.0254 mm, inclusive, and a width from 381 to 813 mm, inclusive, and with a carbon content of less than 0.002 percent, by weight;

(B) flapper valve steel, hardened and tempered, surface polished, measuring in thickness less than or equal to 1.0 mm and in width less than or equal to 152.4 mm, containing by weight a carbon content greater than or equal to 0.90 percent and less than or equal to 1.05 percent, a silicon content greater than or equal to 0.15 percent and less than or equal to 0.35 percent, a magnesium content greater than or equal to 0.30 percent and less than or equal to 0.50 percent, a phosphorus content of less than or equal to 0.03 percent and a sulfur content less than or equal to 0.006 percent, the foregoing having a tensile strength greater than or equal to 162 kgf/mm^2 and hardness greater than or equal to 475 Vickers hardness number, having flatness less than 0.2 percent of nominal strip width, completely free from decarburization, spheroidal and fine within 1 percent to 4 percent (area percentage) and undissolved in the uniform tempered martensite, having non-metallic sulfide inclusion with area percentage less than or equal to 0.04 percent and oxide inclusion with area percentage less than or equal to 0.05 percent, having a compressive stress of 10 to 40 Kgf/mm^2; having the following surface roughness specifications: if thickness is less than or equal to 0.209 mm, will have roughness (RZ) less than or equal to 0.5 micrometer; if thickness is greater than 0.209 mm but less than or equal to 0.310 mm, will have roughness (RZ) of less than or equal to 0.6 micrometer; if thickness is greater than 0.310 mm but less than or equal to 0.440 mm, will have roughness (RZ) less than or equal to 0.7 micrometer; if thickness is greater than 0.440

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mm but less than or equal to 0.560 mm, will have roughness (RZ) less than or equal to 0.8 micrometer; if thickness is greater than 0.560 mm, will have roughness (RZ) less than or equal to 1.0 micrometer;

(C) ultra thin gauge steel strip, of a thickness less than or equal to 0.100 mm (+/- 7 percent) and a width of 100 to 600 mm; chemical composition: carbon content less than or equal to 0.07 percent by weight, manganese content greater than or equal to 0.2 but less than or equal to 0.5 percent by weight, phosphorus content less than or equal to 0.05 percent by weight, sulfur content less than or equal to 0.05 percent by weight and aluminum content less than or equal to 0.07 percent by weight; mechanical properties: hardness equals full hard (HV 180 minimum); total elongation less than 3 percent; and tensile strength of 600 to 850 N/mm^2; physical properties: surface finish less than or equal to 0.3 micron; camber (in 2.0 m) less than 3.0 mm; flatness (in 2.0 m) less than or equal to 0.5 mm; edge burr less than 0.01 mm greater than thickness; and coil set (in 1.0 m) less than 75.0 mm;

(D) silicon steel of a thickness of 0.61 mm +/- 0.038 mm and a width from 838 to 1156 mm, inclusive; chemical composition: minimum silicon content of 0.65 percent, by weight, maximum carbon content of 0.004 percent, by weight, maximum manganese content of 0.4 percent, by weight, maximum phosphorus content of 0.09 percent, by weight, maximum sulfur content of 0.009 percent, by weight, maximum aluminum content of 0.4 percent, by weight; mechanical properties: hardness of B 60-75 (aim 65); physical properties: smooth finish (0.76-1.52 microns), gamma crown (in 127 mm) of 0.013 mm, with measurement beginning 6 mm from slit edge; flatness of 20 i-unit maximum; coating of C3a - 0.08a maximum (A2 coating acceptable); camber (in any 3000 mm) of 1.59 mm; coil size inside diameter of 508 mm; magnetic properties: core loss (1.5T/60 Hz) NAAS of 8.4 watts/kg maximum; and permeability (1.5T/60 Hz) NAAS of 1700 gauss/oersted typical 1500 minimum;

(E) aperture mask steel having an ultra-flat surface flatness, of a thickness from 0.025 mm to 0.245 mm and a width from 381 mm to 1000 mm; chemical composition: carbon content of less than 0.01 percent, by weight, nitrogen content greater than or equal to 0.004 and less than or equal to 0.007 percent, by weight, and aluminum content of less than 0.007 percent, by weight;

(F) annealed and temper-rolled cold-rolled continuously cast steel meeting the following characteristics: chemical composition: carbon content of minimum 0.02 and maximum 0.06 percent, by weight; manganese content of minimum 0.20 and maximum 0.40 percent, by weight; maximum phosphorus content of 0.02 percent, by weight; maximum sulfur content of 0.023 (aiming 0.018 maximum) percent, by weight; maximum silicon content of 0.03 percent, by weight; minimum aluminum content of 0.03 percent, by weight and maximum 0.08 (aiming 0.05) percent, by weight; maximum arsenic content of 0.02 percent, by weight; maximum copper content of 0.08 percent, by weight; nitrogen content of minimum 0.003 percent, by weight and maximum 0.008 (aiming 0.005) percent, by weight; non-metallic inclusions: examination with the S.E.M. shall not reveal individual oxides greater than 1 micron and inclusion groups or clusters shall not exceed 5 microns in length; surface treatment as follows: the surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating; and surface finish shall be extra bright with roughness (RA) of 0 microns to 0.2 microns with an aim of 0.1 microns;

(G) annealed and temper-rolled cold-rolled continuously cast steel, in coils, which includes a certificate of analysis per cable systems international (CSI) specification 96012 and meets the following characteristics: chemical composition: maximum carbon content of 0.13 percent, by weight; maximum manganese content of 0.60 percent, by weight; maximum phosphorus content of 0.02 percent, by weight; maximum sulfur content of 0.05 percent, by weight; additional properties: theoretical thickness of 0.15 mm,+/- 10 percent of theoretical thickness; width of 787 mm; tensile strength of 310 to 379 MPa; and elongation of a minimum of 15 percent in 50 mm;

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(H) continuous cast cold-rolled drawing quality sheet steel, ASTM a-620-97, Type B, or single reduced black plate, ASTM A-625-92, Type D, T-1, ASTM A-625-76 and ASTM A-366-96, T1-T2-T3 commercial bright/luster 7A both sides, RMS 12 maximum, with thickness range of 0.22 to 0.97 mm, width of 584 to 937 mm;

(I) single reduced black plate, meeting ASTM A-625-98 specifications, 0.148 mm thick, with a temper classification of T-2 (49-57 hardness using the Rockwell 30 T scale);

(J) single reduced black plate, meeting ASTM A-625-76 specifications, 0.15 mm thick, MR type matte finish, TH basic tolerance as per A263 trimmed;

(K) single reduced black plate, meeting ASTM A-625-98 specifications, 0.18 mm thick, with a temper classification of T-3 (53-61 hardness using the Rockwell 30 T scale);

(L) cold-rolled black plate bare steel strip, meeting ASTM A-625 specifications and having the following characteristics: thickness: 0.15 mm +/- 0.008 mm; chemical composition: maximum carbon content of 0.13 percent, by weight; maximum manganese content of 0.60 percent, by weight; maximum phosphorus content of 0.02 percent, by weight; maximum sulfur content of 0.05 percent, by weight; mechanical properties: hardness: T2/hr 30t 50-60 aiming; elongation of greater or equal to fifteen percent; and tensile strength aiming for 352 MPa +/- 28 MPa;

(M) cold-rolled black plate bare steel strip, in coils, meeting ASTM A-623, table ii, Type MR specifications, which meet the following characteristics: thickness: 0.15 mm +/-0.013 mm; width of up to and including 254 mm + 9.5 mm/-0; chemical composition: maximum carbon content of 0.13 percent, by weight; maximum manganese content of 0.60 percent, by weight; maximum phosphorus content of 0.04 percent, by weight; maximum sulfur content of 0.05 percent, by weight; mechanical properties: elongation of 15 percent in 50.8 mm, minimum; and tensile strength of 379 MPa maximum;

(N) "blued steel" coil (also know as "steamed blue steel" or "blue oxide") with a thickness and size of 0.30 mm x 0.42 mm and width of 609 mm to 1219 mm, in coil form;

(O) cold-rolled steel sheet, coated with porcelain enameling prior to importation, which meets the following characteristics: nominal thickness: less than or equal to 0.48 mm; width of 889 mm to 1524 mm; chemical composition: maximum carbon content of 0.004 percent, by weight; minimum oxygen content of 0.010 percent, by weight; and minimum boron content of 0.012 percent, by weight;

(P) cold-rolled steel meeting the following characteristics: width: greater than 1676 mm; chemical composition: maximum carbon content of 0.07 percent, by weight; maximum manganese content of 0.67 percent, by weight; maximum phosphorus content of 0.14 percent, by weight; maximum silicon content of 0.03 percent, by weight; physical and mechanical properties: thickness range of 0.800 to 2.000 mm; yield point (MPa) of 265 to 365; minimum tensile strength (MPa) of 440; and minimum elongation of 26 percent;

(Q) band saw steel meeting the following characteristics: thickness less than or equal to 1.31 mm; width less than or equal to 80 mm; chemical composition: carbon content of 1.2 to 1.3 percent, by weight; silicon content of 0.15 to 0.35 percent, by weight; manganese content of 0.20 to 0.35 percent, by weight; phosphorus content less than or equal to 0.03 percent, by weight; sulfur content less than or equal to 0.007 percent, by weight; chromium content of 0.30 to 0.5 percent, by weight; and nickel content less than or equal to 0.25 percent, by weight; other properties: carbide: fully spheroidized having greater than 80 percent of carbides, which are less than or equal to 0.003 mm and uniformly dispersed; surface finish: bright finish free from pits, scratches, rust, cracks, or seams; smooth edges; edge camber (in each 300 mm of length) of less than or equal to 7 mm arc height; and cross bow (per 25.4 mm of width) of 0.015 mm max;

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(R) transformation-induced plasticity (TRIP) steel meeting the following characteristics:

(I) Variety 1: chemical composition: carbon content of 0.09 to 0.13 percent, by weight; silicon content of 1.0 to 2.1 percent, by weight; manganese content of 0.90 to 1.7 percent, by weight; physical and mechanical properties: thickness range of 1.000 to 2.300 mm (inclusive); yield point (MPa) of 320 to 480; minimum tensile strength (MPa) of 590; minimum elongation of 24 percent if 1.000 to 1.199 mm thickness range; minimum elongation of 25 percent if 1.200 to 1.599 mm thickness range; minimum elongation of 26 percent if 1.600 to 1.999 mm thickness range; and minimum elongation of 27 percent if 2.000 to 2.300 mm thickness range;

(II) Variety 2: chemical composition: carbon content of 0.12 to 0.16 percent, by weight; silicon content of 1.5 to 2.1 percent, by weight; manganese content of 1.1 to 1.9 percent, by weight; physical and mechanical properties: thickness range of 1.000 to 2.300 mm (inclusive); yield point (MPa) of 340 to 520; minimum tensile strength (MPa) of 690; minimum elongation of 21 percent if 1.000 to 1.199 mm thickness range; minimum elongation of 22 percent if 1.200 to 1.599 mm thickness range; minimum elongation of 23 percent if 1.600 to 1.999 mm thickness range; and minimum elongation of 24 percent if 2.000 to 2.300 mm thickness range; or

(III) Variety 3: chemical composition: carbon content of 0.13 to 0.21 percent, by weight; silicon content of 1.3 to 2.0 percent, by weight; manganese content of 1.5 to 2.0 percent, by weight; physical and mechanical properties: thickness range of 1.200 to 2.300 mm (inclusive); yield point (MPa) of 370 to 570; minimum tensile strength (MPa) of 780; minimum elongation of 18 percent if 1.200 to 1.599 mm thickness range; minimum elongation of 19 percent if 1.600 to 1.999 mm thickness range; and minimum elongation of 20 percent if 2.000 to 2.300 mm thickness range;

(S) cold-rolled steel meeting the following characteristics:

(I) Variety 1: chemical composition: maximum carbon content of 0.10 percent, by weight; maximum manganese content of 0.40 percent, by weight; maximum phosphorus content of 0.10 percent, by weight; copper content of 0.15 to 0.35 percent, by weight; physical and mechanical properties: thickness range of 0.600 to 0.800 mm; yield point (MPa) of 185 to 285; minimum tensile strength (MPa) of 340; and minimum elongation of 31 percent (ASTM standard 31 percent equals JIS standard 35 percent);

(II) Variety 2: chemical composition: maximum carbon content of 0.05 percent, by weight; maximum manganese content of 0.40 percent, by weight; maximum phosphorus content of 0.08 percent, by weight; copper content of 0.15 to 0.35 percent, by weight; physical and mechanical properties: thickness range of 0.800 to 1.000 mm; yield point (MPa) of 145 to 245; minimum tensile strength (MPa) of 295; and minimum elongation of 31 percent (ASTM standard 31 percent equals JIS standard 35 percent); or

(III) Variety 3: chemical composition: maximum carbon content of 0.01 percent, by weight; maximum silicon content of 0.05 percent, by weight; maximum manganese content of 0.40 percent, by weight; maximum phosphorus content of 0.10 percent, by weight; maximum sulfur content of 0.023 percent, by weight; copper content of 0.15 to 0.35 percent, by weight; maximum nickel content of 0.35 percent, by weight; maximum aluminum content of 0.10 percent, by weight; maximum niobium content of 0.10 percent, by weight; maximum titanium content of 0.10 percent, by weight; maximum vanadium content of 0.10 percent, by weight; maximum boron content of 0.10 percent, by weight; maximum molybdenum content of 0.30 percent, by weight; physical and mechanical properties: thickness of 0.7 mm; and elongation of greater than or equal to 35 percent; or

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(T) porcelain enameling sheet, drawing quality, in coils, 0.36 mm in thickness, +0.002, -0.000, meeting ASTM A-424-96 type 1 specifications, and suitable for two coats;

(ix) tin-mill flat-rolled products designated as X-509, as described below:

(A) single reduced electrolytically chromium coated steel with a thickness 0.238 mm (±10%) or 0.251 mm (±10%) or 0.255 mm (±10%) with 770 mm (minimum width) (-0/+1.588 mm) by 900 mm (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T 21/2 anneal temper, with a yield strength of 214 to 290 MPa; with a tensile strength of 296 to 400 MPa; with a chrome coating restricted to 32 to 150 mg/m^2 with a chrome oxide coating restricted to 6 to 25 mg/m^2 with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m^2 as type DOS, or 3.5 to 6.5 mg/m^2 as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 204 °C for 100 minutes followed by a cool to room temperature);

