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Contents

Federal Register

Vol. 67, No. 49

Wednesday, March 13, 2002

Agricultural Marketing Service
RULES
Hazelnuts grown in—
Oregon and Washington, 11215–11218
Oranges, grapefruit, tangerines, and tangelos grown in—
Florida, 11211–11213
Tomatoes grown in—
Florida, 11213–11215
NOTICES
Agency information collection activities:
Proposed collection; comment request, 11280–11281
Beef promotion and research, 11281–11282

Agriculture Department
See Agricultural Marketing Service
See Forest Service

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 11293, 11294

Alcohol, Tobacco and Firearms Bureau
RULES
Organization, functions, and authority delegations:
Appropriate ATF Officers, 11230–11232
NOTICES
Organization, functions, and authority delegations:
Appropriate ATF Officers, 11371–11372

Centers for Medicare & Medicaid Services
See Inspector General Office, Health and Human Services Department

Coast Guard
NOTICES
Meetings:
National Offshore Safety Advisory Committee, 11367–11368
Reports and guidance documents; availability, etc.:
National Preparedness for Response Exercise Program; guidelines, 11368–11369

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Guatemala, 11286

Commodity Futures Trading Commission
RULES
Security futures products; dual trading restrictions, 11223–11229
NOTICES
Contract market proposals:
New York Mercantile Exchange—
Brent crude oil futures contracts, 11286–11288

Defense Department
See Air Force Department
See Navy Department
NOTICES
Arms sales notification; transmittal letter, etc., 11288–11292
Meetings:
Science Board, 11293

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 11295
Grants and cooperative agreements; availability, etc.:
Elementary and secondary education—
Impact Aid; deadline extension, 11295–11296

Energy Department
See Federal Energy Regulatory Commission
See Southeastern Power Administration
NOTICES
Environmental statements; availability, etc.:
Oak Ridge Y-12 National Security Complex, TN; record of decision, 11296–11301
Grants and cooperative agreements; availability, etc.:
Environmentally friendly hydropower turbine designs; manufacture, installation, and testing, 11301–11302
Fusion energy confinement systems, 11302–11303
Plasma and fusion science; theoretical research, 11303–11305

Environmental Protection Agency
RULES
Hazardous waste:
Identification and listing—
Solid waste; toxicity characteristic; definition, 11251–11254
Pesticide tolerance reassessment and reregistration; public participation process; comment request, 11248–11251
Water programs:
Water quality standards—
Shields Gulch, ID; cold water biota designated use withdrawn, 11247–11248
NOTICES
Meetings:
Association of American Pesticide Control Officals/State FIFRA Issues Research and Evaluation Group, 11327–11328
Science Advisory Board, 11328–11330
Pesticide registration, cancellation, etc.:
Dimethoate, 11330–11333
Monsanto Co., 11333–11334
Superfund; response and remedial actions, proposed settlements, etc.:
Gulf States Steel Superfund Site, AL, 11334

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Cirrus Design Corp., 11220–11223

Airworthiness standards:
Special conditions—
Eclipse Aviation Corp. Model 500 airplane, 11218–11220

Federal Communications Commission
RULES
Common carrier services:
Federal-State Joint Board on Universal Service—
Carrier contributions to universal service fund and manner in which costs are recovered from customers, 11254–11260
PROPOSED RULES
Common carrier services:
Federal-State Joint Board on Universal Service—
Carrier contributions to universal service fund and manner in which costs are recovered from customers, 11268–11276
NOTICES
Meetings:
Technological Advisory Council, 11334–11335

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 11335

Federal Energy Regulatory Commission
RULES
Practice and procedure:
Critical energy infrastructure information; and previously published documents, treatment
Comment extension, 11229
NOTICES
Electric rate and corporate regulation filings:
Trans-Elect, Inc., et al., 11320–11323
Hydroelectric applications, 11323–11325
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 11305–11307
CMS Trunkline Gas Co., LLC, 11307
Colorado Interstate Gas Co., 11307, 11308
Columbia Gas Transmission Corp., 11308–11309
Columbia Gulf Transmission Co., 11309–11310
Cove Point LNG Limited Partnership, 11310
El Dorado Irrigation District, 11310
Florida Gas Transmission Co., 11311
KO Transmission Co., 11311
Midwestern Gas Transmission Co., 11311–11312
Millennium Pipeline Co., L.P., 11312
Mississippi River Transmission Corp., 11312–11313
Nornew Energy Supply, Inc., 11313
Northern Border Pipeline Co., 11313
Northwest Pipeline Corp., 11313–11314
Panhandle Eastern Pipe Line Co., 11314
Petal Gas Storage, L.L.C., 11314–11315
PG & E Gas Transmission, Northwest Corp., 11315
Questar Pipeline Co., 11315–11316
Reliant Energy Gas Transmission Co., 11316
Southern Natural Gas Co., 11316
Southwest Gas Storage Co., 11316–11317
Texas Gas Transmission Corp., 11317
Total Peaking Services, L.L.C., 11317
TransColorado Gas Transmission Co., 11317–11318
Transcontinental Gas Pipe Line Corp., 11318–11319
Vector Pipeline L.P., 11319
Williams Gas Pipelines Central, Inc., 11319–11320
Wyoming Interstate Co., Ltd., 11320

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Wayne County, MI, 11369

Federal Maritime Commission
NOTICES
Agreements filed, etc., 11335
Casualty and nonperformance certificates:
Carnival Corp., et al., 11335–11336
Delta Queen Steamboat Co., et al., 11336
Investigations, hearings, petitions, etc.:
Canaveral Port Authority, 11336
Ocean transportation intermediary licenses:
Empire Container Line, Inc., et al., 11336–11337

Federal Motor Carrier Safety Administration
NOTICES
Motor carrier safety standards:
Driver qualifications—
Howell, Kevin; alternative physical qualification standards for the loss or impairment of limbs; exemption application, 11369–11370

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 11337
Formations, acquisitions, and mergers, 11337–11338

Federal Trade Commission
NOTICES
Prohibited trade practices:
Campbell Mithun LLC, 11338
Deutsche Gelatine-Fabriken Stoess AG, et al., 11339–11341
Interstate Bakeries Corp., 11341
Palm, Inc., 11341–11343

Fish and Wildlife Service
RULES
Importation, exportation, and transportation of wildlife:
Anchorage, AK; designated port status confirmation, 11260–11262

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Ivermectin tablets, 11229–11230
NOTICES
Agency information collection activities:
Proposed collection; comment request; correction, 11343
Reports and guidance documents; availability, etc.:
Processing of human tissues for transplantation; validation procedures, 11343–11344

Forest Service
NOTICES
Meetings:
Hood/Wilamette Resource Advisory Committee, 11282–11283

Health and Human Services Department
See Food and Drug Administration
See Inspector General Office, Health and Human Services Department
See National Institutes of Health
See Public Health Service

PROPOSED RULES
Debt Collection Improvement Act of 1996; implementation:
Administrative wage garnishment, 11264–11268
NOTICES
Meetings:
National Human Resource Protections Advisory Committee, 11343

Inspector General Office, Health and Human Services Department
NOTICES
Program exclusions; list, 11344–11347

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 11373–11374
Health Insurance Portability and Accountability Act of 1996; implementation:
Expatriation; individuals losing United States citizenship; quarterly list, 11374–11377
Meetings:
Art Advisory Panel, 11377

International Trade Administration
NOTICES
Antidumping:
Fresh garlic from—
China, 11283–11284
Overseas trade missions:
Italy and Spain; Assistant Secretarial Business Development Mission, 11284–11285

Justice Department
RULES
Grants:
September 11th victim compensation fund, 11233–11247
NOTICES
Pollution control; consent judgments:
Marine Shale Processors, Inc., 11364–11365

Land Management Bureau
NOTICES
Meetings:
Resource Advisory Councils—
Idaho, 11358–11359
Realty actions; sales, leases, etc.:
Nevada, 11359–11360

National Aeronautics and Space Administration
NOTICES
Meetings:
Task forces, 11365

National Institute for Literacy
NOTICES
Meetings:
Advisory board; correction, 11365

National Institutes of Health
NOTICES
Agency information collection activities:
Proposed collection; comment request, 11347–11348
Inventions, Government-owned; availability for licensing, 11348–11351
Meetings:
Center for Scientific Review, 11351–11352
National Heart, Lung, and Blood Institute, 11352
National Institute of Child Health and Human Development, 11353
National Institute of Environmental Health Sciences, 11352
National Institute of Mental Health, 11353–11354
National Library of Medicine, 11354
Scientific Review Center, 11354–11356
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Human derived monocyte attracting purified peptide products for treating human infections and neoplasms in a human body, 11356–11357
OmniViral Therapeutics LLC, 11357–11358

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pacific cod, 11262–11263
PROPOSED RULES
Fishery conservation and management:
Northeastern United States fisheries—
Atlantic bluefish, 11276–11279
NOTICES
Permits:
Endangered and threatened species, 11285–11286

National Park Service
NOTICES
Environmental statements; availability, etc.:
Mary McLeod Bethune Council House National Historic Site, Washington, DC, 11360–11361
Environmental statements; notice of intent:
Blue Ridge Parkway, NC; general management plan, 11361–11362
Colorado National Monument, CO; general management plan, 11362–11363
Dinosaur National Monument, UT and CO, 11363
Upper Housatonic Valley National Heritage Area, CT and MA, 11363–11364

Navy Department
NOTICES
Inventions, Government-owned; availability for licensing, 11294–11295

Nuclear Regulatory Commission
NOTICES
Operating licenses, amendments; no significant hazards considerations; biweekly notices
Correction, 11365

Presidential Documents
PROCLAMATIONS
Special observances:
Bicentennial Day of the U.S. Military Academy at West Point (Proc. 7531), 11379–11382

Public Health Service
See Food and Drug Administration
See National Institutes of Health

NOTICES
Committees; establishment, renewal, termination, etc.:
Alternative Toxicological Methods Scientific Advisory Committee, 11358

Reclamation Bureau
NOTICES
Environmental statements; notice of intent:
Klamath Project, OR, 11364

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
International Securities Exchange LLC, 11365–11367

Small Business Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Women's Business Center projects, 11367

Southeastern Power Administration
NOTICES
Rate schedule changes, 11325–11327

State Department
NOTICES
Foreign Operations, Export Financing, and Related Programs Appropriations Act:
Gambia; assistance determination, 11367

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Internal Revenue Service
NOTICES
Meetings:
Customs Service Commercial Operations Treasury Advisory Committee, 11370–11371

Separate Parts In This Issue

Part II
The President, 11379–11382

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.
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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

7531.....11381

7 CFR

905.....11211
966.....11213
982.....11215

14 CFR

23.....11218
39.....11220

17 CFR

37.....11223
38.....11223
41.....11223
155.....11223

18 CFR

388.....11229

21 CFR

520.....11229

27 CFR

251.....11230

28 CFR

104.....11233

40 CFR

131.....11247
180.....11248
261.....11251

45 CFR

Proposed Rules:

32.....11264

47 CFR

54.....11254

Proposed Rules:

54.....11268

50 CFR

14.....11260
679.....11262

Proposed Rules:

648.....11276

Rules and Regulations

Federal Register
Vol. 67, No. 49
Wednesday, March 13, 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.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV01–905–3 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Citrus Administrative Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.0055 to $0.005 per 4/5 bushel carton of Florida citrus handled. The Committee locally administers the marketing order which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. Authorization to assess Florida citrus handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT: William Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, FL 33884; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Florida citrus beginning August 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues to decrease the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.0055 to $0.005 per 4/5 bushel carton or equivalent of citrus handled.

The Florida citrus marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Florida citrus. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2000–01 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on August 29, 2001, and unanimously recommended 2001–02 expenditures of $280,000 and an assessment rate of $0.005 per 4/5 bushel carton of Florida citrus. In comparison, last year's budgeted expenditures were $255,500. The assessment rate of $0.005 is $0.0005 lower than the rate previously in effect. Last fiscal year, Committee revenues exceeded expenses by $38,500. Committee members agreed that the excess revenues should be used to reduce the assessment rate. The $38,500 was added to the anticipated assessment revenue along with interest income for a revenue total of $280,000 for the 2001–02 fiscal period.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $121,300 for salaries, $25,000 for Manifest USDA–FDACS, $21,000 for insurance and bonds, $18,750 for retirement plan, $44,550 for miscellaneous and reserve, and $10,000 for telephone. Other expenses for 2001–02 total $39,400.

Budgeted expenses for these items in 2000–01 were $118,300, $36,000, $19,900, $18,500, $12,450, and $10,000 respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh Florida citrus. Florida citrus shipments for the year are estimated at 48,000,000 cartons which should provide $240,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $90,334) will be kept within the maximum permitted by the order (one half of one fiscal period's expenses; § 905.42).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 11,000 producers of Florida citrus in the production area and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida citrus during the 2000–01 season was approximately $7.92 per 4/5 bushel carton for all shipments, and the total fresh shipments for the 2000–01 season are estimated at 53.8 million 4/5 bushel cartons of Florida citrus. Approximately 68 percent of the handlers handled 93 percent of Florida citrus shipments. Using information provided by the Committee, about 60 percent of citrus handlers could be considered small businesses under the SBA definition. Although specific data is unavailable, USDA believes that the majority of Florida citrus producers may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.0055 to $0.005 per 4/5 bushel carton of Florida citrus. The Committee unanimously recommended 2001–02 expenditures of $280,000 and an assessment rate of $0.005 per 4/5 bushel carton. The assessment rate of $0.005 is $0.0005 lower than the 2000–01 rate. The quantity of assessable Florida citrus for the 2001–02 fiscal period is estimated at 48 million 4/5 bushel cartons. Thus, the $0.005 rate should provide $240,000 in assessment income. Assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover this year's expenses.

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $121,300 for salaries, $25,000 for Manifest Department-FDACS, $21,000 for insurance and bonds, $18,750 for retirement plan, $44,550 for miscellaneous and reserve, and $10,000 for telephone. Budgeted expenses for these items in 2000–01 were $118,300, $36,000, $19,900, $18,500, $12,450, and $10,000, respectively.