(B) single reduced electrolytically chromium- or tin-coated steel in the gauges of 0.102 mm nominal, 0.114 mm nominal, 0.127 mm nominal, 0.155 mm nominal, 0.168 mm nominal, and 0.183 mm nominal, regardless of width, temper, finish, coating or other properties;

(C) single reduced electrolytically chromium coated steel in the gauge of 0.61 mm, with widths of 686 mm or 800 mm, and with T-1 temper properties;

(D) single reduced electrolytically chromium coated steel, with a chemical composition by weight of not more than 0.005 percent of carbon, 0.030 percent of silicon, 0.25 percent of manganese, 0.025 percent of phosphorus, 0.025 percent of sulfur and 0.070 percent of aluminum, and the remainder iron, with a metallic chromium layer of 70-130 mg/m^2, with a chromium oxide layer of 5-30 mg/m^2, with a tensile strength of 260-440 N/mm^2; with an elongation of 28-48 percent, with a hardness (HR-30T) of 40-58, with a surface roughness of 0.5-1.5 microns Ra, with magnetic properties of B_m (kG) 10.0 minimum, B_r (KG) 8.0 minimum, Hc (Oe) 2.5-3.8, and μ1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU-60;

(E) electrolytically chromium coated steel having ultra flat shape known as oil can steel, maximum depth of 2.0 mm and edge wave maximum of 2.0 mm and no wave to penetrate more than 51.0 mm from the strip edge and coilset or curling requirements of average maximum of 2.0 mm (based on six readings, three across each cut edge of a 61 cm long sample with no single reading exceeding 3.2 mm and no more than two readings at 3.2 mm) and (for product having a thickness of 0.239 mm only, crossbuckle maximums of 0.0025 mm average having no reading above 0.127 mm), with a camber maximum of 6.3 mm per 6.1 m, capable of being bent 120 degrees on a 0.05 mm radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/m^2 and chromium oxide of 10 mg/m^2, containing by weight 0.13 percent maximum carbon, 0.60 percent maximum manganese, 0.15 percent maximum silicon, 0.20 percent maximum copper, 0.04 percent maximum phosphorus, 0.05 percent maximum sulfur, and 0.20 percent maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS-A oil at an aim level of 2 mg/m^2, with not more than 15 inclusions/foreign matter in 15 feet (4.6 m) (with inclusions not to exceed 0.8 mm in width and 1.2 mm in length), with thickness/temper combinations of either 0.168 mm double reduced CADR8 temper in widths of 635.0 mm, 685.8 mm, 698.5 mm, 711.2 mm, 717.6 mm, 723.9 mm, 749.3 mm, 755.7 mm, 768.4 mm, 787.4 mm, 831.9 mm, 857.3 mm, 908.1 mm, 920.8 mm, 990.6 mm or 1092.2 mm, or 0.239 mm single reduced CAT4 temper in widths of 635.0 mm, 685.8 mm, 711.2 mm, 762.0 mm, 838.2 mm, 857.3 mm, 908.1 mm, 920.8 mm or 1092.2 mm, with width tolerance of -/+3.2 mm, with a thickness tolerance of -/+0.013 mm, with a maximum coil weight of 9071.0 kg, with a

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minimum coil weight of 8164.8 kg with a coil inside diameter of 40.64 cm with a steel core, with a coil maximum outside diameter of 151.13 cm, with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes and rust;

(x) Versa-bars, the foregoing which are semi-finished products of continuous cast gray or ductile iron, of square or rectangular cross section, containing, by weight, carbon of between 2.9 and 3.7 percent, silicon of between 1.6 and 2.7 percent, and manganese of between 0.5 and 0.8 percent (provided for in subheading 7207.20.00), the foregoing designated as X-137;

(xi) products known as "Superplast SP 300," the foregoing which are plates, pre-forged and rolled blocks or forged extra-heavy section blocks, with thickness of 152 and 1270 mm, inclusive, widths of 1990 mm, and lengths of 3048 to 3810 mm, inclusive; containing, by weight, carbon of between 0.235 and 0.265 percent, chromium of between 1.20 and 1.40 percent, manganese of between 1.20 and 1.40 percent, nickel of 0.30 percent maximum, molybdenum of between 0.35 and 0.45 percent, silicon of between 0.05 and 0.15 percent, boron of between 0.002 and 0.004 percent, sulphur of between 0.015 and 0.020 percent; exhibiting oxygen of 20 ppm (parts per million) and hydrogen of 2 ppm; if measuring between 152 and 203 mm displaying through hardness of 269 to 320 Brinnell, with a maximum dispersion of 15 bhn throughout; if measuring 203 and 1270 mm having through hardness of 290 to 320 Brinnell, with a maximum dispersion of 30 bhn throughout; all such products conforming to ultrasonic testing requirements of American Society of Testing and Materials (ASTM) A578-S9, with a 2mm flat bottom hole, and homogenous product (free of hardspots) cleanliness guaranteed per ASTM 345 method A, worst field ratings A: 1.5 maximum, B: 1.5 maximum, C: 1.0 maximum, D: 1.5 maximum, all the foregoing designated as X-083;

(xii) products known as "NAK 55," the foregoing which are double-melted hot-rolled plastic mold steel products containing, by weight, carbon of 0.15 percent, manganese of 1.50 percent, sulfur of 0.10 percent, copper of 1.00 percent, silicon of 0.30 percent, molybdenum of 0.30 percent, nickel of 3.00 percent, and aluminum of 1.00 percent; displaying the following mechanical properties: hardness of HRc 40, yield strength (0.2 percent offset, 41 HRc) of 1010 MPa, tensile strength of 1255 MPa, reduction of 39.8 percent; elongation (in 50 mm) of 15.6 percent; modulus of elasticity at room temperature of 30.0×10^6 psi; with Charpy-notch impact strength longitudinal 9.8 J and transverse of 7.6 J; displaying the following physical properties: coefficient of thermal expansion from 20 °C to 100 °C of 11.3×10^{-6} °C^{-1}, from 20 °C to 200 °C of 12.6×10^{-6} °C^{-1} and from 20 °C to 300 °C of 13.5×10^{-6} °C^{-1}; coefficient of thermal conductivity J/smK at 93 °C = 41.4 or at 204 °C = 42.2; having magnetic properties of maximum magnetic permeability of 380, saturated magnetism of 16,350 Gauss and residual magnetism of 8,500 Gauss, all the foregoing designated as X-134;

(xiii) flat-rolled ripper shank alloy steel, having rounded corners with radii of at least 6 mm but not more than 25 mm; of SAE 41B30 modified chemistry containing manganese of at least 1.00 percent but not more than 1.30 percent by weight, and containing chromium of at least 0.40 percent but not more than 0.65 percent by weight; with a thickness of at least 72 mm but not more than 77 mm and a width of at least 327 mm but not more than 337 mm, or with a thickness of at least 86.5 mm but not more than 91.5 mm and a width of at least 352 mm but not more than 362 mm, or with a thickness of at least 86.5 mm but not more than 91.5 mm and a width of at least 377 mm but not more than 387 mm, or with a thickness of at least 96.5 mm but not more than 101.5 mm and a width of at least 395 mm but not more than 405 mm, or with a thickness of at least 106.5 mm but not more than 111.5 mm and a width of at least 444.5m m but not more than 455.5 mm, the foregoing products designated as X-115 or X-148;

(xiv) flat-rolled steel products, hot-rolled, designated as X-100, the foregoing manufactured to API Grade X-52 or higher, supplied in widths greater than 3810 mm;

(xv) 13 percent manganese austenitic sheet, not further worked than hot rolled, containing, by weight, carbon of between 0.80 and 0.90 percent, silicon of between 0.10 and 0.45 percent, manganese of between 12.00 and 14.00 percent, phosphorus of 0.035 percent maximum, sulfur of 0.040 percent maximum, chromium of 0.50 percent maximum, molybdenum of 0.15 percent maximum, and nickel of 0.40 percent, the foregoing designated as X-032;

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(xvi) hot-rolled products designated as X-046, as described below:

(A) products known as "Domex 110," not further processed than hot rolled, in thicknesses of between 4.55 and 11.1 mm, inclusive, and widths of between 889 and 1600 mm, inclusive; containing, by weight, carbon of 0.12 percent maximum, silicon of 0.60 percent maximum, manganese of 2.0 percent maximum, phosphorus of 0.025 percent maximum, sulphur of 0.010 percent maximum, aluminum of at least 0.015 percent, columbium of 0.09 percent maximum and titanium of 0.20 percent maximum; exhibiting yield strength of 758 MPa, tensile strength of 813 MPa, elongation of 15 percent, bendability of 1.6 to 1.8xt, and impact toughness of 27 J at -40° C (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70), the foregoing also designated as X-108; or

(B) products known as "Domex Wear," not further processed than hot rolled, in thicknesses of between 3.00 and 6.35 mm, inclusive, and widths of between 889 and 1600 mm, inclusive; containing, by weight, carbon of 0.17 percent typical value (TV), silicon of 0.30 percent TV, manganese of 1.8 percent TV, phosphorus of 0.01 percent TV, sulphur of 0.010 percent maximum, chromium of 0.3 percent TV, molybdenum of 0.10 percent TV, aluminum of 0.04 percent TV and titanium of 0.16 percent TV; exhibiting yield strength of 793 MPa, tensile strength of 931 MPa, elongation of 15 percent, bendability of 2xt and impact toughness of 27 J at -40° C (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70), the foregoing also designated as X-108;

(xvii) hot-rolled transformation-induced plasticity (TRIP) steel designated as X-061, as described below:

(A) TRIP steel, Variety 1, not further worked than hot-rolled, with the following chemical composition, by weight: carbon, up to 0.21 percent; silicon, up to 2.2 percent; manganese, up to 1.8 percent; phosphorus, up to 0.025 percent; sulfur, up to 0.01 percent; physical and mechanical properties: thickness from 1.4 to 6.0 mm (inclusive); minimum yield point (MPa) of 390; minimum tensile strength (MPa) of 590; minimum elongation of 25 percent if 1400 mm to 1999 mm thickness range; minimum elongation of 26 percent if 2000 mm to 2499 mm thickness range; minimum elongation of 27 percent if 2500 mm to 3249 mm thickness range; minimum elongation of 28 percent if 3250 mm to 3999 mm thickness range; or minimum elongation of 28 percent if 4000 mm to 6000 mm thickness range;

(B) TRIP steel, Variety 2, not further worked than hot-rolled, with the following chemical composition, by weight: carbon, up to 0.23 percent, silicon, up to 2.2 percent, manganese, up to 2.0 percent; phosphorus, up to 0.025 percent; sulfur, up to 0.01 percent; physical and mechanical properties: thickness range from 1.4 to 6.0 mm (inclusive); minimum yield point (MPa) of 440; minimum tensile strength (MPa) of 690; minimum elongation of 22 percent if 1400 mm to 1999 mm thickness range; minimum elongation of 23 percent if 2000 mm to 2499 mm thickness range; minimum elongation of 24 percent if 2500 mm to 3249 mm thickness range; minimum elongation of 25 percent if 3250 mm to 3999 mm thickness range; or minimum elongation of 26 percent if 4000 mm to 6000 mm thickness range;

(C) TRIP steel, Variety 3, not further worked than hot-rolled, with the following chemical composition, by weight: carbon, up to 0.25 percent; silicon, up to 2.2 percent; manganese, up to 2.2 percent; phosphorus, up to 0.025 percent; sulfur, up to 0.01 percent; physical and mechanical properties: thickness range from 1.4 to 6.0 mm (inclusive); minimum yield point (MPa) of 490; minimum tensile strength (MPa) of 780; minimum elongation of 20 percent if 1400 mm to 1999 mm thickness range; minimum elongation of 21 percent if 2000 mm to 2499 mm thickness range; minimum elongation of 22 percent if 2500 mm to 3249 mm thickness range; minimum elongation of 23 percent if 3250 mm to 3999 mm thickness range; or minimum elongation of 24 percent if 4000 mm to 6000 mm thickness range; or

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(D) hot-rolled, flat-rolled, dual-phase steel product, phase-hardened, primarily with a ferritic-martensitic microstructure, containing, by weight, from 0.9 percent to 1.5 percent silicon; further characterized, for thicknesses greater than or equal to 2 mm, either by a tensile strength of from 540 N/mm^2 to 640 N/mm^2 with an elongation percentage of greater than or equal to 26 percent, or by a tensile strength of from 590 N/mm^2 to 690 N/mm^2 with an elongation percentage of greater than or equal to 23 percent, the foregoing also designated as X-011;

(xviii) hot-rolled dual phase low silicon steel, the foregoing which is a phase-hardened ferritic-martensitic steel containing, by weight, silicon of up to 0.25 percent, phosphorus of up to 0.05 percent and sulfur of 0.03 percent, and has a tensile strength of between 580 and 670 MPa, yield strength of between 300 and 470 MPa, and elongation of greater than, or equal to, 24 percent, the foregoing designated as X-075;

(xix) hot-rolled products designated as X-108, as described below:

(A) products known as "Domex Defend 250," not further processed than hot rolled, in thicknesses of between 3.00 and 6.00 mm, inclusive, and widths of between 889 mm and 1245 mm, inclusive; containing, by weight, carbon of 0.12 percent typical value (TV), silicon of 0.40 percent TV, manganese of 2.0 percent TV, phosphorus of 0.025 percent TV, sulphur of 0.010 percent TV, aluminum of 0.015 percent TV, with micro-alloying elements of niobium, vanadium, titanium and molybdenum; exhibiting a hardness rating of 250 Hv (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70);

(B) products known as "Domex Defend 300," not further processed than hot rolled, in thicknesses of between 3.00 and 6.00 mm, inclusive, and widths of between 889 mm and 1245 mm, inclusive; containing, by weight, carbon of 0.17 percent TV, silicon of 0.30 percent TV, manganese of 1.8 percent TV, phosphorus of 0.025 percent TV, sulphur of 0.010 percent TV, aluminum of 0.015 percent TV, with micro-alloying elements of chromium, molybdenum, and titanium; exhibiting a hardness rating of 300 Hv (provided for in subheadings 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70); or

(C) products known as "Domex Defend 500," not further processed than hot-rolled, in thicknesses of between 2.00 and 6.00 mm, inclusive, and widths of between 889 mm and 1245 mm, inclusive; containing, by weight, carbon of 0.29 percent TV, silicon of 0.30 percent TV, manganese of 1.3 percent TV, phosphorus of 0.035 percent TV, sulphur of 0.025 percent TV, with micro-alloying elements of chromium, niobium, molybdenum, and boron; exhibiting a hardness rating of 500 Hv (provided for in subheading 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7225.30.30 or 7225.30.70);