Last fiscal year, Committee revenues exceeded expenses by $38,500. Committee members agreed that the excess revenues should be used to reduce the assessment rate. The $38,500 was added to the anticipated assessment revenue along with interest income for a revenue total of $280,000 for the 2001–02 fiscal period.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $280,000, which includes increases in some administrative costs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Budget Subcommittee, the Grapefruit Subcommittee, and the Regulatory Subcommittee. Alternative expenditure levels were discussed by these groups, based upon previous seasons and the general condition of the Florida citrus industry. The assessment rate of $0.005 per 4/5 bushel carton of assessable citrus was then determined by dividing the total recommended budget by the quantity of assessable citrus, estimated at 48,000,000 4/5 bushel cartons for the 2001–02 fiscal period. This rate is expected to generate $240,000. This is $40,000 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001–02 season could range between $4.60 and $10.70 per 4/5 bushel of oranges, grapefruit, tangerines, and tangelos. Therefore, the estimated assessment revenue for the 2001–02 fiscal period as a percentage of total grower revenue could range between .04 and .1 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 29, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

An interim final rule concerning this action was published in the **Federal Register** on November 9, 2001 (66 FR 56595). Copies of that rule were also mailed or sent via facsimile to all Florida citrus handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on January 8, 2002, and no comments were received.

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

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

List of Subjects in 7 CFR Part 905

Grapefruit, Oranges, Tangelos, Tangerines, Marketing agreements, Reporting and recordkeeping requirements.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 905 which was published at 66 FR 56595 on November 9, 2001, is adopted as a final rule without change.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5938 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV01–966–2 FIR]

Tomatoes Grown in Florida; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Florida Tomato Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.025 to $0.02 per 25-pound container of tomatoes handled. The Committee locally administers the marketing order which regulates the handling of tomatoes grown in Florida. Authorization to assess tomato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Winter Haven, FL 33884; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

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

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable tomatoes beginning August 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues to decrease the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.025 to $0.02 per 25-pound container of tomatoes handled.

The Florida tomato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on September 6, 2001, and unanimously recommended 2001–02 expenditures of $1,666,650 and an assessment rate of $0.02 per 25-pound container of tomatoes. In comparison, last year's budgeted expenditures were $1,910,000. The

assessment rate of $0.02 is $0.005 lower than the rate previously in effect. The Committee's authorized reserve is larger than necessary. In an effort to reduce the amount in the reserve fund, the Committee unanimously recommended reducing the assessment rate.

The major expenditures recommended by the Committee for the 2001–02 fiscal year include $700,000 for education and promotion, $418,650 for salaries and benefits, $320,000 for research, $51,500 for employee retirement, and $31,000 for office rent. Budgeted expenses for these items in 2000–01 were $1,000,000, $407,800, $315,700, $44,900, and $24,500, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes, while considering other factors such as the current balance in the reserve fund. Tomato shipments for the year are estimated at 50,000,000 25-pound containers which should provide $1,000,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $1,900,000) will be kept within the maximum permitted by the order (approximately one fiscal period's expenses, § 966.44).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 100 producers of tomatoes in the production area and approximately 82 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the industry and Committee data, the average annual price for fresh Florida tomatoes during the 2000–01 season was $9.16 per 25-pound container or equivalent, and total fresh shipments for the 2000–01 season were 53,649,508 25-pound equivalent cartons of tomatoes. Committee data indicates that approximately 21 percent of the Florida handlers handle 80 percent of the total volume shipped outside the regulated area. Based on this information, the shipment information for the 2000–01 season, and the 2000–01 season average price, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes also may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.025 to $0.02 per 25-pound container of tomatoes. The Committee unanimously recommended 2001–02 expenditures of $1,666,650 and an assessment rate of $0.02 per 25-pound container. The assessment rate of $0.02 is $0.005 lower than the 2000–01 rate. The quantity of assessable tomatoes for the 2001–02 season is estimated at 50,000,000 25-pound cartons. Thus, the $0.02 rate should provide $1,000,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–02 fiscal year include $700,000 for education and promotion, $418,650 for salaries and benefits, $320,000 for research, $51,500 for employee retirement, and $31,000 for office rent. Budgeted expenses for these items in 2000–01 were $1,000,000, $407,800, $315,700, $44,900, and $24,500, respectively.

In the past two seasons, assessments collected have exceeded budgeted expenses, primarily due to a larger than expected supply of tomatoes. This has increased the total in the reserve. In addition, the Committee voted to reduce the education and promotion budget for the 2001–02 season, reducing total recommended expenses by approximately $300,000. The authorized reserve fund is now larger than necessary. In an effort to reduce the amount in the reserve fund and considering the reduced budget, the Committee unanimously recommended reducing the assessment rate. The funds collected from assessments, along with money from the reserve fund will be adequate to cover the Committee's expenditures for the 2001–02 fiscal year.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $1,666,650 which included decreases in office rent, and education and promotion programs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, Finance Subcommittee, Research Subcommittee, and Education and Promotion Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the tomato industry. The assessment rate of $0.02 per 25-pound container of assessable tomatoes was then determined by dividing the total recommended budget by the quantity of assessable tomatoes, while considering other factors such as the current balance in the reserve fund. Estimated shipments of tomatoes are 50,000,000 25-pound containers for the 2001–02 fiscal period. At the recommended rate, $1,000,000 in assessment income will be collected. This is approximately $600,000 below the anticipated expenses, which the Committee determined to be acceptable, in view of its goal of reducing its operating reserve.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for the 2001–02 season could range from $4.25 and $13.53 per 25-pound container of tomatoes.

Therefore, the estimated assessment revenue for the 2001–02 season as a percentage of total grower revenue could range between 1.5 and 4.7 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 6, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

An interim final rule concerning this action was published in the **Federal Register** on November 9, 2001, (66 FR 56599). Copies of that rule were also mailed or sent via facsimile to all tomato handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on January 8, 2002, and no comments were received.

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

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

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

PART 966—TOMATOES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 966 which was published at 66 FR 56599 on November 9, 2001, is adopted as a final rule without change.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5939 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV01–982–1 FIR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 2000–2001 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule is adopting and reinstating, without change, an interim final rule that established interim and final free and restricted percentages for domestic inshell hazelnuts for the 2000–2001 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. This action is necessary because the interim final rule inadvertently allowed the marketing percentages to expire on June 30, 2001. The Department of Agriculture is therefore adopting and reinstating the interim final rule. The marketing percentages established by the interim final rule will continue to apply until all restricted hazelnuts from the 2000–2001 marketing year have been properly disposed of in accordance with marketing order requirements. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the marketing order.

DATES: *Effective date:* March 14, 2002. *Applicability date:* This final rule applies from July 1, 2000, until all restricted hazelnuts generated during the 2000–2001 marketing year are properly disposed of in accordance with marketing order requirements.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Marketing Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 2000–2001 marketing year (July 1, 2000, through June 30, 2001), or until all restricted hazelnuts from that year are properly disposed of in accordance with marketing order requirements. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that

the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule reinstates percentages that allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year, and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three ''normal'' years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine the percentages are specified in § 982.40 of the order.

The quantity to be marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled or otherwise disposed of by handlers (restricted). Prior to September 20 of each marketing year, the Board must compute and announce preliminary free and restricted percentages. The preliminary free percentage releases 80 percent of the inshell trade demand to the domestic market. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage is to guard against an underestimate of crop size. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

The National Agricultural Statistics Service (NASS) has estimated hazelnut production at 25,000 tons for the Oregon and Washington area. The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The Board initially adjusted the crop estimate down to 24,153 tons by taking into consideration the average crop disappearance over the preceding three years (8.32 percent) and the undeclared carry-in (1,234 tons). The Board computed the adjusted inshell trade demand of 3,163 tons by taking the difference between the average of the past three years' sales (4,347 tons) and the declared carry-in from last year's crop (1,184 tons).

The Board computed and announced preliminary free and restricted percentages of 10 percent and 90 percent, respectively, at its August 31, 2000, meeting. The Board computed the preliminary free percentage by multiplying the adjusted trade demand by 80 percent and dividing the result by the adjusted crop estimate (3,163 tons × 80 percent/24,153 tons = 10 percent). The preliminary free percentage thus initially released 2,530 tons of hazelnuts from the 2000 supply for domestic inshell use, and the restricted percentage withheld 21,738 tons for the export and kernel market.

Under the order, the Board must meet again on or before November 15 to recommend interim final and final percentages. The Board uses current crop estimates to calculate interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season (i.e., desirable carryout). The order requires that the final free and restricted percentages shall be effective 30 days prior to the end of the marketing year, or earlier, if recommended by the Board and approved by the Secretary. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 14, 2000, and reviewed and approved an amended marketing policy and recommended the establishment of interim final and final free and restricted percentages. The interim final free and restricted percentages were recommended at 14 percent free and 86 percent restricted. Final percentages, which included an additional 15 percent of the average of the preceding three-years' trade acquisitions for desirable carry-out, were recommended at 17 percent free and 83 percent restricted effective May 1, 2001. The final free percentage releases 3,815 tons of inshell hazelnuts from the 2000 supply for domestic use.

The final marketing percentages are based on the Board's final production estimate and the following supply and demand information for the 2000–2001 marketing year:

	Tons
Inshell Supply:	
(1) Total production (Board's estimate)	23,000
(2) Less substandard, farm use (disappearance)	1,914
(3) Merchantable production (Board's adjusted crop estimate; Item 1 minus Item 2)	21,086
(4) Plus undeclared carry-in as of July 1, 2000, subject to regulation	1,233
(5) Supply subject to regulation (Item 3 plus Item 4)	22,319
Inshell Trade Demand:	
(6) Average trade acquisitions of inshell hazelnuts for three prior years	4,347
(7) Less declared carry-in as of July 1, 2000, not subject to regulation	1,184
(8) Adjusted Inshell Trade Demand (Item 6 minus Item 7)	3,163
(9) Desirable carry-out on August 31, 2001 (15 percent of Item 6)	652
(10) Adjusted Inshell Trade Demand plus desirable carry-out (Item 8 plus Item 9)	3,815

Percentages	Free	Restricted
(11) Interim final percentages (Item 8 divided by Item 5) × 100	14	86
(12) Final percentages (Item 10 divided by Item 5) × 100	17	83

In addition to complying with the provisions of the order, the Board also considered USDA's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages are based on the final inshell trade demand, and made available an additional 652 tons for desirable carry-out effective May 1, 2001. The total free supply for the 2000–2001 marketing year is 4,999 tons of hazelnuts, which is the sum of the final trade demand of 4,347 tons and the 652 ton desirable carry-out. This amount is 115 percent of prior years' sales and exceeds the goal of the Guidelines.

Final Regulatory Flexibility Analysis

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

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

There are approximately 800 producers of hazelnuts in the production area and approximately 19 handlers subject to regulation under the order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using these criteria, all of the producers are small agricultural producers and a majority of the 22 handlers are small agricultural service firms. In view of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market while preventing oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last 10 years, from a low of 15,500 tons in 1998 to a high of 47,000 tons in 1997. Average production has been around 29,800 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all producers and handlers, both large and small. For instance, production in the shortest crop year (1998) was 55 percent of the 10-year average (1990–1999). Production in the biggest crop year (1997) was 158 percent of the 10-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

As an alternative, the Board discussed not regulating the 2000–2001 hazelnut crop. However, without any regulations in effect, the Board believes that the industry would oversupply the inshell domestic market.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the United States. This production represents, on average, less than 5 percent of total U.S. tree nut production, and less than 5 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the United States. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is historically the primary world market for U.S. produced inshell hazelnuts. A third market is for shelled hazelnuts (kernels) sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The

information collection requirements have been previously approved by the Office of Management and Budget under OMB No. 0581–0178. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other marketing order programs, reports and forms are periodically reviewed to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This final rule does not change those requirements. In addition, the USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this regulation.

Further, the Board's meeting was widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the November 14, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Additionally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule regarding this action was published in the **Federal Register** on March 6, 2001. A copy of the rule was provided to the Board's staff for distribution to Board members as well as the hazelnut industry. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 60-day comment period that ended on May 7, 2001. No comments were received. USDA is adopting and reinstating the interim final rule because the marketing percentages inadvertently expired on June 30, 2001. The marketing percentages established by the interim final rule will continue to apply until all restricted hazelnuts from the 2000–2001 marketing year have been properly disposed in accordance with marketing order requirements. Some of these dispositions are made after June 30, 2001, the end of the 2000–2001 marketing year.

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

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that adopting and reinstating as a final rule without change the provisions of § 982.248 in the interim final rule published in the **Federal Register** (66 FR 13396, March 6, 2001), will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The percentages established by the interim final rule continue to apply until all restricted hazelnuts from the 2000–2001 marketing year have been properly disposed of in accordance with the marketing order requirements; (2) the interim final rule was published in the **Federal Register** on March 6, 2001, with a May 7, 2001, comment period, and no comments were received; and (3) handlers are aware of this action and are prepared to comply with the marketing percentages.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, § 982.248 as published in the interim final rule at 66 FR 13396 on March 6, 2001, is adopted and reinstated as a final rule without change. Section 982.248 reads as follows:

§ 982.248 Free and restricted percentages—2000–2001 marketing year.

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 2000–2001 marketing year shall be 14 and 86 percent, respectively.

(b) On May 1, 2001, the final free and restricted percentages for merchantable hazelnuts for the 2000–2001 marketing year shall be 17 and 83 percent, respectively.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5940 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE177, Special Conditions 23–112–SC]

Special Conditions; Eclipse Aviation Corporation, Model 500 Airplane; Protection of Systems From High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: This document issues special conditions for the Eclipse Aviation Corporation, 2503 Clark Carr Loop SE, Albuquerque, NM 87106 on the Eclipse Model 500 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) displays manufactured by Eclipse Aviation Corporation for which the applicable regulations do not contain adequate or appropriate airworthiness standard for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is February 21, 2002. Comments must be received on or before April 12, 2002.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE156, Room 506, 901 Lucust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE177. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4123.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment

hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contract with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE177.'' The postcard will be date stamped and returned to the commenter.

Background

On July 12, 2001, Eclipse Aviation Corporation applied for a type certificate for their new Eclipse Model 500 airplane. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an electronic displays, electronic engine controls, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, Eclipse Aviation Corporation must show that the Eclipse Model 500 airplane meets the following:

(1) Applicable provisions of 14 CFR part 23, effective December 18, 1964, as amended by Amendments 23–1 through 23–54 (September 14, 2000).

(2) Part 34 of the Federal Aviation Regulations effective September 10, 1990, plus any amendments in effect on the date of type certification.

(3) Part 36 of the Federal Aviation Regulations effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect on the date of type certification.

(4) Noise Control Act of 1972.

(5) Special conditions that are not relevant to these proposed special conditions, if any;

(6) Exemption, if any;

(7) Equivalent level of safety findings, if any; and

(8) Special conditions adopted by this rulemaking action.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 23) do not contain adequate or appropriate safety standards for the Eclipse Model 500 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended late to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The Eclipse Model 500 airplane will incorporate the following novel or unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include electronic engine control systems, electronic displays, and any other critical systems which are susceptible to the HRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpot window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–20 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50

Frequency	Field strength (volts per meter)	
	Peak	Average
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

Note.—The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, peak electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Eclipse Model 500 airplane. Should Eclipse Aviation Corporation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special condition upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for the Eclipse Aviation Corporation Model 500, Airplane.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on February 21, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–5808 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–06–AD; Amendment 39–12673; AD 2002–05–05]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Cirrus Design Corporation (Cirrus) Models SR20 and SR22 airplanes. This AD requires you to incorporate temporary operating limitations into the Limitation Section of the airplane flight manual (AFM) for certain affected airplanes and install a cable clamp external to the cone adapter on the Cirrus Aircraft Parachute System (CAPS) activation cable for all affected airplanes. The operating limitations will reduce the need to use the CAPS system in a loss of aircraft control emergency situation. The installation will prevent the cable housing from going into the rocket cone and will allow the rocket to fire correctly. This AD is the result of a report from the manufacturer that certain CAPS may not activate in an emergency situation. The actions specified by this AD are intended to initially limit the chance of failure of the CAPS activation system in an emergency situation and eventually eliminate this potential failure. Failure of this system would result in occupant injury and/or loss of life and loss of aircraft.

DATES: This AD becomes effective on March 19, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of March 19, 2002.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before April 26, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–06–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–06–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get the service information referenced in this AD from Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811; telephone: (218) 727–2737; or electronically at the following address: *www.cirrusdesign.com/sb.* You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–06–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory J. Michalik, Aerospace Engineer, FAA, Chicago ACO, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7135; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received a report from the type certificate holder that a condition exists that could cause the Cirrus Airplane Parachute System (CAPS) installed on certain Cirrus Design Corporation (Cirrus) Model SR20 and SR22 airplanes not to activate in the event of an emergency. Ballistic Recovery Systems (BRS), the supplier of the CAPS, discovered the condition during a supplemental type certificate (STC) certification test of the same unit on another airplane.

Investigation revealed that the rocket cone could allow for variance in the internal diameter at the threaded end of the rocket cone. This variance could result in the retaining nut internal to the cone adapter not to be fully secured on the affected parachutes. When the igniter end of the cable housing is unsecured, the cable will not pull the igniter pin free to release the parachute.

This condition is prevalent on a manufacturing lot of 187 systems that BRS developed under a process change. The condition could exist on the other earlier systems that BRS developed.

Section 23.221 of the Federal Aviation Regulations (14 CFR 23.221) requires that single-engine, normal category airplanes demonstrate compliance with either the one-turn spin or the spin-resistant requirements. The airplane, for spin recovery compliance, must recover from a one-turn spin or a three-second spin, whichever takes longer, in not more than one additional turn after the controls have been applied for recovery. The Cirrus SR20/SR22 are not certificated to meet the spin requirements or spin resistant requirements of 14 CFR 23.221. Instead, Cirrus installed an Airplane Parachute System (CAPS) that was FAA-approved as part of the SR20/SR22 type design.

What Are the Consequences if the Condition Is Not Corrected?

Failure of the igniter end of the cable housing to release the igniter pin, if not corrected, could result in CAPS not activating in an emergency situation. This would result in occupant injury and/or loss of life and loss of aircraft.

Is There Service Information That Applies to This Subject?

Cirrus Design has issued Alert Service Bulletin SB A20–95–01, Issued: February 25, 2002, and Alert Service Bulletin A22–95–01, Issued: February 25, 2002. These service bulletins specify modifying the CAPS activation cable assembly in accordance with Ballistic Recovery Systems Inc. Service Bulletin SB 95–01, Issued: February 25, 2002. This service bulletin includes procedures for installing a cable clamp external to the cone adapter.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

The FAA has reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Cirrus Model SR20 and SR22 airplanes of the same type design;

—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Does This AD Require?

This AD requires you to:

—Incorporate temporary operating limitations into the Limitation Section of the airplane flight manual (AFM) for the airplanes with a CAPS that incorporates the process change. The operating limitations will reduce the need to use the CAPS system in a loss of aircraft control emergency situation. This action is accomplished by the pilot prior to further flight after the effective date of the AD; and

—Install a cable clamp external to the cone adapter on the Cirrus Aircraft Parachute System (CAPS) activation cable within 10 hours time-in-service (TIS) after the effective date of this AD for those airplanes with a CAPS that incorporates the process change and within 25 hours TIS after the effective date for all other airplanes. This installation will prevent the cable housing from going into the rocket cone and will allow the rocket to fire correctly.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We have included, in the rulemaking docket, a discussion of information that may have influenced this action.

Will I Have the Opportunity To Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in failure of the CAPS activation system in an emergency situation, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and

determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention To?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–06–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2002–05–05 Cirrus Design Corporation: Amendment 39–12673; Docket No. 2002–CE–06–AD.

(a) *What airplanes are affected by this AD?* This AD applies to the following airplane models and serial numbers that are certificated in any category:

Model	Serial Numbers
(1) Group 1	
SR20	1148 through 1178, except 1151
SR22	0029 through 0160, except 0159
(2) Group 2	
SR20	1005 through 1147
SR22	0002 through 0028

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to initially limit the chance of failure of the CAPS activation system in an emergency situation and eventually eliminate this potential failure. Failure of this system would result in occupant injury and/or loss of life and loss of aircraft.

(d) *What must I do to address this problem?* To address this problem, you must perform the following actions, unless already accomplished:

Actions	Compliance	Procedures
(1) For Group 1 airplanes: in order reduce the need to use the CAPS system in a loss of aircraft control emergency situation, incorporate the following into the Limitation Section of the airplane flight manual (AFM): ''(i) Do not operate the airplane in instrument flight rules (IFR) conditions, only operate the airplane in visual flight rules (VFR) conditions; and (ii) Operate the airplane during daytime hours only, do not operate at night.	Prior to further flight after March 19, 2002 (the effective date of this AD) until the installation required by paragraph (d)(2) of this AD is accomplished.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may incorporate into the AFM the information specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) For all affected airplanes: in order to prevent the cable housing from going into the rocket cone and in order to allow the rocket to fire correctly, install a cable clamp external to the cone adapter on the Cirrus Aircraft Parachute System (CAPS) activation cable.	For Group 1 airplanes: within the next 10 hours time-in-service (TIS) after March 19, 2002 (the effective date of this AD). The AFM Limitations requirement in paragraph (d)(1) of this AD is no longer required when this installation is accomplished. For Group 2 airplanes: within the next 25 hours TIS after March 19, 2002 (the effective date of this AD).	In accordance with Ballistic Recovery Systems Inc. Service Bulletin SB 95–01, Issued: February 25, 2002, as specified in Cirrus Alert Service Bulletin SBA 20–95–01, Issued: February 25, 2002, and Alert Service Bulletin A22–95–01, Issued: February 25, 2002.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Chicago Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so

that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Gregory J. Michalik, Aerospace Engineer, FAA, Chicago ACO, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7135; facsimile: (847) 294–7834.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided you comply with the following:

(1) The aircraft is operated in Visual Flight Rules (VFR) conditions only; and

(2) The aircraft is operated during daytime hours only.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Ballistic Recovery Systems Inc. Service Bulletin SBA 95–01, Issued: February 25, 2002, as specified in Cirrus Alert Service Bulletin SBA 20–95–01, Issued: February 25, 2002, and Cirrus Alert Service Bulletin A22–95–01, Issued: February 25, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811; telephone: (218) 727–2737; or electronically at the following address: www.cirrusdesign.com/sb. You may view this information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on March 19, 2002.

Issued in Kansas City, Missouri, on March 5, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–5703 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 37, 38, 41, and 155

RIN 3038–AB83

Regulation To Restrict Dual Trading in Security Futures Products

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') hereby adopts regulation 41.27 that restricts dual trading by floor brokers in security futures products. Under the regulation, the dual trading restriction affects floor brokers that trade security futures products through open outcry on the trading floor of a designated contract market (''DCM'') or registered derivatives transaction execution facility (''DTF''). The regulation provides for certain exceptions to the restriction, including provisions for the correction of errors, customer consent, spread transactions, market emergencies, and unique or special characteristics of an agreement, contract, or transaction, or of the DCM or DTF.

EFFECTIVE DATE: April 12, 2002.

ADDRESSES: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or by e-mail to *secretary@cftc.gov*. Reference should be made to ''Restriction of Dual Trading in Security Futures Products by Floor Brokers.''

FOR FURTHER INFORMATION CONTACT: Stephen Braverman, Associate Director, or Rachel Berdansky, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5490, Electronic mail: sbraverman@cftc.gov or rberdansky@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 15, 2000, Congress passed the Commodity Futures Modernization Act of 2000 (''CFMA''), which was signed by the President and became effective on December 21, 2000. Among other things, the CFMA, which substantially amended the Commodity Exchange Act (''Act''), establishes two categories of markets subject to Commission regulatory oversight, DCMs and DTFs.[1] In addition, Title II of the CFMA repeals the longstanding ban on single stock futures and directs the Commission and the Securities and Exchange Commission (''SEC'') to implement a joint regulatory framework for security futures products.

On July 11, 2001, the Commission published proposed regulation 41.27 (''proposing release''), which generally restricts floor brokers from dual trading security futures products through open outcry during the same trading session, in accordance with the statutory mandate of section 4j(a) of the Act, as amended by section 251(c) of the CFMA.[2] Section 4j(a), as amended, also requires that the Commission permit exceptions to the dual trading restriction in order to ensure fairness and orderly trading in security futures product markets.[3] Moreover, section 2(a)(D)(i) of the Act sets forth listing standards for security futures products traded on a DCM or DTF. In particular, section 2(a)(D)(i)(VI) requires that security futures products be subject to the dual trading restriction of section 4j of the Act and the regulations thereunder or section 11(a) of the Securities Exchange Act of 1934 (' '34 Act'') and the regulations thereunder.[4]

Section 5f of the Act provides that any board of trade that is registered with the SEC as a national securities exchange or as a national securities association, or as an alternative trading system, shall be considered a DCM in security futures products, provided that certain enumerated requirements are satisfied upon filing a notice with the Commission. Section 5f(b)(1)(B), however, specifically exempts such notice-registered entities from section 4j of the Act. Similarly, section 6(g) of the '34 Act, as amended by section 202(a) of

[1] Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000). Prior to its recent amendment, the Act referred to ''designated contract markets'' as Commission-approved products traded on a board of trade. The Act, as amended, however, uses the term ''designated contract market'' to refer to the approved or licensed market on which futures contracts and commodity options are traded. Regulation 41.27 refers to DCMs in this sense.

[2] See Proposed Regulation to Restrict Dual Trading in Security Futures Products, 66 FR 36218.

[3] Section 4j of the Act, as amended, is different in scope than its predecessor and the Commission regulation promulgated thereunder. Commission regulation 155.5 restricted dual trading in any contract market that exceeded certain volume thresholds unless an exchange requested, and the Commission granted, a dual trading exemption. As part of this rulemaking, the Commission is removing regulation 155.5.

[4] With certain enumerated exceptions, section 11(a)(1) of the '34 Act and SEC rule 11a–1 make it unlawful for any member of a national securities exchange to effect any transaction for his or her own account, the account of an associated person, or an account with respect to which it or an associated person has discretion.

the CFMA, provides that any board of trade that has been designated as a contract market by the Commission or has registered with the Commission as a DTF may register with the SEC as a national securities exchange by filing notice with the SEC solely for the purposes of trading security futures products, provided that certain enumerated requirements are satisfied. DCMs and DTFs that notice register with the SEC for the purpose of trading security futures products are exempt from section 11(a)(1) of the '34 Act.

The Commission received four comment letters on a variety of issues regarding the proposing release.[5] CME fully supported proposed regulation 41.27, and stated that, ''the Commission's proposed dual trading regulation for security futures products appropriately balances customer protection with regulatory oversight.'' CBOT, AMEX, and NYBOT raised several issues regarding the proposing release's definition of ''customer'' and ''dual trading,'' application of the dual trading restriction under certain circumstances to electronic trading systems, and the possible addition of a low volume exception. Those comments are discussed, as appropriate, below.