(xx) flat-rolled products of other alloy steel, not further processed than hot rolled, of the grade known as ALFORM" or "ALFORM 890/900," of a thickness of less than 4.75 mm, whether in coils or in cut-to-length form (provided for in subheading 7225.30.70 or 7225.40.70), the foregoing designated as X-116;

(xxi) hot-rolled products designated as X-122, as described below:

(A) hot-rolled complex phase steel with mainly fine grained ferritic-bainitic-martensitic microstructure characterized by either a tensile strength over 800 MPa and elongation percentage over 10% for thicknesses up to 5.0 mm; a tensile strength over 880 MPa and an elongation percentage over 10% for thicknesses up to 4.0 mm; or a tensile strength over 950 MPa and an elongation percentage over 10% for thicknesses up to 4.0 mm;

(B) hot-rolled martensitic phase steel with mainly martensitic microstructure characterized by either (I) a tensile strength over 1000 MPa and elongation percentage over 5 percent for thicknesses up to 3.5 mm, or (II) a tensile strength over 1200 MPa and an elongation percentage over 5 percent for thicknesses up to 4.0 mm; or

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(C) hot-rolled TRIP steel with mainly ferritic-bainitic matrix with dispersed residual austenite islands with the following properties: tensile strength over 700 MPa and an elongation percentage over 25 percent for thickness between 1.6 and 5.0 mm;

(xxii) plastic mold steel products designated as X-134, as described below:

(A) products known as "NAK 80," which is a plastic mold steel used for applications such as clear lens molds and extremely critical diamond finish applications, with the following chemical composition (nominal, by weight): carbon 0.15 percent, manganese 1.50 percent, molybdenum 0.30 percent, copper 1.00 percent, silicon 0.30 percent, nickel 3.00 percent, aluminum 1.00 percent; mechanical properties: HRc 40; tensile strength, 1264 MPa; reduction 41.9 percent; yield strength (0.2 percent offset, 41 HRc) 1018 MPa; elongation in 50 mm (longitudinal) 16.1 percent; modulus of elasticity (room temp.) 200 GPa.; Charpy V-Notch impact strength (toughness): longitudinal 11.0 J.; transverse 11.5 J.; hardness 40 HRc; physical properties: coefficient of thermal expansion (10^{-6} /K), 20°C to 100°C = 11.3, 20°C to 200°C = 12.6, 20°C to 300°C = 13.5; coefficient of thermal conductivity (J/s·m·K) at 93°C = 41.4, at 204 °C = 42.2; magnetic properties: maximum magnetic permeability 380, saturated magnetism (gauss) 16,360, residual magnetism (gauss) 8,500, and coercive force (Oersted) 14.0; double melted, first in an electric furnace then a vacuum arc re-melt furnace, hot-rolled or forged to shape and age hardened to HRc 40; produced through a super clean, vacuum-arc remelt manufacturing process;

(B) products known as "PX5," which is a plastic mold steel used in all types of plastic molding and design, and is superior to AISI grade P20-type steels in terms of machining, stability, and welding; with the following chemical composition (nominal, by weight): carbon 0.20 percent, manganese 1.90 percent, sulfur 0.035 percent, molybdenum 0.45 percent, copper 0.10 percent, silicon 0.10 percent, phosphorus 0.010 percent, nickel 0.20 percent, aluminum 0.030 percent, chromium 2.10 percent; mechanical properties: HRc 30 - 33; tensile strength, 1034 MPa; reduction 48 percent; yield strength 917 MPa; elongation in 50 mm (longitudinal) 20 percent; physical properties: coefficient of thermal expansion (10^{-6}/K), 20°C to 100°C = 11.9, 20°C to 200°C = 12.8, 20°C to 300°C = 13.1, 20°C to 400°C = 13.5, 20°C to 600°C = 14.0; coefficient of thermal conductivity (J/s·mK) at 20°C = 42.5, at100 °C = 42.4, at 200°C = 42.1, at300 °C = 39.2, at 400°C = 38.8. PX5 is produced by electric furnace melting, ladle degassed and refined; proprietary forging, rolling and heat-treating practices are utilized to produce an exceptionally fine-grained, stable, tough and easy to machine and weld mold steel;

(C) products known as "CX1," which is is a proprietary cold work die steel that is supplied heat treated to hardness of HRc 50, and can also be machined at this hardness, with the following chemical composition (nominal, by weight): carbon 0.80 percent, manganese 1.30 percent, chromium 1.00 percent, molybdenum 0.80 percent; mechanical properties (as supplied): HRc 50; tensile strength 1786 MPa; yield strength 1641 MPa; elongation 8 percent; reduction in area 19 percent; physical properties: coefficient of linear thermal expansion (10^{-6}/K): 20°C to 200°C = 12.9; 20°C to 425°C = 13.9; coefficient of thermal conductivity (J/s·m·K) at 20° C = 30.7; density: 7.71 (Mg/m^3); produced by electric furnace melting, ladle degassing and refining; proprietary forging, rolling and heat-treating practices utilized to produce an exceptionally fine-grained, stable, tough and easy to machine and weld die steel; or

(D) products known as "Super NAK" ("NAK HH"), which is a plastic mold steel that provides a unique combination of high hardness and ability to machine-work the steel; with the following chemical composition (nominal, by weight): carbon 0.11 percent, manganese 1.4 percent, copper 1.0 percent, chromium 1.6 percent, aluminum 1.0 percent, silicon 0.30 percent, sulfur - 0.35 percent, nickel 3.0 percent, molybdenum 0.3 percent; physical properties: HRc 45; tensile strength 1385 MPa longitudinal, 1359 MPa transverse; yield strength 1031 MPa longitudinal, 1009 transverse, elongation 11 percent longitudinal, 4

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percent transverse, reduction of area 22 percent longitudinal, 6 percent transverse; density of 7.78 Mg/m^3; produced in an electric furnace then vacuum arc re-melt furnace; hot-rolled or forged to shape; age hardened to HRc 45-48;

(xxiii) hot-rolled products designated as X-142, known as "SCM 415," with the following chemical composition: carbon, 0.13 - 0.18 percent; silicon, 0.15 - 0.35 percent; manganese, 0.60 - 0.85 percent; phosphorus, equal to or less than 0.03 percent; sulfur, equal to or less than 0.03 percent; chromium, 0.90 - 1.20 percent; molybdenum, 0.15 - 0.30 percent; hardness: HRB of 87; tensile strength of 500 N/mm^2; elongation of 30 percent; yield ratio of 80 percent; thickness: 2.6 - 4.0 mm; width: 1066 mm - 1321mm; edge: square cut edge free of burrs, rice marks, protrusions or damage;

(xxiv) flat-rolled products (provided for in subheadings 7208.25.30 through 7208.25.60), designated as X-139 or X-087, weighing more than 17.8 kg per mm of width, having a camber tolerance of not more than 25.4 mm per 914.40 cm, a width tolerance of not more than 12.70 mm, and

(A) in thicknesses ranging from 2.03 to 4.57 mm and having a gauge tolerance of +/- 0.05 mm, in widths from 756 to 1410 mm, or

(B) in thicknesses ranging from 2.31 to 4.57 mm and having a gauge tolerance of +/- 2 percent, in widths from 775 to 1373 mm, and having a carbon content of 0.001-0.004, or

(C) in thickness ranging from 2.03 to 2.92 mm and having a gauge tolerance of +/- 0.05 mm, in widths from 760 to 968 mm,

all the foregoing certified by the importer of record to be used for rerolling, and in an aggregate annual quantity not to exceed 750,000 metric tons;

(xxv) blue finish band saw steel meeting the following characteristics: thickness less than or equal to 1.31 mm; width less than or equal to 80 mm; chemical composition: carbon content of 1.2 to 1.3 percent, by weight; silicon content of 0.15 to 0.35 percent, by weight; manganese content of 0.20 to 0.35 percent, by weight; phosphorus content less than or equal to 0.03 percent, by weight; sulphur content less than or equal to 0.007 percent, by weight; chromium content of 0.30 to 0.5 percent, by weight; and nickel content less than or equal to 0.25 percent, by weight; with the following other properties: carbides fully spheroidized, having greater than 80 percent of carbides, which are less than or equal to 0.003 mm and uniformly dispersed; surface finish is blue finish free from pits, scratches, rust, cracks, or seams; smooth edges; edge camber (in each 300 mm of length) of less than or equal to 7 mm arc height; and cross bow (per mm of width) of 0.015 mm maximum, the foregoing designated as X-010;

(xxvi) cold-rolled products designated as X-015, as described below:

(A) uncoated flat products, less than 4.75 mm in thickness, not further worked than cold-rolled, comprising either–

(I) products known as "Grade C80M" in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.70 percent carbon, 0.30 percent silicon, and 0.30 percent manganese and also containing, by weight, 0.03 percent phosphorus, 0.02 percent sulfur, 0.35 percent chromium, 0.10 percent copper, 0.20 percent nickel, 0.02 percent aluminum, 0.001 percent oxide, 0.003 percent titanium and 0.01 percent tin;

(II) products known as "Grade16MnCr5M2" described in industry usage as of carbon steel, produced in widths less than 300mm and thickness greater than 0.25 mm containing, by weight, 0.11 percent carbon, 0.20 percent silicon, and 0.85 percent manganese and also containing, by weight, 0.025 percent phosphorus and 0.01 percent sulfur with the combination of phosphorous and sulphur not to exceed 0.03 percent, 0.95 percent chromium, 0.15 percent copper, 0.15 percent nickel and 0.08 percent aluminum; or

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(B) bonderized (phosphate coated) cold-rolled, flat-rolled products, less than 4.75 mm in thickness, comprising--

(I) products known as "Grade C15M," which are bonderized flat-rolled products described in industry usage as of carbon steel, produced in widths of less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.16 percent carbon, 0.20 percent silicon, 0.40 percent manganese, 0.25 percent phosphorus, 0.20 percent sulfur, 0.30 percent chromium, 0.30 percent copper, 0.45 percent nickel and 0.15 percent aluminum;

(II) products known as "Grade MRST443," which are bonderized flat-rolled products described in industry usage as of carbon steel, produced in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.10 percent carbon, 0.10 percent silicon, 0.80 percent manganese, 0.04 percent phosphorus, 0.03 percent sulfur, 0.007 percent nitrogen and 0.18 percent aluminum;

(III) products known as "Grade 16MnCr5M," which are bonderized flat-rolled products described in industry usage as of carbon steel, produced in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.13 percent carbon, 0.20 percent silicon, 1.25 percent manganese, 0.02 percent phosphorus, 0.01 percent sulfur, with the combination of phosphorus and sulphur not to exceed 0.03 percent and also containing, by weight, 1.2 percent chromium, 0.12 percent copper, 0.15 percent nickel, 0.008 percent nitrogen, and 0.15 percent aluminum; or

(IV) products known as "Grade C16M," which are bonderized flat-rolled product described in industry usage as of carbon steel, produced in widths less than 300 mm and thickness greater than 0.25 mm; containing, by weight, 0.20 percent carbon, 0.15 percent silicon, 1.25 percent manganese, 0.025 percent phosphorus, 0.015 percent sulfur, with the combination of phosphorus and sulphur not to exceed 0.03 percent and also containing, by weight, 0.90 percent chromium, 0.15 percent copper, 0.15 percent nickel, 0.009 percent nitrogen and 0.08 percent aluminum;

(xxvii) products designated as X-036, as described below:

(A) certain full-hard cold-rolled continuously cast steel (including tin mill black plate), which meets the following characteristics (ASTM 625-76 D <Modified>); chemical composition (in percent by weight): carbon 0.02 - 0.06, silicon 0.03; manganese 0.20 - 0.40; phosphorus 0.02; sulfur 0.023 (aim 0.018); aluminum 0.03 - 0.08 (aim 0.050); nitrogen 0.003 - 0.008 (aim 0.005); thickness tolerance +/- 5 percent guaranteed from 31.7 mm from width edge, width tolerance -0/+6.98 mm; flatness deviation: 20 'I' units; transverse curvature: 3.17 mm; hardness (HR30T): 53 +/-5; inclusion level: SEM shall not reveal oxides greater than 1 micron and inclusion groups or clusters shall not exceed 5 micron in length; applicable gauge and widths: 0.2081 mm nominal x 862.94 mm, 0.2284 mm nominal x 829.95 mm, 0.2589 mm nominal x 824.87 mm, 0.3096mm nominal x 872.46 mm or 0.3096 mm nominal x 913.71 mm;

(B) certain flat products for battery cell flat products (JIS 3141 - modified), which are continuous annealed cold-rolled continuously cast steel (including tin mill black plate), which meets the following characteristics: chemical composition (in percent by weight): carbon 0.08, silicon 0.03, manganese 0.45, phosphorus 0.02, sulfur 0.02, aluminum 0.08, arsenic 0.02, copper 0.05, nitrogen 0.004, chromium 0.05, nickel 0.05 and molybdenum 0.01; thickness tolerance: +/- 5 percent, guaranteed from 31.7 mm from width edge; width tolerance: -0/+ 6.9 mm; flatness deviation: 10 'I' units; transverse curvature: 2.99 mm; hardness (HR15T): 76-82; tensile strength: 345-414 N/mm^2; yield strength 241-310 N/mm^2; elongation: 25%; grain size (ASTM) 9-11, Delta r value less than +/- 0.2; surface roughness (RA- microns): 0.25- 0.51; nonmetallic inclusions: 0.20 pcs./ m^2 as measured by IDD (Internal Defect Detector) instrument designed by Toyo Kohan;

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(xxviii) flat-rolled products designated as X-054, as described below:

(A) products known as "G-type material," which are aluminum killed cold-rolled steel in coils that have increased tensile strength of 800 to 1200 N/mm^2, ultra-flat, and which meet the following characteristics: thickness 0.025 mm to 0.254 mm, width 380 mm to 888 mm; chemical composition : carbon content less than 0.01 percent by weight, nitrogen content in the range 0.01 - 0.017 percent by weight, and manganese content in the range 0.6 - 0.85 percent by weight; or

(B) products known as "Invar," which are certain aperture mask iron-nickel low thermal expansion Invar-type alloy products used exclusively for manufacturing shadow/aperture masks, which has an ultra-flat surface and which meets the following characteristics: thickness: 0.025 mm to 0.254 mm, width: 380 mm to 888 mm, chemical composition nickel content in the range 30.0 - 37.0 percent, by weight, cobalt content up to 5.0 percent, by weight, and sulfur content not more than 0.0030 percent, by weight; having thermal expansion coefficient not more than 1.5 x 10^{-6} °C;