II. Final Rule

A. Definitions

1. Customer

Proposed regulation 41.27(a)(4) defined ''customer'' to mean an account owner for which a trade is executed other than (i) an account in which a floor broker's ownership interest or share of trading profits is ten percent or more; (ii) an account for which a floor broker has discretion; (iii) an account controlled by a person with whom a floor broker has a relationship through membership in a broker association; (iv) a house account for a floor broker's clearing member; or (v) an account for another member present on the floor of a DCM or DTF or an account controlled by such other member. To make the regulation more consistent with section 11(a) of the '34 Act, the Commission has modified the language of section 41.27(a)(4)(i) by deleting the reference to ''ten percent or more.''[6] Thus, § 41.27(a)(4)(i), as adopted, provides, ''(c)ustomer means an account owner for which a trade is executed other than (i) an account in which such floor broker has any interest.''[7]

CBOT and NYBOT commented regarding the proposed definition of ''customer'' in § 41.27(a)(4). NYBOT commented that proposed § 41.27(a)(4)(iv) and (v) included two categories of non-customer accounts, a house account for a floor broker's clearing member, and an account for another member present on the floor of a DCM or DTF or an account controlled by such other member, that were not considered non-customer accounts under regulation 155.5.[8] Specifically, NYBOT believes that regulation 155.5 permitted a floor broker to trade security futures products for a customer and for the house account of a floor broker's clearing member or for another member present on the floor during the same trading session.[9]

After carefully reviewing regulation 155.5, the Commission believes that although it intended that a house account for a floor broker's clearing member and an account for another member present on the floor or an account controlled by such other member be considered non-customer accounts, the language in regulation 155.5 was ambiguous. Accordingly, regulation 41.27 clearly expresses the Commission's intent that floor brokers be prohibited from trading the same security futures product for a customer and for a house account for a floor broker's clearing member or for an account for another member present on the floor or an account controlled by such member during the same trading session. In this regard, the Commission believes that to allow otherwise could disadvantage customers because a floor broker may be motivated to obtain a better fill for its clearing member or for another member present on the floor. Regulation 41.27, however, would permit a floor broker to trade the same security futures product for his or her own account and non-customer accounts enumerated under regulation 41.27(a)(4)(i)–(v) during the same trading session.

Additionally, the Commission requested comment as to whether accounts for clearing members other than the house account of a floor broker's clearing member and members not present on the floor should be considered non-customer accounts for the purpose of regulation 41.27(a)(4). By defining these accounts as non-customer accounts, a floor broker would be permitted to trade for these accounts and the floor broker's personal account during the same trading session. NYBOT and CBOT commented that accounts for clearing members other than the house account of a floor broker's clearing member and members not present on the floor, should not be included as non-customer accounts in § 41.27(a)(4).[10] The Commission therefore has determined that the accounts of clearing members other than the floor broker's clearing member, and the accounts of members not present on the floor of a DCM or DTEF, should be included as customer accounts for purposes of this rule.

2. Dual Trading

Section 41.27(a)(6) of the proposing release, which is renumbered as § 41.27(a)(5) in the final rule, defined ''dual trading'' as the ''execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes, directly or indirectly, either through open outcry or through a trading system that electronically matches bids and offers, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account'' of a non-customer.

This definition referred to a floor broker executing ''directly or indirectly'' a transaction for a non-customer account, but did not explain what was meant by ''indirectly.'' Rather, in discussing the various sections of the proposed rule, the proposing release noted that the word ''indirectly'' was

[5] Letters were received from: (1) Chicago Mercantile Exchange (''CME''), (2) Board of Trade of the City of Chicago (''CBOT''), (3) The American Stock Exchange (''AMEX''), and (4) Board of Trade of the City of New York (''NYBOT'').

[6] See infra note 4.

[7] AMEX commented that the final regulation should delete the ''ten percent or more'' ownership provision because it limited the definition of dual trading and was not included in section of 4j of the Act, as amended.

[8] Similarly, CBOT commented that the inclusion of an account for another member present on the floor of a DCM or DTF or an account controlled by such other member as a non-customer account differs from the treatment of such accounts under Regulation 155.5.

[9] NYBOT would like the Commission to remove an account for a floor broker's clearing member, or an account for another member present on the floor of a DCM or DTF or an account controlled by such other member, from the list of non-customer accounts. CBOT would include the house account for a floor broker's clearing member as a non-customer account, but would like the Commission to create an exception to the dual trading restriction for the accounts of all other clearing members, members present on the floor, and members not present on the floor.

[10] Both NYBOT and CBOT contend that if clearing members other than the house account of a floor broker's clearing member and members not present on the floor are included as non-customer accounts in § 41.27(a)(4), floor brokers would be limited to trading security futures products during the same trading session for such accounts and other non-customer accounts listed in § 41.27(a)(4)(i)–(v). In particular, CBOT believes that ''these are not the types of brokers to whom other clearing firms or members would be likely to direct their orders.''

intended to prevent a floor broker from executing a customer order and during the same trading session initiating and passing an order for a non-customer account identified by regulations 41.27(a)(4)(i)–(v) to another broker for execution. CBOT commented that to avoid ambiguity, the Commission should explicitly state what it means by ''indirect execution'' in the final regulation, similar to the dual trading definition in regulation 155.5(a)(4).[11] The Commission agrees and has made the appropriate change in the final regulation.

Additionally, the Commission is amending the language of the dual trading definition that describes an electronic trading system not subject to the dual trading prohibition to make it more precise and consistent with current practices. Specifically, the words ''a trading system that electronically matches bids and offers'' has been amended in § 41.27(a)(5) of the regulation to read ''a trading system that electronically matches bids and offers pursuant to a predetermined algorithm.'' [12]

3. Other Definitions

The proposing release also defined the terms ''trading session,'' ''member,'' ''broker association,'' and ''security futures product.'' [13] The term ''security futures product'' will be deleted from § 41.27(a) in the final regulation because of a final Commission rulemaking subsequent to the proposing release that defined the term.[14] No comments were received regarding § 41.27(a)(1)–(3) of the proposing release and the Commission has determined to adopt those sections as proposed.

B. Application of the Dual Trading Prohibition to Electronic Trading Systems

In the proposing release, the Commission stated that under the plain language of section 4j of the Act, as amended, the dual trading restriction would not apply to a DCM or DTF that trades security futures products solely through an electronic trading system. This interpretation takes into account the plain language of the statute, which refers to ''floor brokers'' who ''execute'' orders.[15] In addition, this interpretation recognizes that a floor broker who executes a customer order through open outcry has more control over that order than a customer order entered into an electronic trading system that matches bids and offers pursuant to a predetermined algorithm where members do not have a time and place advantage. In the latter instance, the floor broker does not have the ability to influence or guide the order once it enters the system because the order is matched pursuant to a predetermined algorithm.

The Commission also acknowledged in the proposing release that a DCM or DTF may permit the simultaneous trading of security futures products through open outcry on a trading floor and on an electronic trading system for the same product, also known as ''side-by-side trading.'' The Commission would permit a floor broker, during the same trading session, to enter a bid or offer for a security futures product for a customer account on an electronic trading system and to trade the same product for non-customer accounts listed in §§ 41.27(a)(4)(i)–(v) through open outcry. However, recognizing the extent of control that a floor broker exercises with respect to an open outcry customer order, the Commission noted that a floor broker would be prohibited during the same trading session from executing a customer order for a particular security futures product through open outcry and entering a bid or offer on an electronic trading system for the same product for non-customer accounts.

NYBOT and AMEX contend that the Act does not limit the dual trading restriction to open outcry trading and commented that a dual trading restriction also should be applicable to the trading of security futures products on electronic trading systems. CBOT disagrees with NYBOT and AMEX, and commented that it believes the Commission correctly determined that under the Act a dual trading restriction is not applicable to a DCM or DTF that trades security futures products solely through an electronic trading system, because there is no floor broker involved in the trade.[16] CBOT, however, disagrees with the Commission's application of the dual trading restriction with respect to side-by-side trading. Specifically, CBOT does not believe that a dual trading restriction should be applicable to side-by-side trading, regardless of whether the customer order is executed though open outcry or entered on an electronic trading system.

The Commission is not persuaded by the comments that its interpretation and application of the dual trading restriction is inconsistent with the Act. In this connection, NYBOT commented that ''the definition of ''floor broker'' must be read in the light of the evolution of the markets to electronic trading, and the dual trading restrictions applied to all orders that are intermediated, regardless of the ultimate mode of execution.'' In adopting the CFMA, however, Congress did not substantively amend the definition of ''floor broker,'' nor does the Act, as amended, include language demonstrating that Congress intended to apply a dual trading restriction to security futures products traded on an electronic trading system.

Nonetheless, the Commission has separately determined, given the possibility of further developments in electronic markets and electronic trading systems, to adopt § 41.27(b)(2).[17] Section 41.27(b)(2) would require a DCM or DTF that operates an electronic market or electronic trading system that

[11] Regulation 155.5(a)(4) defined dual trading as ''the execution of customer orders by a floor broker during the same trading session in which the floor broker executes directly or *initiates and passes to another member* for execution in the same contract market. * * *'' (emphasis added).

[12] The ''dual trading'' definition set forth in § 41.27(a)(5) will now read:

Dual trading means the execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes directly or by initiating and passing to another member, either through open outcry or through a trading system that electronically matches bids and offers pursuant to a predetermined algorithm, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account described in paragraphs (a)(4)(i)–(v) of this section.

[13] See sections 41.27(a)(1), (2), (3), and (5) of the proposing release, respectively.

[14] Regulation 41.1(i) provides that ''(s)ecurity futures product shall have the meaning set forth in section 1a(32) of the Act.'' 66 FR 44960, 44965 (August 27, 2001).

[15] Section 4j(b) defines dual trading as the ''execution of customer orders by a floor broker during the same trading session in which the floor broker executes any trade in the same contract [on a designated contract market] or registered derivatives transaction execution facility.''

[16] As stated earlier, the Commission noted in the proposing release that the dual trading definition found in section 4j(b) of the Act refers to ''floor brokers'' who ''execute'' customer orders. Floor brokers execute customer orders on the trading floor, whereas various registrants as well as unregistered individuals enter orders into electronic trading systems that then match orders pursuant to a predetermined algorithm where members do not have a time and place advantage and relinquish the ability to influence or guide the order once it enters the system. In this connection, the definition of ''floor broker'' found in section 1a(16) of the Act contemplates a person ''in or surrounding * * * any pit, ring, or post * * *'' on the floor of an exchange and not through a system that electronically matches bids and offers.

[17] Section 41.27(b) of the proposing release is renumbered as § 41.27(b)(1) in the final rule. In addition, a reference to § 41.27(e) has been added to this paragraph. Section 41.27(b)(1) will now read:

No floor broker shall engage in dual trading in a security futures product on a designated contract market or registered derivatives transaction execution facility, except as otherwise provided under paragraphs (d), (e), and (f) of this section.

provides market participants with a time or place advantage, or the ability to override a predetermined algorithm, to submit an appropriate rule proposal to the Commission pursuant to the procedures enumerated in regulation 40.5. Specifically, the proposed rule must prohibit electronic market participants with a time or place advantage or with the ability to override a predetermined algorithm from trading a security futures product for accounts in which these same participants have any interest during the same trading session that they also trade the same security futures product for other accounts.[18] The Commission notes, however, that § 41.27(b)(2) would not apply to execution priorities or quantity guarantees granted to market makers who perform that function, or to market participants who receive execution priorities based on price improvement activity, in accordance with rules governing the DCM or DTF.

C. Rules Implementing the Dual Trading Prohibition

As the Commission indicated in the proposing release, prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a DCM or DTF must adopt a rule prohibiting dual trading. Under regulation 41.27(c)(1), a DCM must submit such a rule to the Commission in accordance with regulation 40.6, along with a written certification that the rule complies with the Act and the regulations promulgated there-under, or must obtain Commission approval of such a rule pursuant to regulation 40.5. Under regulation 41.27(c)(2), a DTF must notify the Commission in accordance with regulation 37.7(b) that it has adopted a rule prohibiting dual trading or obtain Commission approval of such a rule pursuant to regulation 37.7(c). No comments were received regarding § 41.27(c). Accordingly, the Commission is adopting § 41.27(c) as proposed.

D. Specific Permitted Exceptions to the Dual Trading Prohibition and Unique or Special Characteristics of an Agreement, Contract, or Transaction, or of the DCM or DTF

Proposed regulation 41.27(d) would implement the directive of sections 4j(a)(2)(A) and (B) of the Act to permit certain exceptions to the dual trading restriction. Regulation 41.27(d)(1)–(4) provides exceptions to the dual trading restriction to permit the correction of errors resulting from the execution of a customer order, to permit a customer to designate in writing a floor broker to dual trade while executing orders for the customer's account, to permit a broker who unsuccessfully attempts to leg into a spread transaction to take the executed leg into his or her personal account and to offset such position, and to address market conditions that result in a temporary emergency. As the Commission indicated in the proposing release, a DCM or DTF, prior to permitting such exceptions to a dual trading prohibition, would have to adopt a rule permitting the specific exceptions and submit the rule to the Commission or obtain Commission approval pursuant to the rule submission procedures of regulations 41.27(e)(1) or (2).[19]

One comment was received regarding § 41.27(d). CBOT encouraged the Commission to add a low volume exception to regulation 41.27. The CBOT believes that adding a low volume exception may assist fledgling security futures products to become established before a trading prohibition would become applicable, and would improve liquidity. CBOT noted that section 11(c) of the '34 Act permits the SEC, upon application of an exchange, to grant a low volume exemption from section 11(a).

At this time, the Commission does not have data on the trading volume of security futures products upon which to base a threshold amount to create a low volume exception. However, similar to section 11(c) of the '34 Act with respect to the SEC, section 4j(a)(2)(C) of the Act affords the Commission broad authority to permit exceptions to ''further the public interest consistent with the promotion of market efficiency, innovation, and expansion of investment opportunities.'' Specifically, § 41.27(f) would allow DCMs and DTFs to permit, pursuant to a rule, an exception to the dual trading prohibition to address an agreement, contract, or transaction that presents a unique or special characteristic, or to address a unique or special characteristic of the specific DCM or DTF. Accordingly, an exchange seeking a low volume exception to the dual trading restriction could seek to implement such an exception by making a submission pursuant to the procedures set forth in § 41.27(f).

The Commission did not receive any other comments regarding § 41.27(d) or (f) and is adopting those sections as proposed.

III. Amendments to Regulations 37.2, 38.2 and 41.34

In order to facilitate the promulgation of proposed regulation 41.27, the Commission also is promulgating procedural amendments to regulations 37.2 and 38.2. Regulations 37.2 and 38.2 generally exempt DCMs and DTFs from certain Commission regulations and list those regulations that are applicable under the Act. Regulation 41.27 is hereby added to the list of regulations that remain applicable to DCMs and DTFs pursuant to regulations 37.2 and 38.2.[20]

Additionally, the Commission is amending regulation 41.34(b) to exempt notice designated contract markets in security futures products (''SFPCMs'') from regulation 41.27.[21] As discussed

[18] An example of a time advantage would be providing certain market participants with faster access to an electronic trading system. An example of a place advantage would be granting certain market participants with better access to the market or market information. To date, however, no entity with electronic trading system characteristics identified in section 41.27(b)(2) has sought designation as a contract market or registration as a derivatives transaction execution facility.

[19] These procedures are identical to the procedures under regulation 41.27(c)(1) and (2) for a DCM or DTF to submit a rule prohibiting dual trading.

[20] Amended § 37.2 would provide:

Contracts, agreements, or transactions traded on a derivatives transaction execution facility registered as such with the Commission under section 5a of the Act, the facility and the facility's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 37 and §§ 1.3, 1.31, 1.59(d), 1.63(c), 15.05, 33.10, *41.27,* part 40, and part 190 of this chapter, and as applicable to the market, parts 15 through 21 of this chapter, which are applicable to a registered derivatives transaction execution facility as though they were set forth in this section and included specific reference to derivatives transaction execution facilities. (emphasis added).

Amended § 38.2 would provide:

Agreements, contracts, or transactions traded on a designated contract market under section 6 of the Act, the contract market and the contract market's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 38 and §§ 1.3, 1.12(e), 1.31, 1.38, 1.52, 1.59(d), 1.63(c), 1.67, 33.10, *41.27,* parts 15 through 21, part 40, and part 190 of this chapter. (emphasis added).

[21] Amended § 41.34 provides:

Any board of trade notice-designated as a contract market in security futures products pursuant to § 41.31 of this chapter also shall be exempt from:

(a) The following provisions of the Act, pursuant to section 5f(b)(1) of the Act:

(1) Section 4(c)(c);

(2) Section 4(c)(e);

(3) Section 4(c)(g);

(4) Section 4j;

(5) Section 5;

(6) Section 5c;

(7) Section 6a;

(8) Section 8(d);

(9) Section 9(f);

(10) Section 16 and;

(b) The following provisions, pursuant to section 5f(b)(4) of the Act:

(1) Section 6(a);

(2) Part 38 of this chapter;

(3) Part 40 of this chapter; and

earlier, section 5f(b)(1)(B) of the Act specifically exempts boards of trade that register with the SEC as a national securities exchange, a national securities association, or as an alternative trading system from section 4j of the Act, upon filing notice with the Commission.[22] Regulation 41.34(b) generally exempts SFPCMs from certain Commission regulations. Therefore, because regulation 41.27 is being promulgated pursuant to section 4j of the Act, the Commission is adding regulation 41.27 to the list of 41.34(b) exemptions.

IV. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) simply requires the Commission to consider the costs and benefits of its action in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations.

The Commission's proposing release contained an analysis of the consideration of the costs and benefits and solicited public comment thereon.[23] The Commission specifically invited commenters to submit any data that they had quantifying the costs and benefits of the proposed rules with their comment letters.[24] The Commission did not receive any comments on this issue.

Compliance with regulation 41.27 would impose costs on DCMs and DTFs with respect to enacting and enforcing rules restricting dual trading of security futures products traded through open outcry on a trading floor. The costs of enacting and enforcing rules associated with regulation 41.27 are either balanced or outweighed by the increased protection of market participants and the public. The Commission's exercise of its discretion in implementing the Congressional directive to restrict dual trading, as set forth in section 4j of the Act, would not unreasonably increase costs related to efficiency, competitiveness, and financial integrity of financial markets; price discovery; or sound risk management practices. After considering these factors, the Commission has determined to adopt regulation 41.27.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires federal agencies, in promulgating regulations, to consider the impact of those regulations on small entities. The regulation adopted herein would affect DCMs, DTFs, and floor brokers. The Commission previously has established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[25] In its previous determinations, the Commission has concluded that contract markets are not small entities for the purpose of the RFA.[26] The Commission has recently determined that DTFs, for reasons similar to those applicable to contract markets, are not small entities for purposes of the RFA.[27]

As the Commission stated in its proposing release, certain floor brokers would be affected by proposed regulation 41.27. The Commission, however, believes that regulation 41.27 as adopted will not have a significant economic impact on a substantial number of small entities. The Commission requested comment on this issue, but received no comments. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the rule amendments will not have a significant impact on a substantial number of small entities.

B. Paperwork Reduction Act of 1995

This rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3507(d)) the Commission has submitted a copy of this rule to the Office of Management and Budget for its review. No comments were received in response to the Commission's invitation in the proposing release to comment on any potential paperwork burden associated with this regulation.

List of Subjects in 17 CFR Parts 37, 38, 41, and 155

Commodity futures, Contract markets, Reporting and recordkeeping requirements, Security futures products.

PART 37—DERIVATIVES TRANSACTION EXECUTION FACILITIES

1. The authority citation for Part 37 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6, 6c, 7a and 12a.

2. Section 37.2 is revised to read as follows:

§ 37.2 Exemption.

Contracts, agreements, or transactions traded on a derivatives transaction execution facility registered as such with the Commission under section 5a of the Act, the facility and the facility's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 37 and §§ 1.3, 1.31, 1.59(d), 1.63(c), 15.05, 33.10, 41.27, part 40, and part 190 of this chapter, and as applicable to the market, parts 15 through 21 of this chapter, which are applicable to a registered derivatives transaction execution facility as though they were set forth in this section and included specific reference to derivatives transaction execution facilities.

PART 38—DESIGNATED CONTRACT MARKETS

3. The authority citation for Part 38 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6, 6c, 7a and 12a.

4. Section 38.2 is revised to read as follows:

§ 38.2 Exemption.

Agreements, contracts, or transactions traded on a designated contract market under section 6 of the Act, the contract market and the contract market's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 38 and §§ 1.3, 1.12(e), 1.31, 1.38, 1.52, 1.59(d), 1.63(c), 1.67, 33.10, 41.27, parts 15 through 21, part 40 and part 190 of this chapter.

PART 41—SECURITY FUTURES

5. The authority citation for Part 41 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6f, 6j, 7a–2, 7b, 12a.

6. Section 41.27 is added as follows:

(4) *Section 41.27 of this chapter.* (emphasis added).

[22] See section I. of the preamble for a more detailed discussion.

[23] 66 FR at 36221.

[24] *Id.*

[25] *See* 47 FR 18618–21 (Apr. 30, 1982).

[26] *See* 47 FR 18618 at 18619 (discussing contract markets).

[27] *See* A New Regulatory Framework for Trading Facilities, Intermediaries and Clearing Organizations 66 FR 42256, 42268 (August 10, 2001).

§ 41.27 Prohibition of Dual Trading In Security Futures Products By Floor Brokers.

(a) Definitions. For purposes of this section:

(1) Trading session means hours during which a designated contract market or registered derivatives transaction execution facility is scheduled to trade continuously during a trading day, as set forth in its rules, including any related post settlement trading session. A designated contract market or registered derivatives transaction execution facility may have more than one trading session during a trading day.

(2) Member shall have the meaning set forth in section 1a(24) of the Act.

(3) Broker association includes two or more designated contract market or registered derivatives transaction execution facility members with floor trading privileges of whom at least one is acting as a floor broker who:

(i) Engage in floor brokerage activity on behalf of the same employer;

(ii) Have an employer and employee relationship which relates to floor brokerage activity;

(iii) Share profits and losses associated with their brokerage or trading activity; or

(iv) Regularly share a deck of orders.

(4) Customer means an account owner for which a trade is executed other than:

(i) An account in which such floor broker has any interest;

(ii) An account for which a floor broker has discretion;

(iii) An account controlled by a person with whom a floor broker has a relationship through membership in a broker association;

(iv) A house account of the floor broker's clearing member; or

(v) An account for another member present on the floor of a designated contract market or registered derivatives transaction execution facility or an account controlled by such other member.

(5) Dual trading means the execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes directly or by initiating and passing to another member, either through open outcry or through a trading system that electronically matches bids and offers pursuant to a predetermined algorithm, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account described in paragraphs (a)(4)(i)–(v) of this section.

(b) Dual Trading Prohibition. (1) No floor broker shall engage in dual trading in a security futures product on a designated contract market or registered derivatives transaction execution facility, except as otherwise provided under paragraphs (d), (e), and (f) of this section.

(2) A designated contract market or a registered derivatives transaction execution facility operating an electronic market or electronic trading system that provides market participants with a time or place advantage or the ability to override a predetermined algorithm must submit an appropriate rule proposal to the Commission consistent with the procedures set forth in § 40.5. The proposed rule must prohibit electronic market participants with a time or place advantage or the ability to override a predetermined algorithm from trading a security futures product for accounts in which these same participants have any interest during the same trading session that they also trade the same security futures product for other accounts. This paragraph, however, is not applicable with respect to execution priorities or quantity guarantees granted to market makers who perform that function, or to market participants who receive execution priorities based on price improvement activity, in accordance with the rules governing the designated contract market or registered derivatives transaction execution facility.

(c) Rules Prohibiting Dual Trading. (1) Designated contract markets. Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a designated contract market:

(i) Must submit to the Commission in accordance with § 40.6, a rule prohibiting dual trading, together with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to § 40.5.

(2) Registered derivatives transaction execution facilities. Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a registered derivatives transaction execution facility:

(i) Must notify the Commission in accordance with § 37.7(b) that it has adopted a rule prohibiting dual trading; or

(ii) Must obtain Commission approval of such rule pursuant to § 37.7(c).

(d) Specific Permitted Exceptions. Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or a registered derivatives transaction execution facility pursuant to one or more of the following specific exceptions:

(1) Correction of errors. To offset trading errors resulting from the execution of customer orders, provided, that the floor broker must liquidate the position in his or her personal error account resulting from that error through open outcry or through a trading system that electronically matches bids and offers as soon as practicable, but, except as provided herein, not later than the close of business on the business day following the discovery of error. In the event that a floor broker is unable to offset the error trade because the daily price fluctuation limit is reached, a trading halt is imposed by the designated contract market or registered derivatives transaction execution facility, or an emergency is declared pursuant to the rules of the designated contract market or registered derivatives transaction execution facility, the floor broker must liquidate the position in his or her personal error account resulting from that error as soon as practicable thereafter.

(2) Customer consent. To permit a customer to designate in writing not less than once annually a specifically identified floor broker to dual trade while executing orders for such customer's account. An account controller acting pursuant to a power of attorney may designate a dual trading broker on behalf of its customer, provided, that the customer explicitly grants in writing to the individual account controller the authority to select a dual trading broker.

(3) Spread transactions. To permit a broker who unsuccessfully attempts to leg into a spread transaction for a customer to take the executed leg into his or her personal account and to offset such position, provided, that a record is prepared and maintained to demonstrate that the customer order was for a spread.

(4) Market emergencies. To address emergency market conditions resulting in a temporary emergency action as determined by a designated contract market or registered derivatives transaction execution facility.

(e) Rules Permitting Specific Exceptions. (1) Designated contract markets. Prior to permitting dual trading under any of the exceptions provided in paragraphs (d)(1)–(4) of this section, a designated contract market:

(i) Must submit to the Commission in accordance with § 40.6, a rule permitting the exception(s), together

with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to § 40.5.

(2) Registered derivatives transaction execution facilities. Prior to permitting dual trading under any of the exceptions provided in paragraphs (d)(1)–(4) of this section, a registered derivatives transaction execution facility:

(i) Must notify the Commission in accordance with § 37.7(b) that it has adopted a rule permitting the exception(s); or

(ii) Must obtain Commission approval of such rule pursuant to § 37.7(c).

(f) Unique or Special Characteristics of Agreements, Contracts, or Transactions, or of Designated Contract Markets or Registered Derivatives Transaction Execution Facilities.

Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or registered derivatives transaction execution facility to address unique or special characteristics of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility as provided herein. Any rule of a designated contract market or registered derivatives transaction execution facility that would permit dual trading when it would otherwise be prohibited, based on a unique or special characteristic of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility must be submitted to the Commission for prior approval under the procedures set forth in § 40.5. The rule submission must include a detailed demonstration of why an exception is warranted.

7. Section 41.34 is revised to read as follows:

§ 41.34 Exempt Provisions.

Any board of trade notice-designated as a contract market in security futures products pursuant to § 41.31 also shall be exempt from:

(a) The following provisions of the Act, pursuant to section 5f(b)(1) of the Act:

(1) Section 4(c)(c);
(2) Section 4(c)(e);
(3) Section 4(c)(g);
(4) Section 4j;
(5) Section 5;
(6) Section 5c;
(7) Section 6a;
(8) Section 8(d);
(9) Section 9(f);
(10) Section 16 and;

(b) The following provisions, pursuant to section 5f(b)(4) of the Act:

(1) Section 6(a);
(2) Part 38 of this chapter;
(3) Part 40 of this chapter; and
(4) Section 41.27.

PART 155—TRADING STANDARDS

8. The authority citation for Part 155 continues to read as follows:

Authority: 7 U.S.C. 6b, 6c, 6g, 6j and 12a, unless otherwise noted.

§ 155.5 [Removed and Reserved]

9. Section 155.5 is removed and reserved.

Issued in Washington, DC on March 1, 2002 by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 02–5778 Filed 3–12–02; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket Nos. RM02–4–000]

Notice of Extension of Time

March 6, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of extension of time.

SUMMARY: On January 16, 2002, the Commission issued a Notice of Inquiry (NOI) to determine whether to revise its rules to address public availability of critical infrastructure information (67 FR 3129, January 23, 2002). The Commission is extending the date for filing responses to the NOI at the request of several major trade associations involved in energy infrastructure.

DATES: Comments should be filed on or before March 25, 2002.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 1st Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Carol C. Johnson, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0457.