(xxix) cold-rolled products known as "SPC 120," in coils, having a thickness of 1.6 mm and a width of 1040 mm, having a tensile strength of 827 MPa or more (provided for in subheading 7209.16.00), the foregoing designated as X-065;

(xxx) texture rolled carbon steel flat-rolled product (TRC), not further worked than cold rolled, designated as X-205, the foregoing with a carbon content of 0.70 percent to 0.95 percent, roll-hardened to a minimum tensile strength of 1700 N/mm^2, with a thickness of 0.10 mm to 1.80 mm and a width of 200 mm or less; tensile strength varies depending on the thickness of the product: 2300 - 2500 N/mm^2 for thickness ranging from 0.10 mm to 0.18 mm; 2250-2470 N/mm^2 for thickness ranging from 0.19 mm to 0.25 mm; 1900 - 2400 N/mm^2 for thickness ranging from 0.26 mm to 0.79 mm; and 1750 - 2250 N/mm^2 for thickness ranging from 0.80 mm to 2.00 mm; meeting the specific tensile/pressure requirements or Federal Motor Vehicle Safety Standard 209; having microscopic inclusion level to DIN 50602 Rev. 9/85, section 1: SS max 3, OA, OS max 1, OG max 2; produced with OG being less than 27 microns; with chemical analysis: carbon 0.65 - 0.95 percent, silicon 0.30 percent maximum, manganese 0.55 percent maximum, phosphorus 0.02 percent maximum, sulfur 0.008 percent maximum, chromium 0.15 percent maximum and copper 0.12 percent; with a surface finish that is bright, free of roll marks, scratches, notches and cracks; longitude surface lines maximum 0.003 mm (RT - measurement method) for thickness of less than 0.66 mm and 0.005 mm for thickness over 0.60 mm.; free of complete decarburization;

(xxxi) high-nickel alloy, flat-rolled product, not further worked than cold-rolled, 4.75 mm or greater in thickness, designated as X-083, containing, by weight, at least 14 percent nickel or 25 percent cobalt with or without other elements; controlled expansion alloys are composed according to specifications ASTM F15, ASTM F30, ASTM B753, and ASTM F1684; magnetic alloys composed according to specifications ASTM B753 or ASTM A801;

(xxxii) products designated as X-142, as described below:

(A) non-oriented, high silicon, magnetic steel flat-rolled product, with the following characteristics: thickness 0.05-0.20 mm; width 20-600 mm; chemical composition (by weight in percent): carbon (maximum 0.010), manganese (maximum 0.15), phosphorus (maximum 0.015), sulfur (maximum 0.005), silicon (minimum 5.0, max 7.0), aluminum (maximum 0.004); mechanical properties: hardness of 380-420 μ HV (micro vickers); magnetic properties: magnetostriction (< 1.0 x 10^{-6} (λ 10/400 magnetostriction at 400 Hz, 1T(=10 kG));

(B) cold-rolled carbon steel coils meeting the requirements of one or more of the products listed below (imported under subheading 7209.16.00, 7209.18.15 or 7209.18.25):

(I) product 1: thickness 0.6 mm - less than 0.8 mm; minimum tensile strength 780 N/mm^2; yield strength 420 - 645 N/mm^2; elongation 14 percent - 25 percent; chemical composition: carbon maximum 0.10 percent by weight; silicon maximum

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0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(II) product 2: thickness 0.8 mm - less than 1.0 mm; minimum tensile strength 780 N/mm^2; yield strength 410 N/mm^2 - 635 N/mm^2; elongation 15 - 26 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(III) product 3: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 780 N/mm^2; yield strength 400 - 625 N/mm^2; elongation 16- 27 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(IV) product 4: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 780 N/mm^2; yield strength 400 - 625 N/mm^2; elongation 15 - 28 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight;

(V) product 5: thickness 1.6 mm - 2.3 mm; minimum tensile strength 780 N/mm^2; yield strength 400 - 625 N/mm^2; elongation minimum 18 percent; chemical composition: carbon maximum 0.10 percent by weight, silicon maximum 0.80 percent by weight, manganese maximum 1.80 percent by weight, phosphorus maximum 0.015 percent by weight, silicon maximum 0.010 percent by weight.

(VI) product 6: thickness 0.8 mm - less than 1.0 mm; minimum tensile strength 1180 N/mm^2; yield strength 835 - 1225 N/mm^2; elongation 5 - 10 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(VII) product 7: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 1180 N/mm^2; yield strength 825 - 1215 N/mm^2; elongation 6 - 17 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(VIII) product 8: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 1180 N/mm^2; yield strength 825 - 1215 N/mm^2; elongation 7 - 18 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(IX) product 9: thickness 1.6 mm - 2.3 mm; minimum tensile strength 1180 N/mm^2; yield strength 825 - 1215 N/mm^2; elongation minimum 8 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(X) product 10: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 1270 N/mm^2; yield strength 980 - 1270 N/mm^2; elongation 6- 17 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XI) product 11: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 1270

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N/mm^2; yield strength 980 - 1270 N/mm^2; elongation 6 - 17 percent; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XII) product 12: thickness 1.6 mm - 2.3 mm; minimum tensile strength 1270 N/mm^2; yield strength 980 - 1270 N/mm^2; elongation minimum 6%; chemical composition: carbon maximum 0.15 percent by weight; silicon maximum 0.80 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XIII) product 13: thickness 1.0 mm - less than 1.2 mm; minimum tensile strength 1470 N/mm^2; yield strength 1040 - 1500 N/mm^2; elongation 3 - 15 percent; chemical composition: carbon maximum 0.21 percent by weight; silicon maximum 0.60 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight;

(XIV) product 14: thickness 1.2 mm - less than 1.6 mm; minimum tensile strength 1470 N/mm^2; yield strength 1040 - 1500 N/mm^2; elongation 3 - 15 percent; chemical composition: carbon maximum 0.21 percent by weight; silicon maximum 0.60 percent by weight; manganese maximum 2.00 percent by weight; phosphorus: maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight; or

(XV) product 15: thickness 1.6 mm - 2.3 mm; minimum tensile strength 1470 N/mm^2; yield strength 1040 - 1500 N/mm^2; elongation minimum 3 percent; chemical composition: carbon maximum 0.21 percent by weight; silicon maximum 0.60 percent by weight; manganese maximum 2.00 percent by weight; phosphorus maximum 0.010 percent by weight; silicon maximum 0.010 percent by weight; or

(C) cold-rolled steel for porcelain enameling, the foregoing being continuous annealed cold-reduced steel with a nominal thickness of not more than 0.048 mm and widths from 76.2 mm to 152.4 mm, having a chemical composition, by weight, of not more than 0.004 percent carbon, nor more than 0.010 percent aluminum, 0.006 percent or more of nitrogen, 0.012 percent or more of boron, not more than 0.005 percent silicon, and 0.010 percent or more of oxygen; having no intentional addition of and less than 0.002 percent by weight of titanium, no intentional addition of and less than 0.002 percent by weight of vanadium, no intentional addition of and less than 0.002 percent by weight of niobium, and no intentional addition of and less than 0.002 percent by weight of antimony; having a yield strength of from 179.3 MPa to 344.7 MPa, a tensile strength of from 303.7 MPa to 413.7 MPa, a percent of elongation of from 28 percent to 46 percent on a standard ASTM sample with a 5.08 mm gauge length; for Fishscale resistance: hydrogen traps provided; with a product shape of flat after enameling, with flat defined as less than or equal to 1 I unit with no coil set;

(xxxiii) cold-rolled flat rolled products designated as X-155 and X-057, with specification SAE 1095; surface finish: Brite No. 2; Rockwell hardness: RC 21 - RC 30; decarburization: .0127 mm maximum; thickness tolerance of 5.964 mm and gauge tolerance of +/- 0.0127 mm, thickness tolerance of 0.431 mm and gauge tolerance of +/- 0.0127 mm or thickness tolerance of 0.888 mm and gauge tolerance of +/- 0.025 mm;

(xxxiv) cold-rolled products designated as X-187, as described below:

(A) flat-rolled product, not further worked than cold rolled, known as "C 125 pin point," with carbon content, by weight, of approximately 1.25 percent with a pin point carbide structure that means a very high number of carbide in the material structure; thickness between 0.6mm to 0.9mm and a width between 200mm and 400mm; not hardened and tempered, but only cold-rolled;

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(B) cold-rolled product known as "SORBITEX," flat-rolled, which is a special texture rolled, high carbon spring steel product with a special aligned grain structure, provided for in subheading 7226.92.80; thickness: 0.0990mm - 1.5228mm; width: 2.9959mm - 199.75mm; chemical composition: carbon 0.76 - 0.96 percent by weight, silicon 0.10 - 0.35 percent by weight, manganese 0.30 - 0.60 percent by weight, phosphorus less than 0.025 percent by weight, sulfur less than 0.020 percent by weight, aluminum less than 0.060 percent by weight, chromium less than 0.30 percent by weight, nickel less than 0.20 percent by weight, copper 0.20 percent by weight; tensile strength 1,689 MPa to 2,516 MPa;

(C) cold-rolled product known as feeler gauge carbon strip (H & T), hardened and tempered, provided for in subheading 7211.90.00, grades Eberle 18, 18C (SAE 1095 modified alloyed steel), thickness range 0.025 mm - 1.142 mm, thickness tolerances T2 - T4 international standard, maximum width 12.63 mm, polished surface, tensile strength 1,696 MPa - 2,096 MPa, edges deburred or rounded;

(D) cold-rolled product known as carbon reed steel, hardened and tempered, Eberle 18, 18C (SAE 1095 modified alloyed steel), thickness range 0.0203 mm - 1.015 mm, width range 93.36mm - 11.98 mm, with narrow tolerances +/- 0.03985 mm - 0.05990 mm, tensile strength 1599 MPa - 2199 MPa, bright polished surface Rmax 1.5 - 3.0 micrometers, high precision straightness maximum deviation 0.56mm/m, flatness deviation 0.1 - 0.3 percent of the width, deburred or extra smooth rounded edges;

(E) blank band steel for motor controls, with a thickness exceeding 0.25mm, in the dimension 39.8mm by 3.05mm (121.3 mm^2) and 44.9 by 2.53 (114 mm^2); several individual rings are welded together and are delivered as a continuous, oscillating band on a spool; or

(F) trimetallic product composed of stainless steel flat-rolled product beam welded to two other non-iron based flat-rolled products; width maximum 51 mm, thickness 0.203 mm - 0.51 mm, high precision straightness and flatness, edges machined;

(xxxv) corrosion resistant nickel plated battery cell flat-rolled products, designated X-109, as described below:

(A) nickel-graphite plated, diffusion annealed, tin-nickel plated carbon products, with a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed tin-nickel plated carbon steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of mixture of natural nickel and graphite then electrolytically plated on the top side of the strip of the nickel-tin alloy; having a coating thickness: top side: nickel-graphite, tin-nickel layer = 1.0 micrometers; tin layer only = 0.05 micrometers, nickel-graphite layer only > 0.2 micrometers, and bottom side: nickel layer = 1.0 micrometers;

(B) nickel-graphite, diffusion annealed, nickel plated carbon products, having a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; with both sides of the cold rolled base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion between the nickel and the iron substrate; with an additional layer of natural nickel-graphite then electrolytically plated on the top side of the strip of the nickel plated steel strip; with the nickel-graphite, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-graphite, tin-nickel layer = 1.0 micrometers; nickel-graphite layer = 0.5 micrometers; bottom side: nickel layer = 1.0 micrometers;

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(C) diffusion annealed nickel-graphite plated products, which are cold-rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; having the bottom side of the base metal first electrolytically plated with natural nickel, and the top side of the strip then plated with a nickel-graphite composition; with the strip then annealed to create a diffusion of the nickel-graphite and the iron substrate on the bottom side; with the nickel-graphite and nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having coating thickness: top side: nickel-graphite layer = 1.0 micrometers; bottom side: nickel layer = 1.0 micrometers;

(D) nickel-phosphorous plated diffusion annealed nickel plated carbon product, having a natural composition mixture of nickel and phosphorus electrolytically plated to the top side of a diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion of the nickel and iron substrate; another layer of the natural nickel-phosphorous then electrolytically plated on the top side of the nickel plated steel strip; with the nickel-phosphorous, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-phosphorous, nickel layer = 1.0 micrometers; nickel-phosphorous layer = 0.1 micrometers; bottom side: nickel layer = 1.0 micrometers; or

(E) diffusion annealed, tin-nickel plated products, electrolytically plated with natural nickle to the top side of a diffusion annealed tin-nickel plated cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the cold rolled strip initially electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of natural nickel then electrolytically plated on the top side of the strip of the nickel-tin alloy; sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having coating thickness: top side: nickel-tin-nickel combination layer = 1.0 micron meters; tin layer only = 0.05 micrometers; bottom side: nickel layer = 1.0 micrometers; the foregoing designated as X-109;

(xxxvi) flat-rolled products (provided for in subheading 7210.49.00), designated as X-061 or X-065, other than of high-strength steel, known as "ASE Iron Flash" and either–

(A) having a base layer of zinc-based zinc-iron alloy applied by hot-dipping and a surface layer of iron-zinc alloy applied by electrolytic process, the weight of the coating and plating not over 40 percent by weight of zinc; or

(B) two- layer-coated corrosion-resistant steel with coating composed of (1) a base coating layer of zinc-based zinc-iron alloy by hot-dip galvanizing process, and (2) a surface coating layer of iron-zinc alloy by electro-galvanizing process, having an effective amount of zinc up to 40 percent by weight, the foregoing designated as X-065;

(xxxvii) products designated as X-075, known as alloy aluminized steel sheet, in coils, 0.58 mm minimum by 1214.44 mm by coil, ASTM A463, type 1, DZ, T1-25 coating, latest addition extra smooth, non-chromated, tension leveled, temper rolled, reduction to be 1.25 percent or more tension leveled; flatness to be 3.18 mm maximum deviation in 0.76 m electrostatic oiling; 75 MG each side maximum, no "sag" or "header" lines, no surface defects, 508 - 609.6 mm coil ID; 9071.85 kg maximum coil weights, must enamel without " blisters" or visible surface defects (provided for in subheading 7225.99.00);

(xxxviii) corrosion resistant products designated as X-104, as described below:

(A) flat-rolled products (provided for in subheading 7212.60.00), clad on each surface with aluminum which measures less than 10 percent of the total thickness of the material;

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(B) flat-rolled products (provided for in subheading 7225.99.00), containing less than 24 percent by weight of nickel, having a thickness over 0.27 mm but not over 0.33 mm, coated with aluminum, also designated as X-067; and

(C) flat-rolled products (provided for in subheading 7212.60.00), in coils, of a thickness from 1.10 mm to 4.90 mm, inclusive; of a width from 76 mm to 250 mm, inclusive; and of the following specified content by weight: carbon under 0.10 percent, manganese under 0.40 percent, phosphorus under 0.04 percent, sulfur under 0.05 percent and silicon under 0.05 percent; the forgoing clad with aluminum having the following specified content by weight: copper under 2.51 percent, tin under 15.10 percent, lead under 2.0 percent, antimony under 0.50 percent, silicon under 3.0 percent and other materials less than 1.25 percent; and also designated as X-107;

(xxxix) heat shrinkable (HS) band products designated as X-142, as described below:

(A) products known as "21 RS" (suitable for use in 20" CRTs) or "38 RS" (suitable for use in 36" CRTs), the foregoing which are electrogalvanized steel sheet and coil with the following specifications: tensile strength 45-49 kg/mm^2; yield point 33-37 kg/mm^2, magnetic properties 450μ or more, coating weights of zinc 7 g/m^2 minimum and chromium 20-60 mg/m^2, thickness tolerance ± 5% and chemical composition (in percentage by weight) carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum;

(B) product known as "42 RS" (suitable for use in 40" CRTs), the foregoing which is electrogalvanized steel sheet and coil with the following specifications: tensile strength 45-49 kg/mm^2, yield point 33-37 kg/mm^2, magnetic properties 450μ or more, coating weights of zinc 17 g/m^2 minimum, special chromate treatment with a thickness of film 0.2-0.8μm, thickness tolerance ± 5 percent, with chemical composition (in percentage by weight) carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum and with zinc-nickel alloy electroplating;

(C) products known as "34 RS" (suitable for use in 32" CRTs), the foregoing which are high strength electrolytic zinc coated silicon steel sheets and strips with the following specifications: thickness 1.20 mm, thickness tolerance ± 60 μm, width tolerance -0/+7 mm, tensile strength 41-45 kg/mm^2, yield point 26-30 kg/mm^2, magnetic properties of permeability, thickness of 1.20 mm with specifications of μ=800, with zinc-nickel alloy electroplating, coating weights of zinc 17-24 g/m^2 and chromium 40-70 mg/m^2, chemical treatment 0.5-1.1 g/m^2, maximum deviation from horizontal flat surface of 5 mm maximum; with the camber of mother coils not larger than 2 mm per 2000'mm in length; with chemical composition (in percentage by weight) of carbon 0.005 maximum, silicon 1.0-1.6, manganese 0.6 maximum, phosphorus 0.13 maximum and sulfur 0.03 maximum;

(D) products known as "29 RS" (suitable for use in 27" CRTs), the foregoing which are high strength electrolytic zinc coated silicon steel sheets and strips with the following specifications: thickness 1.0 mm, thickness tolerance ± 50 μ, width tolerance -0/+7 mm, tensile strength 45-49 kg/mm^2, yield point 32-36 kg/mm^2, magnetic properties of permeability thickness of 1.0 mm, with specification of μ=500, zinc-nickel alloy electroplating, coating weights of zinc 17-24 g/m^2 and chromium 45-75 mg/m^2, maximum deviation from horizon flat surface of 5 mm maximum, with the camber of mother coils not larger than 2 mm per 2000 mm in length, with chemical composition (in percent by weight) carbon 0.005 maximum, silicon 1.0-1.6, manganese 0.6 maximum, phosphorus 0.15 maximum and sulfur 0.03 maximum;

(E) products suitable for use in 32V PF and 36V PF picture tubes, the foregoing which are electrolytic zinc-nickel coated steel known as "NKCA440E" with a chemical composition (in percent by weight) of carbon less than 0.010%, manganese less than 0.6%, phosphorus less than 0.15%, sulfur less than 0.03%, silicon 1.0-1.6% and iron the remainder, with a

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thickness of 1.20 mm, thickness tolerance ± 0.09 mm, width tolerance ± 0.2mm, tensile strength 45.9 - 64.2 kg/mm^2, yield point 31.6-36.7 kg/mm^2, permeability 450 - 630 (at the magnetic force of 0.35 Oe, according to JIS C 2550), with coating weight of 20 g/mm^2 (minimum 17 g/mm^2, maximum 26 g/mm^2; approx. thickness 3 μm); or

(F) electrogalvanized flat-rolled products (provided for in subheadings 7225.91.00 or 7226.93.00), annealed, containing from 0.0020 percent to 0.0035 percent by weight of boron, from 0.03 percent to 0.6 percent carbon, having a Rockwell hardness from 45 to 60 and a thickness over 0.312 mm but not over 0.38 mm;

(xl) corrosion-resistant products designated as X-176, as described below:

(A) electrogalvanized flat-rolled products, whether or not including chromate or a chromate-free coating, with the following specifications: tensile strength 45 - 49 kg/mm^2, yield point 33 - 37 kg/mm^2, magnetic properties 450μ or more, zinc-nickel alloy electroplating, coating weights of zinc 17 g/m^2 minimum and if applicable chromium 20 - 60 mg/m^2 and thickness tolerance +/- 5 percent; having the following chemical composition (in percent by weight): carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum;

(B) electrogalvanized flat-rolled products, whether or not including chromate or a chromate-free coating, with the following specifications: tensile strength 45 - 49 kg/mm^2, yield point 33 - 37 kg/mm^2, magnetic properties 450μ or more, zinc-nickel alloy electroplating, coating weights of zinc 17 g/m^2 minimum and if applicable special chromate treatment with a thickness of film of 0.2 - 0.8 μm and thickness tolerance +/- 5 percent; having the following chemical composition (in percent by weight): carbon 0.07 maximum, silicon 2.0 maximum, manganese 2.0 maximum, phosphorus 0.15 maximum and sulfur 0.02 maximum;

(C) high strength electrolytic zinc-coated silicon steel flat-rolled products, whether or not including a chromate or chromate-free coating, with the following specifications: thickness 1.20 mm, thickness tolerance +/-60 μm, width tolerance -0/+7 mm, tensile strength 41 - 45 kg/mm^2, yield point 26 - 30 kg/mm^2; magnetic properties of permeability: thickness of 1.20 mm with specification of μ = 800; zinc-nickel alloy electroplating, coating weights of zinc 17 - 24 g/m^2 minimum and if applicable chromium 40 - 70 mg/m^2; chemical treatment of 0.5 - 1.1 g/m^2, maximum deviation from horizontal flat surface of 5 mm or more; with the camber of mother coils not larger than 2 mm per 2000 mm in length; having the following chemical composition (in percent by weight): carbon 0.005 maximum, silicon 1.0 - 1.6, manganese 0.6 maximum, phosphorus 0.13 maximum and sulfur 0.03 maximum; or

(D) high strength electrolytic zinc-coated silicon steel flat-rolled products, whether or not including a chromate or chromate-free coating, with the following specifications: thickness 1.0 mm, thickness tolerance +/-50 μ, width tolerance -0/+7 mm, tensile strength 45 - 49 kg/mm^2, yield point 32 - 36 kg/mm^2; magnetic properties of permeability: thickness of 1.00 mm with specification of μ = 500; zinc-nickel alloy electroplating, coating weights of zinc 17 - 24 g/m^2 minimum and if applicable chromium 45 - 75 mg/m^2;, maximum deviation from horizontal flat surface of 5 mm maximum; with the camber of mother coils not larger than 2 mm per 2000 mm in length; having the following chemical composition (in percent by weight): carbon 0.005 maximum, silicon 1.0 - 1.6, manganese 0.6 maximum, phosphorus 0.15 maximum and sulfur 0.03 maximum;

(xli) electrolytically tin-coated steel products, having differential coating with 22.4 g/m^2 box equivalent on the heavy side, with varied coating equivalents on the lighter side (as described below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 5.38 mg/m^2 of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT 5 temper with 22.4/2.24 g/m^2 coating, with a lithograph logo printed in a uniform pattern on the 2.24 g/m^2 coating side with a clear protective coat, with both sides waxed to a level of 108-144 mg/m^2 , with ordered dimension combinations of (1) 0.208 mm thickness and 887.4 mm by 806.4 mm scroll cut dimensions; or (2) 0.208 mm thickness and 868.4

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mm by 738.5 mm scroll cut dimensions; or (3) 0.300 mm thickness and 776.3 mm by 866.8 mm scroll cut dimension, all the foregoing designated as X-039, X-061 or X-075;

(xlii) tin mill products for battery containers, tin and nickel plated on a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel; then annealed to create a diffusion of the nickel and iron substrate; then an additional layer of natural tin electrolytically plated on the top side; and again annealed to create a diffusion of the tin and nickel alloys; with the tin-nickel, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-tin layer together measuring 1 micrometer; tin layer alone measuring 0.05 micrometer; bottom side: nickel layer measuring 1.0 micrometer; the foregoing designated as X-109;

(xliii) steel products coated with a metallic chromium layer between 100 - 200 mg/m^2 and a chromium oxide layer between 5 - 30 mg/m^2, with a chemical composition, by weight, of 0.05 percent maximum carbon, 0.03 percent maximum silicon, 0.60 percent maximum manganese, 0.02 percent maximum phosphorus, and 0.02 percent maximum sulfur; if a product known as "42RSN" having a magnetic flux density ("Br") of 10 KG minimum and a coercive force ("Hc") of 3.8 Oe maximum, the foregoing designated X-142;

(xliv) tin mill products designated as X-160 or X-128, as described below:

(A) products provided for in subheading 7326.90.85, with the following characteristics: ASTM A 657/623, T3 (temper), Base Weight 80, tin free steel, PC023 DRCAN Protact External Coat: Pet 20G, St/Internal Coat; Pet 20C, ST, RP, MR (Steel type), CA (continuous anneal), Light Stone Finish; or

(B) products provided for in subheading 7326.90.85, with the following specifications: laminated -15 microns PET colorless I/S & O/S, or laminated - 15 microns PET colorless I/S and 25 microns PET white O/S: ECCS (tin coating), CA (temper), 5C (surface finish), T5 (temper), MR, ordered width of 855.7 mm; or, ECCS, CA, 5C, T5, MR (ordered width of 846.1 mm; or, ECCS, CA, 5C, T5, MR (ordered widths of 896.9 mm and 900.1 mm);

(xlv) hot-rolled bar (provided for in subheading 7228.30.80), containing by weight 0.80 percent or more but not more than 0.90 percent of carbon, 0.10 percent or more but not more than 0.45 percent of silicon, 12 percent or more but not more than 14 percent of manganese, not more than 0.035 percent of phosphorus, not more than 0.040 percent sulfur, not more than 0.5 percent of chromium, not more than 0.15 percent of molybdenum, and not more than 0.40 percent of nickel and designated as X-032;

(xlvi) products designated as X-045, as described below:

(A) hot rolled profiles known as "T-bulb flanges," of trapezoidal cross-section; with rounded edges of 5 mm radius, with dimensions of the parallel sides of 90 mm to 250 mm, inclusive, and of 20 mm to 30 mm, inclusive; with a thickness of 25 mm or more but not more than 45 mm; certified and die stamped with the mark of a national shipbuilding classification society;

(B) specialized welded steel products known as "shipbuilding T-bulb profiles," engineered with life-cycle attributes to impede corrosion and yield superior strength to weight with reduced surface area while extending the lowest K-factor (fatigue) rating of any current symmetrical shipbuilding profile; with standard web heights of 350 to 1,000 mm and in web thicknesses of 11 to 16 mm; or

(C) specialized steel products known as "shipbuilding L-profiles," engineered with life-cycle attributes to impede corrosion while yielding superior strength to weight with reduced surface area; in sizes of 200 x 90 x 9 x 12 mm to 400 x 120 x 11.5 x 23 mm;

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(xlvii) wire rod products known as "DSUS 70DH wire rod" and designated as X-177, the foregoing of stainless steel, having the following chemical composition (in percent by weight) carbon 0.60 - 0.70; silicon maximum 0.35; manganese 0.60 - 0.80; phosphorus maximum 0.30; sulfur maximum 0.010; chromium 12.50 - 13.50; with a delivered hardness of HRB 99 maximum and hardness after heat treatment of HRC minimum 58 (quenching 1050 °C for 20 - 30 minutes AC, sub-zero -73 °C for 1 HR, tempering 180 °C for 1 Hr AC);

(xlviii) welded pipes and tubes designated as X-066, X-069, X-079, X-071, X-102, X-139 or X-182, as described below:

(A) products having an outside diameter measuring 457.2 mm or more but not more than 558.8 mm, with a wall thickness measuring 19.05 mm or more, regardless of grade;

(B) products having an outside diameter measuring 609.6 mm or more but less than 914.4 mm, the foregoing with a wall thickness measuring over 22.3 mm in grades A, B and X42; a wall thickness measuring over 19.05 mm in grades X52 through X5; or a wall thickness measuring over 17.48 mm in grade X60 or higher;

(C) products having an outside diameter measuring 762 mm or more but less than 914.4 mm, the foregoing with a wall thickness measuring over 31.75 mm in grades A, B and X42; a wall thickness measuring over 25.4 mm in grades X52 through X56; or a wall thickness measuring over 22.3 mm in grades X60 or higher;

(D) products having an outside diameter measuring 914.4 mm or more but less than 1066.8 mm, the foregoing with a wall thickness measuring over 34.93 mm in grades A, B and X42; a wall thickness measuring over 31.75 mm in grades X52 through X56; or a wall thickness measuring over 28.58 mm in grades X60 or greater;

(E) products having an outside diameter measuring1066.8 mm or more but less than 1625.6 mm, the foregoing with a wall thickness measuring over 38.1 mm in grades A, B and X42; a wall thickness measuring over 34.93 mm in grades X52 through X56; or a wall thickness measuring over 31.75 mm in grades X60 or higher;

(F) products having an outside diameter measuring 1219.2 to 1320.8 mm, inclusive, with a wall thickness measuring 20.57 mm or more in grades X-80 or higher; or

(G) products having an outside diameter measuring 1219.2 to 1320.8 mm, inclusive, with a wall thickness of 13.72 mm or more in grades X-100 or higher; or

(xlix) welded pipe and tube products designated as X-132, which are DOM tubing for electric submersible oil pump motors; with outside diameters of 95.25 mm to 171.83 mm, inclusive; having the following chemical composition (in percent by weight): carbon maximum 0.15; silicon 0.25 - 1.00, inclusive; manganese 0.30 - 0.60, inclusive; phosphorus maximum 0.030; sulfur maximum 0.030; chromium 8.00 - 10.00, inclusive; molybdenum 0.90 - 1.10, inclusive.