Rule Regarding Critical Energy Infrastructure Information and Policy Statement on the Treatment of Previously Public Documents; Notice of Extension of Time

On March 5, 2002, the Alliance of Energy Suppliers (Alliance), Edison Electric Institute (EEI), Electric Power Supply Association (EPSA), Interstate Natural Gas Association of America (INGAA), and National Hydropower Association (NHA) filed a joint request for an extension of time to file comments in response to the Commission's Notice of Inquiry and Guidance for Filings in the Interim issued January 16, 2002, in Docket No. RM02–4–000. The motion states that because the issues addressed in the NOI are of significant importance to each of the associations joining in this request and because each represents major sectors of the energy industry that will be directly affected by Commission's policy on Critical Energy Infrastructure Information, additional time is needed to allow the associations to pursue further discussions and to prepare complete responses to the NOI.

Upon consideration, notice is hereby given that an extension of time for filing responses to the Commission's January 16, 2002, NOI is granted to and including March 25, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5972 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Blue Ridge Pharmaceuticals, Inc. The ANADA provides for oral use of ivermectin tablets for prevention of heartworm disease in dogs.

DATES: This rule is effective March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Blue Ridge Pharmaceuticals, Inc., 4249–105 Piedmont Pkwy., Greensboro, NC 27410, filed ANADA 200–270 that provides for veterinary prescription use of IVERHART (ivermectin) Tablets for prevention of canine heartworm disease by elimination of the tissue stage of heartworm (*Dirofilaria immitis*) larvae for a month after infection. Blue Ridge's IVERHART Tablets is approved as a generic copy of Merial Ltd.'s HEARTGARD Tablets, approved under NADA 138–412. ANADA 200–270 is approved as of November 30, 2001, and 21 CFR 520.1193 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.1193 is revised to read as follows:

§ 520.1193 Ivermectin tablets and chewables.

(a) *Specifications.* (1) Each tablet or chewable contains 68, 136, or 272 micrograms (mcg) ivermectin.

(2) Each chewable contains 55 or 165 mcg ivermectin.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 050604 for use of tablets or chewables described in paragraph (a)(1) as in paragraph (d)(1) and chewables described in paragraph (a)(2) as in paragraph (d)(2) of this section.

(2) No. 065274 for use of tablets described in paragraph (a)(1) as in paragraph (d)(1) of this section.

(c) *Special considerations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*—(1) *Dogs.* For use in dogs 6 weeks of age and older as follows:

(i) *Amount.* 6.0 mcg per kilogram (kg) of body weight (2.72 mcg per pound (lb)), minimum. Up to 25 lb, 68 mcg; 26 to 50 lb, 136 mcg; 51 to 100 lb, 272 mcg; over 100 lb, a combination of the appropriate tablets. Administer at monthly dosing intervals.

(ii) *Indications for use.* To prevent canine heartworm disease by eliminating the tissue stage of heartworm larvae (*Dirofilaria immitis*) for 1 month (30 days) after infection.

(2) *Cats.* For use in cats 6 weeks of age and older as follows:

(i) *Amount.* Up to 2.3 kilograms (up to 5 lb), 55 mcg; 2.3 to 6.8 kilograms (5 to 15 lb), 165 mcg; over 6.8 kilograms (15 lb), a combination of the appropriate chewables (recommended minimum dose of 24 mcg/kg of body weight (10.9 mcg/lb)). Administer once a month.

(ii) *Indications for use.* To prevent feline heartworm disease by eliminating the tissue stage of heartworm larvae *Dirofilaria immitis* for a month (30 days) after infection, and for removal and control of adult and immature (L4) hookworms *Ancylostoma tubaeforme* and *A. braziliense*.

Dated: January 31, 2002.

Stephen F. Sundlof,

Center for Veterinary Medicine.

[FR Doc. 02–5060 Filed 3–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 251

[T.D. ATF–474]

RIN 1512–AC58

Delegation of Authority

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places ATF authorities with the ''appropriate ATF officer'' and requires that persons file documents required with the ''appropriate ATF officer'' or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director and the word ''region.'' Concurrently with this Treasury Decision, ATF Order 1130.12 is being issued and will be available to the public as specified in this rule. Through this order, the Director has delegated all of the authorities to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are to be filed. In addition, this final rule removes the regulations relating to a repealed tax on imported perfumes.

EFFECTIVE DATE: This rule is effective March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Room 5003, Washington, DC 20226 (telephone 202–927–8210 or e-mail to *alctob@atfhq.atf.treas.gov).*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120–01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC) and the Federal Alcohol Administration (FAA) Act. The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51 of

the IRC or the FAA Act, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 251 that were previously delegated and places those authorities with the ''appropriate ATF officer.'' All of the authorities of the Director that were not previously delegated are also placed with the ''appropriate ATF officer.'' Along with this final rule, ATF is publishing ATF Order 1130.12, Delegation of the Director's Authorities in 27 CFR part 251, Importation of Distilled Spirits, Wines, and Beer, which delegates authorities to appropriate ATF officers. The effect of these changes is to consolidate all delegations of authority in part 251 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms indicate the officer with whom they must be filed. Similarly, this final rule also amends part 251 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the ''appropriate ATF officer'' identified in ATF Order 1130.12. These changes will facilitate the identification of the officer with whom forms and other required submissions are to be filed.

This final rule also makes various technical amendments to Subpart A—Scope of Regulations of 27 CFR part 251. First, a new § 251.3 is added to recognize the authority of the Director to delegate regulatory authorities in part 251 and to identify ATF Order 1130.12 as the instrument reflecting such delegations. Second, § 251.2 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF has made or will make similar changes in delegations to all other parts of Title 27 of the Code of Federal Regulations through separate rulemakings.

Miscellaneous Changes

Section 136(a) of Public Law 103–465 (108 Stat. 4841), known as the Uruguay Round Agreements Act, repealed section 5001(a)(3) of the Internal Revenue Code of 1986. This section had previously imposed a tax on perfumes imported into the United States containing distilled spirits, a tax of $13.50 per wine gallon. Consequently, we are removing sections in part 251 of the Code of Federal Regulations that refer to this repealed tax.

Corrections

Sections 251.55 and 251.59 are being amended to remove references to obsolete regulations and an obsolete form.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Spices and flavorings, Transportation, Warehouses, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Paragraph 1. The authority citation for part 251 continues to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

§§ 251.2, 251.11, 251.77, 251.181, 251.206, 251.209 and 251.221 [Amended]

Par. 2. Remove the words ''Director'' each place it appears and add, in substitution, the words ''appropriate ATF officer'' in the following places:

(a) Section 251.2(a);

(b) The definition of ''Liquor bottle'' in § 251.11;

(c) Section 251.77(d);

(d) Section 251.181(a);

(e) Section 251.206;

(f) Section 251.209; and

(g) The undesignated paragraph following § 251.221(b)(3).

Par. 3. Amend § 251.2 by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 251.2 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site (*http://www.atf.treas.gov/*).

* * * * *

Par. 4. In Subpart A—Scope of Regulations, a new § 251.3 is added as follows:

§ 251.3 Delegations of the Director.

All of the regulatory authorities of the Director contained in part 251 of the regulations are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.12, Delegation of the Director's Authorities in 27 CFR part 251, Importation of Distilled Spirits, Wines, and Beer. ATF delegation orders, such as ATF Order 1130.12, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site *(http://www.atf.treas.gov/).*

Par. 5. Section 251.11 is further amended by:

a. Removing the definitions of ''ATF Officer'', ''Region'', and ''Regional Director (compliance)'';

b. Adding a new definition of ''Appropriate ATF officer'' to read as follows:

§ 251.11 Meaning of Terms.

* * * * *

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.12, Delegation of the Director's Authorities in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer.

* * * * *

Par. 6. Revise the heading for Subpart D to read as follows: Subpart D—Tax On Imported Distilled Spirits, Wines, and Beer.

Par. 7. Revise the undesignated center heading following the heading for Subpart D to read as follows: Distilled Spirits.

Par. 8. Remove § 251.41.

Par. 9. Redesignate § 250.40a as § 250.41.

Par. 10. Remove the words and punctuation ''Regulations 1,'' and ''(Form 1631)'' in § 251.55.

Par. 11. Remove the words and punctuation ''Regulations 4,'' each place that they appear in § 251.59.

Par. 12. Amend § 251.77(d) by removing the words ''ATF National Laboratory'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 13. Revise the second sentence of § 251.136(a) to read as follows:

§ 251.136 Filing.

(a) * * * The appropriate ATF officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate ATF officers desiring to examine the files or delay in the timely submission of documents, and are not inconsistent with Customs recordkeeping requirements (See 19 CFR part 163).

* * * * *

Par. 14. Revise § 251.137 to read as follows:

§ 251.137 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part, must be retained for not less than three years, and during this period must be available, during business hours, for inspection and copying by appropriate ATF or Customs officers. Furthermore, the appropriate ATF officer may require these records to be kept for an additional period of not more than three years in any case where the appropriate ATF officer determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, must also be made available for inspection and copying.

Par. 15. Amend the last sentence of § 251.172 by removing the words ''regional director (compliance) in which the consignee is located'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 16. Amend § 251.182 by:

a. Revising paragraphs (b)(1) and (d) to read as follows:

§ 251.182 Application and permit, Form 5150.33.

* * * * *

(b) *Application.* (1) A Government agency of the United States must apply for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the appropriate ATF officer, Form 5150.33 will be returned to the agency.

* * * * *

(d) *Cancellation of permit.* All permits on Form 5150.33 and previous editions on Form 1444 remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency must obtain and destroy all photocopies of the permit furnished to port directors of Customs, and forward the original to the appropriate ATF officer for cancellation.

* * * * *

Par. 17. Amend § 251.204 by:

a. Removing the words ''to the Director'' from the second sentence of paragraph (a);

b. Removing the word ''Director'' from the third sentence of paragraph (a) and adding, in substitution, the words ''appropriate ATF officer''; and

c. Removing the word ''Director'' from the introductory text of paragraph (b) and adding, in substitution the words ''appropriate ATF officer''; and

d. Removing the word ''Director'' from the second sentence of undesignated text following paragraph (b) and adding, in substitution, the words ''appropriate ATF officer''.

Par. 18. Amend § 251.208 by removing the words ''regional director (compliance) of the region in which the port of entry is situated'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 19. Revise the introductory text of paragraphs (a) and (b) of § 251.221 to read as follows:

§ 251.221 Alternate methods or procedures.

(a) Application. An importer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part must file an application, in triplicate, with the appropriate ATF officer. Each application must:

* * * * *

(b) *Approval.* When an application for use of an alternate method or procedure is received, the appropriate ATF officer must determine whether approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate ATF officer may approve the alternate method or procedure if such officer finds that:

* * * * *

Signed: January 16, 2002.

Bradley A. Buckles,

Director.

Approved: January 31, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 02–5880 Filed 3–12–02; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 104

[CIV 104F; AG Order No. 2564–2002]

RIN 1105–AA79

September 11th Victim Compensation Fund of 2001

ACTION: Final rule.

SUMMARY: Shortly after the September 11, 2001 terrorist attacks, the President signed the ''September 11th Victim Compensation Fund of 2001'' (the ''Fund'') into law as Title IV of Public Law 107–42 (''Air Transportation Safety and System Stabilization Act'') (the ''Act''). The Act authorizes compensation to any individual (or the personal representative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes on that day. This final rule is the third and final step in the Department of Justice's promulgation of regulations pursuant to § 407 of the Act, following the November 5, 2001 Notice of Inquiry and Advance Notice of Rulemaking (''Notice of Inquiry'') and the December 21, 2001 interim final rule.

After reviewing the extensive public comments and meeting with numerous victims, victims' families, and other groups, the Department of Justice, in consultation with the Special Master, is issuing this final rule and associated commentary, which make certain clarifications and changes that are designed to address issues raised by victims, their families, and thousands of other Americans. Specifically, the final rule clarifies, supplements, and amends the interim final rule by, among other things: Clarifying how the Special Master will treat certain ''collateral sources,'' including pensions, to lessen their impact in reducing victims' awards; expressing the Special Master's intention to assist claimants in understanding how certain types of collateral offsets will be treated under the Fund before they decide whether to participate; adjusting the ''presumed'' economic loss methodology in a manner that should increase potential awards for most claimants; increasing the ''presumed'' non-economic award in certain cases; clarifying the Special Master's intention that most families of victims who died should receive a minimum of $250,000 from the Fund; and providing certain exceptions to the requirement that injured victims received medical treatment within 24 hours of injury.

DATES: This final rule takes effect on March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW., Washington, DC 20530, telephone 888–714–3385 (TDD 888–560–0844).

SUPPLEMENTARY INFORMATION:

Statement by the Special Master

Since December 21, 2001, the date of the promulgation of the interim final rule, I have been engaged in meetings and conversations with September 11 victims, their families, public officials, representatives of private charities and interested concerned citizens of our nation and foreign nations as well. I have listened carefully to both supporters and critics of the interim final rule. I have benefitted tremendously from their input. I believe that, as a direct result of that varying input, this final rule constitutes a product worthy of support by all those interested in a just, fair and efficient compensation program.

No amount of money can right the horrific wrongs done on September 11, 2001. Nor can any of us who has not shared such immediate and irrevocable loss fully understand the depths of suffering that families and victims are enduring.

The September 11th Victim Compensation Fund is a unique federal program created by Congress in recognition of the special tragic circumstances these victims and their families confront. The Fund provides an alternative to the significant risk, expense, and delay inherent in civil litigation by offering victims and their families an opportunity to receive swift, inexpensive, and predictable resolution of claims. The Fund provides an *unprecedented* level of federal financial assistance for surviving victims and the families of deceased victims.

There has been significant public commentary regarding the Fund's proposed structure. The plan has been described as ''about as fair as it could possibly be'' (*Newsweek,* December 31, 2001), ''a good start on the road to recovery'' (*The New York Times,* December 23, 2001), ''an eminently fair plan'' (*The New York Daily News,* December 28, 2001), and a program that ''offers speedy and rational compensation'' (*The Washington Post,* January 18, 2002). I believe that—when compared to the alternative of a protracted, uncertain lawsuit—the Fund provides a vastly preferable method of assuring fair compensation to all eligible claimants.