(c) Goods may also be excluded from the application of relief if they are covered by a determination by the United States Trade Representative (USTR) published in the Federal Register by not later than July 3, 2002, or in March of any subsequent year in which this note remains in effect, that such goods should be exempt from the application of any rate of duty or tariff-rate quota otherwise imposed on goods described in the applicable superior text. Such a determination by the USTR under this subdivision may exempt specific additional steel products when entered from all countries or when entered from enumerated countries only, or may modify the product descriptions in subdivision (b) of this note. The USTR is authorized to modify or terminate any such determination during the effective period of the subheadings specified in the first sentence of subdivision (a) of this note and to specify, subsequent to the effective date specified in this note, that such steel products will be considered "goods excluded from the application of relief" upon publication by the USTR of a notice in the Federal Register. Such "goods excluded from the application of relief" shall not be counted toward any tariff-rate quota quantities specified for any quota period.

(d) (i) For the purposes of this note and the application of subheadings 9903.72.30 through 9903.74.24,

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inclusive, except as otherwise provided in subdivision (d)(ii), the following developing countries that are members of the World Trade Organization shall not be subject to the rates of duty and tariff-rate quotas provided for therein:

Albania, Angola, Antigua and Barbuda, Argentina, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Chile, Colombia, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, Cote d'Ivoire, Croatia, Czech Republic, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Fiji, Gabon, the Gambia, Georgia, Ghana, Grenada, Guatemala, Guinea, Guinea Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Jamaica, Jordan, Kenya, Kyrgyzstan, Latvia, Lesotho, Lithuania, Madagascar, Malawi, Mali, Mauritania, Mauritius, Moldova, Mongolia, Morocco, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Slovakia, Solomon Islands, South Africa, Sri Lanka, Suriname, Swaziland, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Uruguay, Venezuela, Zambia and Zimbabwe.

(ii) The following limitations shall apply to the enumeration in subdivision (d)(i):

(A) The exclusion provided for in subdivision (d)(i) of this note for Brazil shall not apply with respect to the application of subheadings 9903.72.30 through 9903.73.39, inclusive.

(B) The exclusion provided for in subdivision (d)(i) of this note for Moldova, Turkey and Venezuela shall not apply with respect to the application of subheadings 9903.73.65 through 9903.73.71, inclusive.

(C) The exclusion provided for in subdivision (d)(i) of this note for Thailand shall not apply with respect to the application of subheadings 9903.73.74 through 9903.73.86, inclusive.

(D) The exclusion provided for in subdivision (d)(i) of this note for India and Romania shall not apply with respect to the application of subheadings 9903.73.88 through 9903.73.95, inclusive.

(iii) The United States Trade Representative is authorized to modify the provisions of subdivision (d)(i) and (d)(ii) upon publication of a notice in the Federal Register and may at any time provide that the exclusion provided for a country enumerated in subdivision (d)(i) shall not apply with respect to any subheading enumerated in the first sentence of subdivision (a) of this note.

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	Semi-finished products of steel (other than stainless steel or tool steel), of rectangular cross section, having a width measuring two or more times the thickness (provided for in subheading 7207.12.00, 7207.20.00 or 7224.90.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.30	Enumerated in U.S. note 11(b)(v) to this subchapter and designated as X-505	No change	No change	No change
9903.72.31	Enumerated in U.S. note 11(b)(x) to this subchapter and designated as X-137	No change	No change	No change
9903.72.34	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
	If entered during the period from March 20, 2002, through March 19, 2003, inclusive:			
9903.72.38	In aggregate quantities of goods the product of a foreign country specified below, after which no such goods the product of such country may be entered during the remainder of such period:			
	Australia.....354,652,505 kg			
	Brazil.....2,539,566,320 kg			
	European Union..149,460,535 kg			
	Japan.....176,781,635 kg			
	Russia.....1,219,781,062 kg			
	Ukraine.....135,535,669 kg			
	All other.....323,021,274 kg	No change	No change	No change
9903.72.40	Other	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
	If entered during the period from March 20, 2003, through March 19, 2004, inclusive:			
9903.72.42	In aggregate quantities of goods the product of a foreign country specified below, after which no such goods the product of such country may be entered during the remainder of such period:			
	Australia.....387,490,700 kg			
	Brazil.....2,774,711,350 kg			
	European Union...163,299,474			
	Japan.....193,150,304 kg			
	Russia.....1,332,723,752 kg			
	Ukraine.....148,085,268 kg			
	All other.....352,930,651 kg	No change	No change	No change

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	[Semifinished...:]			
	[Other:]			
	[If...:]			
9903.72.44	Other	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
	If entered during the period from March 20, 2004, through March 20, 2005, inclusive:			
9903.72.46	In aggregate quantities of goods the product of a foreign country specified below, after which no such goods the product of such country may be entered during the remainder of such period:			
	Australia.....420,328,895 kg			
	Brazil.....3,009,856,379 kg			
	European Union...177,138,412 kg			
	Japan.....209,518,974 kg			
	Russia..... 1,445,666,443 kg			
	Ukraine.....160,634,867 kg			
	All other.....382,640,028 kg	No change	No change	No change
9903.72.48	Other	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel) which are either (i) not cold-rolled, of a thickness of 4.75 mm or more, not in coils and not plated or coated, or (ii) clad but not plated or coated (all the foregoing provided for in subheading 7208.40.30, 7208.51.00, 7208.52.00, 7208.90.00, 7210.90.10, 7211.13.00, 7211.14.00, 7225.40.30, 7225.50.60 or 7226.91.50), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.50	Enumerated in U.S. note 11(b)(xi) to this subchapter and designated as X-083	No change	No change	No change
9903.72.51	Enumerated in U.S. note 11(b)(xii) or (xxii) to this subchapter and designated as X-134	No change	No change	No change
9903.72.52	Enumerated in U.S. note 11(b)(xiii) to this subchapter and designated as X-115 or X-148	No change	No change	No change
9903.72.53	Enumerated in U.S. note 11(b)(xiv) to this subchapter and designated as X-100	No change	No change	No change
9903.72.57	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.72.60	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.72.61	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
	[Flat-rolled...:]			

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	[Other:]			
9903.72.62	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel) not further worked than hot rolled, the foregoing either (i) in coils or (ii) not in coils and of a thickness of less than 4.75 mm (provided for in subheading 7208.10.15, 7208.10.30, 7208.10.60, 7208.25.30, 7208.26.00, 7208.27.00, 7208.36.00, 7208.37.00, 7208.38.00, 7208.39.00, 7208.40.60, 7208.53.00, 7208.54.00, 7211.14.00, 7211.19.15, 7211.19.20, 7211.19.30, 7211.19.45, 7211.19.60, 7211.19.75, 7225.30.30, 7225.30.70, 7225.40.70, 7226.91.70 or 7226.91.80), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.65	Enumerated in U.S. note 11(b)(xv) to this subchapter and designated as X-032	No change	No change	No change
9903.72.66	Enumerated in U.S. note 11(b)(xvi) to this subchapter and designated as X-046	No change	No change	No change
9903.72.67	Enumerated in U.S. note 11(b)(xvii) to this subchapter and designated as X-061	No change	No change	No change
9903.72.68	Enumerated in U.S. note 11(b)(xviii) to this subchapter and designated as X-075	No change	No change	No change
9903.72.69	Enumerated in U.S. note 11(b)(xix) to this subchapter and designated as X-108	No change	No change	No change
9903.72.70	Enumerated in U.S. note 11(b)(xx) to this subchapter and designated as X-116	No change	No change	No change
9903.72.71	Enumerated in U.S. note 11(b)(xxi) to this subchapter and designated as X-122	No change	No change	No change
9903.72.72	Enumerated in U.S. note 11(b)(xxii) to this subchapter and designated as X-134	No change	No change	No change
9903.72.73	Enumerated in U.S. note 11(b)(xxiii) to this subchapter and designated as X-142	No change	No change	No change
9903.72.74	Enumerated in U.S. note 11(b)(xxiv) to this subchapter and designated as X-139 or X-087	No change	No change	No change
9903.72.78	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change

ANNEX (continued)
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	[Flat-rolled...(con..):]			
	Other:			
9903.72.80	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.72.81	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.72.82	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel, tool steel or grain-oriented electrical steel), cold-rolled, not clad, plated or coated, whether or not in coils, if in coils of a thickness of less than 4.75 mm (provided for in subheading 7209.15.00, 7209.16.00, 7209.17.00, 7209.18.15, 7209.18.25, 7209.18.60, 7209.25.00, 7209.26.00, 7209.27.00, 7209.28.00, 7209.90.00, 7211.23.15, 7211.23.20, 7211.23.30, 7211.23.45, 7211.23.60, 7211.29.20, 7211.29.45, 7211.29.60, 7211.90.00, 7225.19.00, 7225.50.70, 7225.50.80, 7226.19.10, 7226.19.90, 7226.92.50, 7226.92.70 or 7226.92.80), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.72.85	Enumerated in U.S. note 11(b)(viii) to this subchapter and designated as X-508	No change	No change	No change
9903.72.86	Enumerated in U.S. note 11(b)(xxv) to this subchapter and designated as X-010	No change	No change	No change
9903.72.87	Enumerated in U.S. note 11(b)(xxvi) to this subchapter and designated as X-015	No change	No change	No change
9903.72.88	Enumerated in U.S. note 11(b)(xxvii) to this subchapter and designated as X-036	No change	No change	No change
9903.72.89	Enumerated in U.S. note 11(b)(xxviii) to this subchapter and designated as X-054	No change	No change	No change
9903.72.90	Enumerated in U.S. note 11(b)(xxix) to this subchapter and designated as X-065	No change	No change	No change
9903.72.92	Enumerated in U.S. note 11(b)(xxx) to this subchapter and designated as X-205	No change	No change	No change
9903.72.93	Enumerated in U.S. note 11(b)(xxxi) to this subchapter and designated as X-083	No change	No change	No change
9903.72.94	Enumerated in U.S. note 11(b)(xxxii) to this subchapter and designated as X-142	No change	No change	No change
	[Flat-rolled...(con.):]			

ANNEX (continued)
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	[Goods...(con.):]			
9903.72.95	Enumerated in U.S. note 11(b)(xxxiii) to this subchapter and designated as X-057 or X-155	No change	No change	No change
9903.72.96	Enumerated in U.S. note 11(b)(xxxiv) to this subchapter and designated as X-187	No change	No change	No change
9903.73.00	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.02	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.03	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.04	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel), plated or coated, the foregoing other than products that are (i) clad, (ii) coated or plated with tin and (iii) coated or plated with chromium oxides or chromium and chromium oxides (provided for in subheading 7210.20.00, 7210.30.00, 7210.41.00, 7210.49.00, 7210.61.00, 7210.69.00, 7210.70.30, 7210.70.60, 7210.90.60, 7210.90.90, 7212.20.00, 7212.30.10, 7212.30.30, 7212.30.50, 7212.40.10, 7212.40.50, 7212.50.00, 7212.60.00, 7225.91.00, 7225.92.00, 7226.93.00, 7226.94.00 or 7226.99.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.07	Enumerated in U.S. note 11(b)(vi) to this subchapter and designated as X-506	No change	No change	No change
9903.73.08	Enumerated in U.S. note 11(b)(vii) and designated as X-507	No change	No change	No change
9903.73.09	Enumerated in U.S. note 11(b)(xxxv) to this subchapter and designated as X-109	No change	No change	No change
9903.73.10	Enumerated in U.S. note 11(b)(xxxvi) to this subchapter and designated as X-061 or X-065	No change	No change	No change
9903.73.11	Enumerated in U.S. note 11(b)(xxxvii) to this subchapter and designated as X-075	No change	No change	No change
9903.73.12	Enumerated in U.S. note 11(b)(xxxviii) to this subchapter and designated as X-104, X-067 or X-107	No change	No change	No change
	[Flat-rolled...(con.):]			
	[Goods...(con.):]			

ANNEX (continued)
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9903.73.13	Enumerated in U.S. note 11(b)(xxxix) to this subchapter and designated as X-142	No change	No change	No change
9903.73.14	Enumerated in U.S. note 11(b)(xl) to this subchapter and designated as X-176	No change	No change	No change
9903.73.18	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.21	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.22	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.23	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Flat-rolled products of steel (other than stainless steel or tool steel), the foregoing which are either (i) plated or coated with tin, or (ii) plated or coated with chromium oxides or with chromium and chromium oxides (provided for in subheading 7210.11.00, 7210.12.00, 7210.50.00 or or 7212.10.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Brazil):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.26	Enumerated in U.S. note 11(b)(ix) and designated as X-509	No change	No change	No change
9903.73.27	Enumerated in U.S. note 11(b)(xli) to this subchapter and designated as X-039, X-061 or X-075	No change	No change	No change
9903.73.28	Enumerated in U.S. note 11(b)(xlii) to this subchapter and designated as X-109	No change	No change	No change
9903.73.29	Enumerated in U.S. note 11(b)(xliii) to this subchapter and designated as X-142	No change	No change	No change
9903.73.30	Enumerated in U.S. note 11(b)(xliv) to this subchapter and designated as X-160 or X-128	No change	No change	No change
9903.73.35	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change

ANNEX (continued)

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	[Flat-rolled...(con.):]			
	Other:			
9903.73.37	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.38	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.39	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Bars, rods and light shapes of steel (other than stainless or tool steel) (provided for in subheading 7213.20.00, 7213.99.00, 7214.10.00, 7214.30.00, 7214.91.00, 7214.99.00, 7215.90.10, 7215.90.50, 7216.10.00, 7216.21.00, 7216.22.00, 7216.50.00, 7216.61.00, 7216.69.00, 7216.91.00, 7216.99.00, 7227.20.00, 7227.90.10, 7227.90.20, 7227.90.60, 7228.20.10, 7228.30.20, 7228.30.80, 7228.40.00, 7228.60.10, 7228.60.60, 7228 70.30, 7228.70.60 or 7228.80.00), the foregoing except (i) concrete reinforcing bars and rods; (ii) hot-rolled bars and rods of nonalloy steel (other than free-cutting steel), not cold-formed, in irregularly wound coils and with a diameter of less than 19 mm; (iii) cold-formed bars and rods; and (iv) sections not further worked than hot-rolled, hot-drawn or extruded, with a height of 80 mm or more; and other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.42	Enumerated in U.S. note 11(b)(i) and designated as X-501	No change	No change	No change
9903.73.43	Enumerated in U.S. note 11(b)(xlv) to this subchapter and designated as X-032	No change	No change	No change
9903.73.44	Enumerated in U.S. note 11(b)(xlvi) to this subchapter and designated as X-045	No change	No change	No change
9903.73.48	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.50	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.51	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.52	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Cold-formed bars and rods of steel (other than stainless steel			

ANNEX (continued)
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	or tool steel) (provided for in subheading 7215.10.00, 7215.50.00, 7215.90.30, 7228.20.50, 7228.50.10, 7228.50.50 or 7228.60.80), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted in U.S. note 11(d) to this subchapter:			
9903.73.55	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.60	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%	The rate provided in ch. 72 + 30%
9903.73.61	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%	The rate provided in ch. 72 + 24%
9903.73.62	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%	The rate provided in ch. 72 + 18%
	Concrete reinforcing bars and rods of nonalloy steel (provided for in subheading 7213.10.00 or 7214.20.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Moldova, Turkey and Venezuela):			
9903.73.65	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.69	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%
9903.73.70	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%
9903.73.71	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%

ANNEX (continued)
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	Welded, riveted or similarly closed tubes, pipes and hollow profiles, the foregoing of steel, not of a kind used in drilling for oil or gas (provided for in subheading 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10, 7305.19.50, 7305.31.20, 7305.31.40, 7305.31.60, 7305.39.10, 7305.39.50, 7305.90.10, 7305.90.50, 7306.30.10, 7306.30.50, 7306.50.10, 7306.50.30, 7306.50.50, 7306.60.10, 7306.60.30, 7306.60.50, 7306.60.70, 7306.90.10 or 7306.90.50), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of Thailand):			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.74	Enumerated in U.S. note 11(b)(ii) to this subchapter and designated as X-502	No change	No change	No change
9903.73.75	Enumerated in U.S. note 11(b)(iii) to this subchapter and designated as X-503	No change	No change	No change
9903.73.76	Enumerated in U.S. note 11(b)(ix) and designated as X-509	No change	No change	No change
9903.73.77	Enumerated in U.S. note 11(b)(xlvii) to this subchapter and designated as X-066, X-069, X-071, X-079, X-102, X-139 or X-182	No change	No change	No change
9903.73.78	Enumerated in U.S. note 11(b)(li) to this subchapter and designated as X-132	No change	No change	No change
9903.73.82	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.84	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 73 + 15%	The rate provided in ch. 73 + 15%	The rate provided in ch. 73 + 15%
9903.73.85	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 73 + 12%	The rate provided in ch. 73 + 12%	The rate provided in ch. 73 + 12%
9903.73.86	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 73 + 9%	The rate provided in ch. 73 + 9%	The rate provided in ch. 73 + 9%

ANNEX (continued)
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	Tube and pipe fittings of iron or steel, other than fittings not machined, not tooled and not otherwise processed after forging (all the foregoing provided for in subheading 7307.91.50, 7307.92.30, 7307.92.90, 7307.93.30, 7307.93.60, 7307.93.90 or 7307.99.50), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter (except products of India and Romania):			
9903.73.88	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.73.93	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 73 + 13%	The rate provided in ch. 73 + 13%	The rate provided in ch. 73 + 13%
9903.73.94	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 73 + 10%	The rate provided in ch. 73 + 10%	The rate provided in ch. + 10%
9903.73.95	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 73 + 7%	The rate provided in ch. 73 + 7%	The rate provided in ch. 73 + 7%
	Bars and rods of stainless steel, hot-rolled, in irregularly wound coils, of circular cross section, with a diameter of 19 mm or more; bars and rods of stainless steel, not in irregularly wound coils; angles, shapes and sections of stainless steel (all the foregoing provided for in subheading 7221.00.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00, 7222.40.30 or 7222.40.60), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
	Goods excluded from the application of relief under U.S. note 11(b) to this subchapter:			
9903.73.97	Enumerated in U.S. note 11(b)(iv) to this subchapter and designated as X-504	No change	No change	No change
9903.73.98	Enumerated in U.S. note 11(b)(xlvii) to this subchapter and designated as X-177	No change	No change	No change
9903.74.01	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.74.04	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%

ANNEX (continued)
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	[Bars...:]			
	[Other:]			
9903.74.05	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%
9903.74.06	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%
	Bars and rods of stainless steel, hot-rolled, in irregularly wound coils, other than such products of circular cross section and having a diameter of less than 19 mm (provided for in heading 7221.00.00), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
9903.74.08	Goods excluded from the application of relief by U.S. note 11(b)(iv) to this subchapter, designated as X-504	No change	No change	No change
9903.74.12	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.74.14	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%	The rate provided in ch. 72 + 15%
9903.74.15	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%	The rate provided in ch. 72 + 12%
9903.74.16	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%	The rate provided in ch. 72 + 9%
	Wire of stainless steel, cold-formed, in coils, of any uniform solid cross-section along the entire length (provided for in subheading 7223.00.10, 7223.00.50 or 7223.00.90), other than products of Canada, Israel, Jordan and Mexico and products of countries exempted by U.S. note 11(d) to this subchapter:			
9903.74.18	Goods excluded from the application of relief under U.S. note 11(c) to this subchapter	No change	No change	No change
	Other:			
9903.74.22	If entered during the period from March 20, 2002, through March 19, 2003, inclusive	The rate provided in ch. 72 + 8%	The rate provided in ch. 72 + 8%	The rate provided in ch. 72 + 8%
9903.74.23	If entered during the period from March 20, 2003, through March 19, 2004, inclusive	The rate provided in ch. 72 + 7%	The rate provided in ch. 72 + 7%	The rate provided in ch. 72 + 7%
9903.74.24	If entered during the period from March 20, 2004, through March 20, 2005, inclusive	The rate provided in ch. 72 + 6%	The rate provided in ch. 72 + 6%	The rate provided in ch. 72 + 6%"

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Billing code 3190–01–C

Presidential Documents

Memorandum of March 5, 2002

Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products

Memorandum for the Secretary of the Treasury[,] the Secretary of Commerce[, and the] United States Trade Representative

On December 19, 2001, the United States International Trade Commission (ITC) submitted a report to me that contained determinations pursuant to section 202 of the Trade Act of 1974, as amended (the ''Trade Act''), that (a) certain carbon flat rolled steel, including carbon and alloy steel slabs, plate (including cut-to-length plate and clad plate), hot-rolled steel (including plate in coils), cold-rolled steel (other than grain-oriented electrical steel), and corrosion-resistant and other coated steel (collectively, ''certain flat steel''); (b) carbon and alloy hot-rolled bar and light shapes (''hot-rolled bar''); (c) carbon and alloy cold-finished bar (''cold-finished bar''); (d) carbon and alloy rebar (''rebar''); (e) carbon and alloy welded tubular products (other than oil country tubular goods) (''certain tubular products''); (f) carbon and alloy flanges, fittings, and tool joints (''carbon and alloy fittings''); (g) stainless steel bar and light shapes (''stainless steel bar''); and (h) stainless steel rod are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing like or directly competitive articles. The ITC commissioners were equally divided with respect to the determination required under section 202(b) regarding whether (i) carbon and alloy tin mill products (''tin mill products''); (j) stainless steel wire; (k) tool steel, all forms; and (l) stainless steel flanges and fittings (''stainless steel fittings'') are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles. The ITC provided detailed definitions of the products included in categories (a) through (l) and their corresponding subheadings under the Harmonized Tariff Schedule of the United States (HTS) in Appendix A to its determination, set out at 66 *Fed. Reg.* 67304, 67308–67311 (December 28, 2001).

The report of the ITC also contained findings pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act'') as to whether imports from Canada and Mexico, considered individually, account for a substantial share of total imports and contribute importantly to the serious injury, or threat thereof, caused by imports. The ITC made negative findings with respect to imports from Canada of certain flat steel, tin mill products, rebar, stainless steel rod, and stainless steel wire; and also made negative findings with respect to imports from Mexico of tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, stainless steel bar, stainless steel rod, and stainless steel wire. The ITC made affirmative findings with respect to imports from Canada of hot-rolled bar, cold-finished bar, carbon and alloy fittings, and stainless steel bar; and also made affirmative findings with respect to imports from Mexico of certain flat steel, and carbon and alloy steel fittings. The ITC commissioners were equally divided with respect to imports from Canada of certain tubular products. By February 4, 2002, the ITC provided additional information in response to a request under section 203(a)(5) of the Trade Act (''supplemental report'') made by the United States Trade Representative (the ''USTR'') on January 3, 2002.

Having considered the determinations of both groups of commissioners with regard to tin mill products, tool steel, stainless steel wire, and stainless steel fittings, I have determined, pursuant to section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the determinations of the groups of commissioners voting in the affirmative with regard to tin mill products and stainless steel wire to be the determination of the ITC, and the determinations of the groups of commissioners voting in the negative with regard to tool steel and stainless steel fittings to be the determination of the ITC.

By Proclamation signed today (the ''Proclamation'') and after considering all relevant aspects of the investigation, including the factors set forth in section 203(a)(2) of the Trade Act and the supplemental report, I have implemented actions of a type described in section 203(a)(3). I have determined that the most appropriate actions are safeguard measures in the form of an increase in duties on imports of certain flat steel, other than slabs (including plate, hot-rolled steel, cold-rolled steel, and coated steel), hot-rolled bar, cold-finished bar, rebar, certain welded tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire, as defined in paragraph 7 of the Proclamation, and in the form of a tariff rate quota (TRQ) on imports of slabs, with an increase in currently scheduled rates of duties for imports over the TRQ limits. I have implemented these safeguard measures for a period of 3 years plus 1 day.

Specifically, I have established the following safeguard measures:

(a) certain flat steel: with regard to slabs, a TRQ of 4.90 million metric tons in the first year of the measure, 5.35 million metric tons in the second year, and 5.81 million metric tons in the third year, with no increase in duties for imports below the within-quota level and an increase in duties of 30% *ad valorem* for imports above the within-quota level in the first year of the measure, 24% in the second year, and 18% in the third year; and with regard to certain flat steel, other than slab (including plate, hot-rolled steel, cold-rolled steel and coated steel), an increase in duties of 30% *ad valorem* in the first year, 24% in the second year, and 18% in the third year;

(b) hot-rolled bar: an increase in duties of 30% *ad valorem* in the first year of the measure, 24% in the second year, and 18% in the third year;

(c) cold-finished bar: a increase in duties of 30% *ad valorem* in the first year of the measure, 24% in the second year, and 18% in the third year;

(d) rebar: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(e) certain welded tubular products: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(f) carbon and alloy fittings: an increase in duties of 13% *ad valorem* in the first year of the measure, 10% in the second year, and 7% in the third year;

(g) stainless steel bar: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(h) stainless steel rod: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(i) tin mill products: an increase in duties of 30% *ad valorem* in the first year of the measure, 24% in the second year, and 18% in the third year; and

(j) stainless steel wire: an increase in duties of 8% *ad valorem* in the first year of the measure, 7% in the second year, and 6% in the third year.

Pursuant to section 312(a) of the NAFTA Implementation Act, after consideration of the report and supplemental reports of the ITC, I further determine that imports of certain flat steel, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire that are products of Canada and Mexico either do not account for a substantial share of total imports of these products, or are not contributing importantly to serious injury or the threat of serious injury. Therefore, pursuant to section 312(b) of the NAFTA Implementation Act, the safeguard measure will not apply to imports of certain flat steel, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire that are the product of Canada or Mexico. Similarly, the safeguard measures will not apply to imports of these products that are the product of Israel or Jordan.

The safeguard measures also will not apply to imports of certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, or stainless steel wire that are the product of a developing country that is a member of the World Trade Organization (WTO), as long as that country's share of imports into the United States of the product, based on a recent representative period, does not exceed 3 percent, provided that all such developing country WTO members collectively account for not more than 9 percent of total imports of that product. For purposes of the safeguard measures established under the Proclamation, I determine that the beneficiary countries under the Generalized System of Preferences are developing countries. Subdivision (d)(i) of U.S. Note 11 to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (Note 11) in the Annex to the Proclamation identifies those developing countries that are WTO members, and subdivision (d)(ii) identifies the products of such countries to which the safeguard measures shall not apply.

I instruct the USTR to review data on imports of products listed in paragraph 7 of the Proclamation from countries listed in subdivision (d)(i) of Note 11 on a quarterly basis. If imports of such a product from such a country increase by a material amount, I instruct the USTR to initiate consultations with the country regarding the circumstances under which the increase occurred and whether the country plans to take action to reduce imports to historical levels. If, on the basis of the information exchanged during consultations, data on imports, domestic steel demand, growth in the U.S. economy, shifts in other countries' trade patterns, and any other relevant factors, the USTR determines that the increase in imports of such product from such country undermines the effectiveness of the pertinent safeguard measure, he is authorized, upon publication of a notice of such determination in the **Federal Register**, to modify subdivision (d)(ii) of Note 11 in the Annex to the Proclamation to include such product from such country. I also authorize the USTR, upon publication of a notice in the **Federal Register**, to change the list of developing countries to which the safeguard measures do not apply.

The steel products listed in clauses (i) through (ix) of subdivision (b) of Note 11 in the Annex to the Proclamation were excluded from the determinations of the ITC described in paragraph 2 of that Proclamation, and are excluded from these safeguard measures. I have also determined to exclude from these safeguard measures the steel products listed in the subsequent clauses of subdivision (b) of Note 11 in the Annex to the Proclamation. The Trade Policy Staff Committee (TPSC) is currently evaluating requests, submitted in response to 66 *Fed. Reg.* 54321, 54322–54323 (October 26, 2001), that particular products be excluded from any safeguard measure with regard to certain steel products. I instruct the USTR to determine whether these particular products should be excluded and, if so, within 120 days of the date of the Proclamation, to publish in the **Federal Register** a notice to modify subchapter III of chapter 99 to exclude them from the

safeguard measures. In making this determination, the USTR shall consider any advice rendered by the TPSC.