The comments submitted to the Department of Justice have been starkly divided regarding the methodologies for calculating awards and, in particular, the ''presumed award'' charts I released at the same time as the interim final rule. Many have argued that the presumed awards are too high, particularly for victims who had high incomes. Others, in contrast, have argued, for differing reasons, that the high end ''presumed awards'' should be even higher.

Under the ''presumed award'' methodology, presumed awards ranged from several hundred thousand dollars to more than $3 million for certain eligible applicants. We have spent considerable time carefully evaluating the comments on the ''presumed award'' methodology and have made certain adjustments that have the effect of increasing the expected presumed awards. In addition, we have clarified the definition of ''collateral source compensation'' in a manner that should have an additional, upward impact on awards.

As I have repeatedly stated to the victims and their families, there are many aspects of the Fund that are mandated by Congress and cannot be changed by me or by the Department. Indeed, many of the most controversial aspects of the Fund—such as the requirement that awards be offset by life insurance and other collateral source compensation—are specifically required by Congress. I have no power to usurp or disregard congressional mandates. Rather, my goal has always been to provide the most fair and appropriate compensation within the parameters established by Congress.

Accordingly, within the discretion available, we have made the following clarifications and improvements in the final rule:

• *Definition of Collateral Sources.* As already indicated, the final rule clarifies the definition of ''collateral source'' compensation by expressly stating that certain government benefits, such as tax relief, contingent Social Security benefits, and contingent workers' compensation benefits (or comparable contingent benefits for government employees), need *not* be treated as collateral source compensation. Also, because we do not believe that Congress intended to treat a victim's savings accounts or similar investments as collateral source compensation, the collateral-source offsets will not include

moneys or other investments in victims' 401(k) accounts.

• *Valuation of Collateral-source offsets.* While Congress left us little choice on whether to make certain collateral source deductions, we have slightly more discretion in how to calculate the appropriate deduction. For example, we will adjust the collateral source offset for pensions and life insurance policies to ensure that we are not counting ''self-contributions'' or premium payments as part of the offset. In addition, for collateral source compensation that claimants will receive through future payments, we will employ present value methodologies to apply a proper discount to the amount actually deducted from a victim's award. This obviously has the effect of reducing offsets and, in turn, increasing awards. Finally, to ensure that the impact of collateral-source offsets is clear to potential claimants *before* they decide whether to participate in the Fund, we will also make available an advisory service to provide additional information for potential applicants as to how the Fund will treat different types of collateral source compensation.

• *Discretion Where the Recipients of Collateral Source Compensation Are Not Beneficiaries of Awards.* In cases where the recipients of collateral source compensation are not beneficiaries of the awards from the Fund, the Special Master will have discretion to exclude such compensation from the collateral source offset where necessary to prevent beneficiaries from having their awards reduced by collateral source compensation they will not receive.

• *Clarification of Definition of Charitable Donations.* The final rule clarifies that benefits from charities disbursing private donations will not be treated as collateral source compensation, even if such charities were created or managed by governmental entities.

• *Increase in Compensation for Non-economic Losses.* The amount of additional presumed non-economic loss compensation for the spouse and each dependent of a deceased victim is doubled from $50,000 to $100,000. This increase is in addition to the $250,000 presumed non-economic loss that is awarded on behalf of all decedents. This means that a family of a victim who was survived by a spouse and two minor children would be entitled to a presumed non-economic award of over half a million dollars *before collateral-source offsets.*

• *Adjustments to the Presumed Economic Loss Methodology.* The Special Master has adjusted his methodology for determining presumed economic losses in several respects that are described herein. As a result, no presumed awards are lower than under the original methodology, and most are higher.

• *Policy Toward Final Awards.* The Act *requires* that collateral source compensation be deducted from all final awards. The Act, therefore, does not permit us to create a mandatory legal rule requiring minimum payouts for all eligible claimants *after* collateral source deductions. Nevertheless, the Special Master is permitted to consider the individual circumstances of each claimant, including the needs of the victim's family. Having personally met with thousands of individual family members, discussing with them their various needs, I anticipate that, when the total needs of deceased victims' families are considered, it will be very rare that a claimant will receive less than $250,000, except in unusual situations where a claimant has already received very substantial compensation from collateral sources.

• *Physical Harm Requirements.* The time period for obtaining medical treatment under the definition of ''physical harm'' is increased from 24 hours to 72 hours for those victims who were unable to realize immediately the extent of their injuries or for whom appropriate health care was not available on September 11. The Special Master has discretion to extend the time period even further on a case-by-case basis for rescue personnel who otherwise meet this requirement but did not seek or were not able to seek medical treatment within 72 hours.

• *Time for Hearings.* Under the interim final rule, claimants had the option of requesting a formal hearing. This option remains part of the final rule, but we have eliminated the suggested two-hour hearing limitation.

Congress offered little guidance regarding the procedural framework for resolving claims. Nevertheless, we have provided varied procedural options for applicants because we know that one size and one system will not fit all. Victims who so choose may take a simple and direct route, filing forms and accepting payment within a matter of weeks. Other victims may opt for a more detailed and lengthy process, electing for a hearing and exercising their opportunity to present their cases personally in greater detail.

Some have argued that it is essential that each claimant know how much he or she will recover from the Fund before a formal application is submitted, particularly in light of the congressional requirement that each participating claimant waive the right to file a civil lawsuit in connection with the September 11 attacks. Others, however, have argued precisely the opposite—namely, that no formula can account for all of a claimant's individual circumstances, and that recovery should therefore be determined solely on the basis of an individualized hearing.

The Act requires that the award be determined only *after* the application is submitted and *after* a review of the requested economic and other information. It would therefore be inappropriate for me to provide any binding estimates of individual awards before we go through that process. However, to ensure that potential applicants have the ability to estimate roughly the possible ranges of their own recoveries, we have produced tables of presumed awards, and our consultants are available to provide additional guidance on the methodology for valuing different types of pension benefits and other collateral-source offsets. Accordingly, no claimant will be required to waive litigation options before receiving some indication from the Special Master as to how collateral-source offsets will be treated generally.

The efforts that I have taken to inform potential claimants of the likely range of their awards should not be mistaken for some sort of ''cap'' on awards. Although we still anticipate that awards in excess of $3 or $4 million will be rare, we emphasize again that there are no ''caps'' under this program. To the contrary, each claimant has the option to ask for a hearing at which he or she may assert additional individualized circumstances and argue that the presumed award methodology is inadequate to resolve his or her particular claim in a fair manner. We will consider all such individual circumstances, including, but not limited to, the financial needs of victims and victims' families.

One final concern should be addressed. I have received during the comment period, and have read in the newspapers, comments from a few American citizens expressing the opinion that the victims and their families are ''greedy'' in seeking additional compensation. As I have repeatedly stated, both publicly and privately, I believe that such a characterization is unfair. This Fund, and the comments of distressed family members, are not about ''greed'' but, rather, reflect both the horror of September 11 and the determination of family members to value the life of loved ones suddenly lost on that tragic day. I believe the American people understand this and in no way associate

the efforts of family members to secure compensation with any characterization of ''greed.'' This Fund represents the best spirit and compassion of the American people. I believe that America is unique in creating such a Fund that expresses the compassion, concern and determination of its people in coming to the aid of the victims of September 11.

In sum, we believe the changes adopted in this final rule best ensure that claimants will receive fair and appropriate awards. I remain personally committed to ensuring that every claimant is compensated fairly.

Background

This preamble discusses the public comments regarding the interim final rule and the additions and amendments to that rule that have been adopted through this final rulemaking. It does not purport to provide a complete overview of the program or an explanation of all of the many aspects of the interim final rule that remain unchanged. For an explanation of those aspects that remain unchanged, the reader is directed to the Department's interim final rule, published at 66 FR 66274 (Dec. 21, 2001). In addition, more detailed information regarding the program, including a flow chart of applicable procedures, a revised table of the Special Master's estimated or ''presumed'' awards, claim forms, and answers to frequently asked questions are available on the Victim Compensation Fund website at *www.usdoj.gov/victimcompensation.*

I. The Statute

The President signed the ''September 11th Victim Compensation Fund of 2001'' (the ''Fund'') into law on September 22, 2001, as Title IV of Public Law 107–42 (''Air Transportation Safety and System Stabilization Act'') (the ''Act''). The purpose of this Fund is to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a ''personal representative'' for those who died as a result of the crashes. Generally, eligibility is limited to: (1) Individuals on the planes at the time of the crashes (other than the terrorists); and (2) individuals present at the World Trade Center, the Pentagon, or the site of the crash in Pennsylvania at the time of the crashes or in the immediate aftermath of the crashes.

The Fund is designed to provide a no-fault alternative to tort litigation for eligible claimants. Congress has determined that others who may have suffered losses as a result of those events (*e.g.,* those without identifiable physical injuries but who lost employment) are not included in this special program. Accordingly, compensation will be provided only for losses caused on account of personal physical injuries or death, even though the victims may have suffered other losses, such as property loss. For this reason, the Department and the Special Master anticipate that all awards from the Fund will be free of federal taxation. *See* I.R.C. section 104(a)(2) (stating that damages received ''on account of personal physical injuries or physical sickness'' are excludable from gross income for purposes of federal income taxation).

A claimant who files for compensation waives any right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for actions to recover collateral source obligations or civil actions against any person who is a knowing participant in any conspiracy to hijack any aircraft or to commit any terrorist act.

Determinations of eligibility and the amount of compensation are to be made by the Special Master. After determining whether an individual is an eligible claimant under the Act, the Special Master is to determine the amount of compensation to be awarded based upon the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

The law also provides that the Special Master make a final determination on any claim within 120 days after filing of the claim and, if an award is made, to authorize payment within 20 days thereafter. The determinations of the Special Master are final and not reviewable by any court. Claims with the Fund must be filed on or before December 21, 2003, two years after the effective date of the interim final rule. Payments from the Fund are made by the United States Government, which in turn obtains the right of subrogation to each award.

The Department is promulgating this final rule pursuant to section 407 of the Act, which provides that the Department, in consultation with the Special Master, must promulgate regulations on the following matters:

(1) Forms to be used in submitting claims;

(2) The information to be included in such forms;

(3) Procedures for hearing and the presentation of evidence; and

(4) Procedures to assist an individual in filing and pursuing claims under this title.

In addition, section 407 authorizes, but does not require, the Department to issue additional rules to implement the program. This final rule addresses issues beyond the four specifically required by the Act in order to create a program that will be efficient, will treat similarly situated claimants alike, and will allow potential claimants to make informed decisions regarding whether to file claims with the Fund. Nonetheless, the Department recognizes that it cannot anticipate all of the issues that will arise over the course of the program and that there will inevitably be many difficult issues the Special Master will have to resolve in the course of making determinations on individual claims.

II. Rulemaking History to Date

On November 5, 2001, the Department requested public input on a number of issues. *See* 66 FR 55901. The Department noted that, at that time, the Special Master had not yet been appointed, but that it wanted as much public comment as feasible before issuing the regulations by December 21, 2001. On November 26, 2001, the Attorney General appointed Kenneth R. Feinberg as Special Master.

The Department reviewed the more than 800 comments submitted in response to the Department's Notice of Inquiry. On December 21, 2001, the Department promulgated an interim final rule governing the Fund. 66 FR 66274. The interim final rule had immediate force of law and allowed the Special Master to begin accepting applications and providing ''Advance Benefits'' to certain classes of eligible claimants. In addition, the Rule provided for a 30-day public comment period on the interim final rule.

The Department has received thousands of comments since the December 21 publication of the interim final rule. The Department and the Special Master's Office have reviewed each of these comments, and the Special Master has met personally with more than 1,000 victims, victims' advocates, public officials, and others. As was the case with the interim final rule, the Department and the Special Master have considered all comments in promulgating the final rule.

III. Comments on the Interim Final Rule

A. The Creation of the Fund

Congress created the Victim Compensation Fund to compensate those injured or killed in the September 11 terrorist attacks. A number of people

commented on whether or not Congress should have created this program in the first place.

Scores of commenters—recognizing Congress' belief that the airlines were facing imminent bankruptcy and could be effectively judgment proof—described the Fund as a testament to Congressional and taxpayer generosity. Many described the Fund as compassionate and critical to meet the needs of victims of September 11. A few noted that they wish Congress had enacted similar legislation prior to September 11 to care for the needs of those in previous tragedies, and voiced their support for similar programs in the future.

Many others, however, expressed their disapproval of Congress for creating the Fund. For example, several argued that Osama bin Laden and his al Qaeda network are the sole responsible parties and that the government should not expend taxpayer dollars to compensate those who are not in immediate financial need. Several commenters indicated that taxpayer revenue should instead be spent on the homeless and other social programs ''that currently lack adequate funding.''

Others expressed their regret that victims of other tragedies were not given the same benefit of compensation. These commenters raised several questions, including: Why were not the victims of the Oklahoma City bombing given the same opportunities? What about victims on the U.S.S. Cole? Victims of anthrax? Those who died in the embassy bombings in East Africa? Why are the soldiers in the United States military not included? What about those who volunteered or were drafted to fight in World War II, Vietnam, and other arenas of combat who died defending the United States? What about those who perished in floods, hurricanes, snowstorms, fires, tornados, earthquakes, and other domestic tragedies? What about those persons who were murdered on September 10 and 12?

On the other hand, a number of commenters who indicated that they are eligible to file a claim with the Fund voiced concerns that Congress had inappropriately limited their right to sue potentially liable third parties for their loss. Some of these commenters argued that several companies and agencies ''contributed'' to the September 11 attacks and ''should be held responsible'' for their alleged ''negligence.''

While the Department and the Special Master have reviewed the many comments both in favor and in opposition to the Fund, such comments principally address Congress' legislation. The Department's regulations are designed to implement the Act as written; we cannot rewrite the Act or nullify Congressional intent. The goal in this final rule was simply to create the best and fairest program possible within the requirements set by Congress.