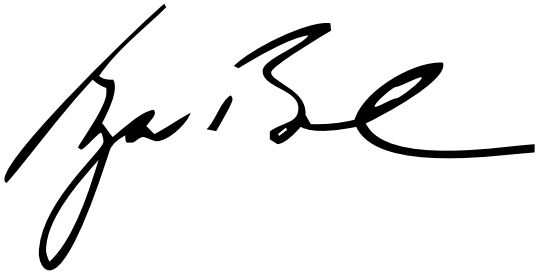
Similarly, I instruct the USTR, after receiving advice from the TPSC, to determine whether any particular products should be added to the list of those excluded from the safeguard measures and, if so, to publish a notice in the **Federal Register** in March of any year in which he receives such a recommendation to modify subchapter III of chapter 99 to exclude such particular products from the measures. I further instruct the USTR, no later than 90 days from today, to publish in the **Federal Register** a notice of the procedures by which interested persons may request the TPSC to recommend whether to exclude a particular product.

I also instruct the USTR, prior to the effective date of the safeguard measures established in the Proclamation, to conduct consultations under Article 12.3 of the Agreement on Safeguards with any WTO member having a substantial interest as an exporter of a product subject to such safeguard measures, provided that the WTO member requests such consultations in a timely fashion. I instruct the USTR to report to me on the results of such consultations. I instruct the Secretary of the Treasury, pursuant to section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)), to prescribe by regulation a date no later than 45 days after today at which estimated duties for merchandise entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, March 20, 2002, and up to the 30th day after today, shall be deposited.

I instruct the Secretary of the Treasury and the Secretary of Commerce to establish a system of import licensing to facilitate the monitoring of imports of certain steel products. Pursuant to the authority granted me by section 203(g) of the Trade Act to provide for the efficient and fair administration of all actions taken for the purpose of providing import relief under section 203, I further instruct the Secretary of Commerce, within 120 days of the effective date of the safeguard measures established by the Proclamation, to publish regulations in the **Federal Register** establishing such a system of import licensing.

I have determined that the safeguard measures will facilitate efforts by the domestic industries to make a positive adjustment to import competition and will provide greater economic and social benefits than costs. If I determine that further action is appropriate and feasible to facilitate efforts by the pertinent domestic industry to make a positive adjustment to import competition and to provide greater economic and social benefits than costs, or if I determine that the conditions under section 204(b)(1) of the Trade Act are met, I shall reduce, modify, or terminate the safeguard measures. In making this determination, I shall consider the pertinent factors set out in section 203(a)(2) of the Trade Act and, in particular, changes in capital and labor productivity in the domestic industries; actual and planned permanent closures of inefficient steel production facilities in the United States and in other countries; consolidation of United States steel producers; capital expenditures in the domestic industries; prices for certain steel products in the United States; and the overall effect that maintaining the measure will have on consuming industries, workers, and the United States economy as a whole.

The United States Trade Representative is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, March 5, 2002.

[FR Doc. 02–5712
Filed 3–6–02; 11:04 am]
Billing code 3190–01–M

Presidential Documents

Memorandum of March 5, 2002

Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products

Memorandum for the Secretary of the Treasury[,] the Secretary of Commerce[, and the] United States Trade Representative

On December 19, 2001, the United States International Trade Commission (ITC) submitted a report to me that contained determinations pursuant to section 202 of the Trade Act of 1974, as amended (the ''Trade Act''), that (a) certain carbon flat rolled steel, including carbon and alloy steel slabs, plate (including cut-to-length plate and clad plate), hot-rolled steel (including plate in coils), cold-rolled steel (other than grain-oriented electrical steel), and corrosion-resistant and other coated steel (collectively, ''certain flat steel''); (b) carbon and alloy hot-rolled bar and light shapes (''hot-rolled bar''); (c) carbon and alloy cold-finished bar (''cold-finished bar''); (d) carbon and alloy rebar (''rebar''); (e) carbon and alloy welded tubular products (other than oil country tubular goods) (''certain tubular products''); (f) carbon and alloy flanges, fittings, and tool joints (''carbon and alloy fittings''); (g) stainless steel bar and light shapes (''stainless steel bar''); and (h) stainless steel rod are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing like or directly competitive articles. The ITC commissioners were equally divided with respect to the determination required under section 202(b) regarding whether (i) carbon and alloy tin mill products (''tin mill products''); (j) stainless steel wire; (k) tool steel, all forms; and (l) stainless steel flanges and fittings (''stainless steel fittings'') are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles. The ITC provided detailed definitions of the products included in categories (a) through (l) and their corresponding subheadings under the Harmonized Tariff Schedule of the United States (HTS) in Appendix A to its determination, set out at 66 *Fed. Reg.* 67304, 67308–67311 (December 28, 2001).

The report of the ITC also contained findings pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act'') as to whether imports from Canada and Mexico, considered individually, account for a substantial share of total imports and contribute importantly to the serious injury, or threat thereof, caused by imports. The ITC made negative findings with respect to imports from Canada of certain flat steel, tin mill products, rebar, stainless steel rod, and stainless steel wire; and also made negative findings with respect to imports from Mexico of tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, stainless steel bar, stainless steel rod, and stainless steel wire. The ITC made affirmative findings with respect to imports from Canada of hot-rolled bar, cold-finished bar, carbon and alloy fittings, and stainless steel bar; and also made affirmative findings with respect to imports from Mexico of certain flat steel, and carbon and alloy steel fittings. The ITC commissioners were equally divided with respect to imports from Canada of certain tubular products. By February 4, 2002, the ITC provided additional information in response to a request under section 203(a)(5) of the Trade Act (''supplemental report'') made by the United States Trade Representative (the ''USTR'') on January 3, 2002.

Having considered the determinations of both groups of commissioners with regard to tin mill products, tool steel, stainless steel wire, and stainless steel fittings, I have determined, pursuant to section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the determinations of the groups of commissioners voting in the affirmative with regard to tin mill products and stainless steel wire to be the determination of the ITC, and the determinations of the groups of commissioners voting in the negative with regard to tool steel and stainless steel fittings to be the determination of the ITC.

By Proclamation signed today (the ''Proclamation'') and after considering all relevant aspects of the investigation, including the factors set forth in section 203(a)(2) of the Trade Act and the supplemental report, I have implemented actions of a type described in section 203(a)(3). I have determined that the most appropriate actions are safeguard measures in the form of an increase in duties on imports of certain flat steel, other than slabs (including plate, hot-rolled steel, cold-rolled steel, and coated steel), hot-rolled bar, cold-finished bar, rebar, certain welded tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire, as defined in paragraph 7 of the Proclamation, and in the form of a tariff rate quota (TRQ) on imports of slabs, with an increase in currently scheduled rates of duties for imports over the TRQ limits. I have implemented these safeguard measures for a period of 3 years plus 1 day.

Specifically, I have established the following safeguard measures:

(a) certain flat steel: with regard to slabs, a TRQ of 4.90 million metric tons in the first year of the measure, 5.35 million metric tons in the second year, and 5.81 million metric tons in the third year, with no increase in duties for imports below the within-quota level and an increase in duties of 30% *ad valorem* for imports above the within-quota level in the first year of the measure, 24% in the second year, and 18% in the third year; and with regard to certain flat steel, other than slab (including plate, hot-rolled steel, cold-rolled steel and coated steel), an increase in duties of 30% *ad valorem* in the first year, 24% in the second year, and 18% in the third year;

(b) hot-rolled bar: an increase in duties of 30% *ad valorem* in the first year of the measure, 24% in the second year, and 18% in the third year;

(c) cold-finished bar: a increase in duties of 30% *ad valorem* in the first year of the measure, 24% in the second year, and 18% in the third year;

(d) rebar: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(e) certain welded tubular products: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(f) carbon and alloy fittings: an increase in duties of 13% *ad valorem* in the first year of the measure, 10% in the second year, and 7% in the third year;

(g) stainless steel bar: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(h) stainless steel rod: an increase in duties of 15% *ad valorem* in the first year of the measure, 12% in the second year, and 9% in the third year;

(i) tin mill products: an increase in duties of 30% *ad valorem* in the first year of the measure, 24% in the second year, and 18% in the third year; and

(j) stainless steel wire: an increase in duties of 8% *ad valorem* in the first year of the measure, 7% in the second year, and 6% in the third year.

Pursuant to section 312(a) of the NAFTA Implementation Act, after consideration of the report and supplemental reports of the ITC, I further determine that imports of certain flat steel, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire that are products of Canada and Mexico either do not account for a substantial share of total imports of these products, or are not contributing importantly to serious injury or the threat of serious injury. Therefore, pursuant to section 312(b) of the NAFTA Implementation Act, the safeguard measure will not apply to imports of certain flat steel, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire that are the product of Canada or Mexico. Similarly, the safeguard measures will not apply to imports of these products that are the product of Israel or Jordan.

The safeguard measures also will not apply to imports of certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, or stainless steel wire that are the product of a developing country that is a member of the World Trade Organization (WTO), as long as that country's share of imports into the United States of the product, based on a recent representative period, does not exceed 3 percent, provided that all such developing country WTO members collectively account for not more than 9 percent of total imports of that product. For purposes of the safeguard measures established under the Proclamation, I determine that the beneficiary countries under the Generalized System of Preferences are developing countries. Subdivision (d)(i) of U.S. Note 11 to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (Note 11) in the Annex to the Proclamation identifies those developing countries that are WTO members, and subdivision (d)(ii) identifies the products of such countries to which the safeguard measures shall not apply.

I instruct the USTR to review data on imports of products listed in paragraph 7 of the Proclamation from countries listed in subdivision (d)(i) of Note 11 on a quarterly basis. If imports of such a product from such a country increase by a material amount, I instruct the USTR to initiate consultations with the country regarding the circumstances under which the increase occurred and whether the country plans to take action to reduce imports to historical levels. If, on the basis of the information exchanged during consultations, data on imports, domestic steel demand, growth in the U.S. economy, shifts in other countries' trade patterns, and any other relevant factors, the USTR determines that the increase in imports of such product from such country undermines the effectiveness of the pertinent safeguard measure, he is authorized, upon publication of a notice of such determination in the **Federal Register**, to modify subdivision (d)(ii) of Note 11 in the Annex to the Proclamation to include such product from such country. I also authorize the USTR, upon publication of a notice in the **Federal Register**, to change the list of developing countries to which the safeguard measures do not apply.

The steel products listed in clauses (i) through (ix) of subdivision (b) of Note 11 in the Annex to the Proclamation were excluded from the determinations of the ITC described in paragraph 2 of that Proclamation, and are excluded from these safeguard measures. I have also determined to exclude from these safeguard measures the steel products listed in the subsequent clauses of subdivision (b) of Note 11 in the Annex to the Proclamation. The Trade Policy Staff Committee (TPSC) is currently evaluating requests, submitted in response to 66 *Fed. Reg.* 54321, 54322–54323 (October 26, 2001), that particular products be excluded from any safeguard measure with regard to certain steel products. I instruct the USTR to determine whether these particular products should be excluded and, if so, within 120 days of the date of the Proclamation, to publish in the **Federal Register** a notice to modify subchapter III of chapter 99 to exclude them from the

safeguard measures. In making this determination, the USTR shall consider any advice rendered by the TPSC.

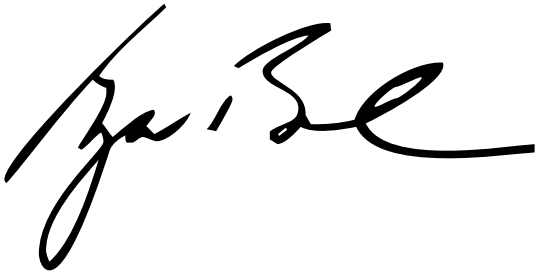
Similarly, I instruct the USTR, after receiving advice from the TPSC, to determine whether any particular products should be added to the list of those excluded from the safeguard measures and, if so, to publish a notice in the **Federal Register** in March of any year in which he receives such a recommendation to modify subchapter III of chapter 99 to exclude such particular products from the measures. I further instruct the USTR, no later than 90 days from today, to publish in the **Federal Register** a notice of the procedures by which interested persons may request the TPSC to recommend whether to exclude a particular product.

I also instruct the USTR, prior to the effective date of the safeguard measures established in the Proclamation, to conduct consultations under Article 12.3 of the Agreement on Safeguards with any WTO member having a substantial interest as an exporter of a product subject to such safeguard measures, provided that the WTO member requests such consultations in a timely fashion. I instruct the USTR to report to me on the results of such consultations. I instruct the Secretary of the Treasury, pursuant to section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)), to prescribe by regulation a date no later than 45 days after today at which estimated duties for merchandise entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, March 20, 2002, and up to the 30th day after today, shall be deposited.

I instruct the Secretary of the Treasury and the Secretary of Commerce to establish a system of import licensing to facilitate the monitoring of imports of certain steel products. Pursuant to the authority granted me by section 203(g) of the Trade Act to provide for the efficient and fair administration of all actions taken for the purpose of providing import relief under section 203, I further instruct the Secretary of Commerce, within 120 days of the effective date of the safeguard measures established by the Proclamation, to publish regulations in the **Federal Register** establishing such a system of import licensing.

I have determined that the safeguard measures will facilitate efforts by the domestic industries to make a positive adjustment to import competition and will provide greater economic and social benefits than costs. If I determine that further action is appropriate and feasible to facilitate efforts by the pertinent domestic industry to make a positive adjustment to import competition and to provide greater economic and social benefits than costs, or if I determine that the conditions under section 204(b)(1) of the Trade Act are met, I shall reduce, modify, or terminate the safeguard measures. In making this determination, I shall consider the pertinent factors set out in section 203(a)(2) of the Trade Act and, in particular, changes in capital and labor productivity in the domestic industries; actual and planned permanent closures of inefficient steel production facilities in the United States and in other countries; consolidation of United States steel producers; capital expenditures in the domestic industries; prices for certain steel products in the United States; and the overall effect that maintaining the measure will have on consuming industries, workers, and the United States economy as a whole.

The United States Trade Representative is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, March 5, 2002.

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H.J. Res. 82/P.L. 107–143

Recognizing the 91st birthday of Ronald Reagan. (Feb. 14, 2002; 116 Stat. 17)

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To designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the "Joseph E. Dini, Jr. Post Office". (Feb. 14, 2002; 116 Stat. 18)

S. 970/P.L. 107–145

To designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the "Horatio King Post Office Building". (Feb. 14, 2002; 116 Stat. 19)

S. 1026/P.L. 107–146

To designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the "Pat King Post Office Building". (Feb. 14, 2002; 116 Stat. 20)

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