B. Amount of Compensation in the Special Master's Presumed Award Charts

The Act does not specify the amount of the awards for individual claimants. Instead, the Act gives the Special Master discretion to determine the amount of the award ''based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.'' Section 405(b)(1)(B)(ii). The Act further provides that the Special Master's determination ''shall be final and not subject to judicial review.'' Section 405(b)(3).

The Act thus permits the Special Master to determine the amount of awards on a case-by-case basis without giving any guidance to potential claimants regarding the awards that they would likely receive if they waived their rights to litigation and opted into the Fund. Further, such case-by-case determinations would not be subject to judicial review. As a practical matter, of course, the Special Master would need some methodology to ensure a measure of consistency among awards to similarly situated claimants, to give potential claimants some idea of their likely range of awards, and to make the Fund administratively feasible. The Department and the Special Master decided that the interests of potential claimants would be best served by providing, where reasonably possible, information concerning the Special Master's methodology for calculating awards. The Special Master has not imposed any ''cap'' on awards nor limited claimants from presenting evidence of their individual circumstances.

On December 20, 2001, Kenneth R. Feinberg, the Special Master of the Fund, publicly announced the completion of the interim final rule and, along with the rule, unveiled several charts illustrating in a general way presumptive, non-binding estimated awards available for those eligible claimants filing on behalf of certain deceased victims. Furthermore, in heeding the Attorney General's instruction to help the neediest victims as quickly as possible, Mr. Feinberg also introduced a means by which most eligible claimants could receive immediate, advance benefits in the amount of $50,000 for decedents and $25,000 for most of those with serious physical injuries. The interim final rule permitted claimants either to accept the presumed award or to argue for a greater award either at an individual hearing or, at the claimant's option, on submitted documentation.

While the Special Master's presumed award charts are not part of the Department's rulemaking, the amount of compensation reflected on those charts received more public comments than any other subject. Both the Department and the Special Master's office have considered those comments, just as they have considered the comments regarding the interim final rule.

The comments regarding the presumptive awards varied greatly. While many described the presumptive awards as just and fair, others criticized them as either too high or too low. These disagreements were based in large part upon differing views regarding the purposes of the Fund. Some commenters began with the presumption that the Act's provision of recovery for both economic and non-economic losses, accompanied by the requirement that claimants waive their right to civil litigation, indicated that the amount of compensation under the Fund should mirror past jury awards in airline litigation. Those commenters, for the most part, concluded that the presumed awards were insufficient, particularly for victims with the highest incomes.

Many other commenters took a very different view of the program. These commenters viewed the program not as a replication of the tort system, but instead as a government program designed to assist the victims and their families. Those commenters therefore concluded that there should not be a disparity among the awards based upon the income of the victim. Some vigorously criticized the proposition that the wealthiest victims should receive more from the taxpayers than many of the public safety officers and Pentagon employees would receive. Indeed, some commenters expressed frustration that people are demanding more than the presumed awards, contending that the awards are ''more than generous'' and that it is inappropriate for the federal government to ''make victims' families millionaires with taxpayer money.''

Other commenters noted the competing goals of the Act and the complexities of placing dollar figures on a life and determining awards within the prescriptions of the Act. For example, one commenter stated that ''[t]here is no way for distribution of

these funds to be totally fair in the eyes of everyone. That's just the way it is.'' Those commenters, by and large, praised the efforts of the Special Master.

The Department and the Special Master have thoroughly reviewed and considered the differing views regarding the amounts of compensation reflected in the Special Master's presumed award charts and have concluded that no single analogy should dictate the compensation under the Fund. Civil litigation often takes years, with awards varying greatly from one claimant to another, particularly where the incomes of the victims vary. Indeed, under the tort system, while many claimants receive extremely large awards, many others walk away empty-handed due to the requirement that plaintiffs prove fault. In contrast, the Fund is a no-fault alternative to civil litigation designed to provide fair compensation in a matter of months.

At the same time, the Department and the Special Master do not believe that any other federal government program provides a perfect analogy for determining the amount of awards. The Fund is a unique program that provides compensation for both economic and non-economic losses and requires that claimants waive their rights to civil litigation.

The final rule makes some important changes that will increase the amount of compensation in the Special Master's presumed award charts. While the Department and the Special Master believe that the original presumed award charts are entirely sound and are based upon neutral, current data and generally accepted methodologies, the public comments did suggest certain adjustments that we determined were appropriate to implement. Specifically, as described in more detail below, the final rule increases the amount of non-economic loss compensation by providing that the presumed awards will include $100,000, rather than $50,000, for the spouse and each dependent of a deceased victim (in addition to the $250,000 presumed non-economic award for each deceased victim). In connection with publication of this final rule, the Special Master will also announce revised presumed award charts that modify presumed economic loss in a manner that will further increase presumed awards. In addition, as explained below, the definition of collateral source compensation is clarified in a manner that will lead to higher final awards than many in the public had assumed.

Of course, it bears repeating that the Special Master's ''presumed award charts'' are estimates and do not determine the final award for claimants who request individualized hearings. Rather, the Special Master stands prepared to depart from the presumed awards for individual claims based upon the extraordinary circumstances of the claimants.

1. Economic Loss

Although prescribed by the Act, many commenters expressed frustration that a victim's income is considered in calculating economic loss. One commenter stated that ''rich people do not deserve more because they are rich.'' Others believed that the distribution of taxpayer dollars should be equal to all victims regardless of income levels. At least one commenter noted that persons with substantial incomes should not receive higher awards because they are the ones, he argued, with the ''financial savvy'' to protect their loved ones with life insurance.

Several commenters raised issues with respect to deriving a victim's average annual income from the years 1998–2000 in determining the foundation for calculating economic loss. One commenter noted that only the last year of annual income should be included. Many comments on this subject, however, contended that the three-year period used to obtain the average encompasses the wrong period of years. These commenters suggested the Special Master use the average income from 1999–2001 (rather than 1998–2000), arguing that 2001 is more indicative of a victim's actual earning potential. In addition, several families of victims of the Pentagon attack expressed concern that the description of income in the interim final rule did not account fully for income of employees of the military, which often uses terms of art to describe various forms of compensation.

In response to these suggestions, the interim final rule is amended to allow the Special Master discretion to consider on a prorated basis a victim's income from 2001 as well as published salary scales for government or military employees. In addition, the interim final rule is amended to clarify that military service members' and uniformed service members' compensation includes all of the various components of compensation, including, but not limited to, basic pay (BPY), basic allowance for housing (BAH), basic allowance for subsistence (BAS), federal income tax advantage (TAD), overtime bonuses, differential pay, and longevity pay.

Several comments also raised issues regarding the fact that the Special Master's schedules, tables, and charts only identify presumed economic determinations of economic loss up to a salary level commensurate with the 98th percentile of individual income in the United States. Commenters had mixed reactions to this component of the calculations. Some complained that the program is inappropriately ''making millionaires'' of victims' families and that the high end presumed awards for earners at the 98th percentile were inordinately high when compared to the average or lower end awards. One commenter stated that the percentile should be lowered because, as currently implemented, it ''unfairly discriminates against lower-income families.'' Other commenters, however, indicated that those same presumed awards that many regarded as too high were actually too low—that the amounts at the 98th percentile failed to fully redress losses for the most successful of all victims (in the top 2% of annual income). These commenters often inaccurately described the 98th percentile as a ''cap'' on awards.

The final rule does not change the interim final rule's provision that the presumed award charts will address incomes only up to the 98th percentile of income in the United States. Many of the criticisms of that provision were based upon the incorrect assumption that the provision constitutes a ''cap'' on economic loss recovery. To be absolutely clear: The fact that the ''presumed awards'' address incomes only up to the 98th percentile does *not* indicate that awards from the Fund are ''capped'' at that level. In extending the presumed awards only up to the 98th percentile, we merely recognized that calculation of awards for many victims with extraordinary incomes beyond the 98th percentile could be a highly speculative exercise and that, moreover, providing compensation above that level would rarely be necessary to ensure that the financial needs of a claimant are met. Calculation of an award beyond that point using the presumed award methodology without a detailed record could very well produce inappropriate results. Accordingly, we permitted applicants with extraordinary prior earnings to accept awards at the 98th percentile or seek calculation of an award based upon a more detailed record. We also note that the Special Master has express authority under the Act to consider the ''individual circumstances of the claimant'' in fashioning awards, including the *financial needs* of victims and surviving families in rebuilding their lives. As indicated, the Special Master will strive

to deliver a fair and equitable sum to each eligible claimant.

Many commenters argued for changes in other components of the economic calculations, the effect of which would increase awards. Some commenters stated that the wage growth rates used in the economic calculations are too low. A few commenters noted their opposition to consumption factors being used. Another stated that a person engaged to be married should not be straddled with an unmarried person's consumption rate. Some suggested that the work life estimates are outdated and gender biased. One commenter stated that the promotion and merit assumptions are inconsistent and unfair to particular age groups. Another indicated that taxes should not be deducted from future lost earnings. One commenter stated that economic loss for foreign nationals should be calculated by percentages. She suggested that the Special Master determine the percentile of the foreign national's income in his or her own country (in light of national averages), and calculate the economic loss in light of the income of the corresponding percentage in the United States. Finally, some commenters were worried that victims just out of school (but with degrees or professional licenses in industries offering top-level salaries), and without any income history, would be treated unfairly.

On the other hand, several commenters argued that the calculations were too generous and suggested changes, the effect of which would decrease awards. Some indicated that the wage growth rates are too high. One commenter suggested that personal representatives of single claimants should not be entitled to economic losses because they would not have benefitted from the decedent's economic gain absent death. Another commenter generally agreed with that proposition, but stated that economic loss should be limited to any amount a single deceased victim was obligated or ordered to pay in child support. Other commenters argued that economic awards should not assume that surviving spouses or other family members will never work again. Lastly, one commenter stated that divorce rates should be factored in to the economic loss calculations.

The new presumed award charts released by the Special Master make several changes that are designed to improve the economic loss methodology in light of the comments. While this methodology is not part of the Department's rulemaking, we believe it is helpful to offer this explanation here. These changes will have the overall effect of increasing presumed awards for all claimants. Specifically:

(1) The Special Master's original presumed economic loss methodology relied upon expected work life data from the publication ''A Markov Process Model of Work-Life Expectancies Based on Labor Market Activity in 1997–1998,'' by James Ciecka, Thomas Donley, and Jerry Goldman in the Journal of Legal Economics, Winter 1999–2000. Contrary to the assertions of some commenters, the Special Master did not use data from the 1970s; rather, the study was conducted in 1997 and 1998. Also, the Special Master's original presumed award methodology did not, as some suggested, discriminate against women. Rather, the original methodology relied upon the same assumptions for men and women—the combined average of All Active Males and All Active Females. However, in order to increase awards for all claimants by maximizing the duration of expected foregone earnings and accommodating potential increases by women in the labor force, the Special Master's revised presumed economic loss methodology uses the most generous data available. Specifically, the new methodology uses the All Active Males table for all claimants.

(2) To address concerns about wage growth assumptions and the application of wage growth assumptions to different age groups, the Special Master has adjusted the wage growth assumptions to growth rates that incorporate annual adjustments for inflation, productivity in excess of inflation and life cycle increases using data from the March 2001 Current Population Survey conducted by the Bureau of the Census for the Bureau of Labor Statistics. For life cycle increases, the Special Master is applying the higher age-specific life cycle increases (those for males) for all claimants. For inflation and productivity increases, the Special Master has applied rates of 2 percent and 1 percent, respectively. These rates are consistent with the long-term relationship between wage growth and risk-free interest rates. The net effect of this adjustment is to better represent the expected earnings pattern of the victims over their expected careers as compared to the original methodology, which based anticipated wage growth on the victim's age at death. The original assumptions reflected and indeed emphasized the fact that real increases are typically higher in the earlier stages of a career but was subject to some criticism because it did not adjust the growth continually throughout the work life and thus created differentials at specific ages (particularly, age 31 and age 51). By adopting the revised assumptions, the Special Master adjusts wage growth throughout the duration of the work life, thus reducing the differences between age groups. In addition, although the data indicate that wages actually fall at a certain stage in the career, the Special Master has chosen to assume that peak earnings remain constant and do not decline at any stage in the career.

(3) As with the original presumed award calculations, the Special Master subtracts from the annual projected compensable income the victim's ''consumption'' as a percentage of after-tax income instead of before-tax income. While the consumption adjustment is standard, the application of the adjustment to after-tax income lowers the amount of the consumption offset below the amount that would typically apply in an economic loss calculation. In addition, as with the initial model, the Special Master's assumptions eliminate some of the components typically used in estimating consumption, thereby further limiting the consumption deduction.

(4) To better reflect typical life cycle earnings expectation, the Special Master has incorporated into the calculation a factor to account for risk of unemployment—again, a common factor in the calculation of future lost earnings.

(5) Finally, the Special Master has elected to use three blended after-tax discount rates to compute the present value of the award and has adjusted the discount rate to reflect current yields on mid-to long-term U.S. Treasury securities. Although this adjustment creates a more complex computational process, the Special Master believes that the effect will be to better reflect the different ages of the victims and the fact that the survivors will receive awards reflecting different assumed future years of work life.

Overall, it is important to understand that the basic factor that affects the economic loss analysis is the victim's own data: each presumed award will be calculated using the victim's data regarding actual compensation, including fringe benefits and forms of compensation and effective tax rate. It is also important to emphasize that the presumed award methodology is intended to facilitate the computation of a large number of awards without the detailed review that might typically be employed in a lengthy economic loss analysis in an individual case. To achieve this objective, the Special Master specifically adopted assumptions that are intended to be favorable to claimants and to enable prompt analysis and payment. Needless

to say, a case specific analysis that took into account the actual consumption and savings rates of a particular individual could require a substantial amount of time and could very well produce *lower* awards in some cases.

It is also relevant to note comments suggesting that the economic loss calculations fail to incorporate sufficiently replacement services loss. The Special Master recognizes that such losses are variable, and thus claimants may present at a hearing individualized data to support a departure from the presumed award.

2. Non-Economic Losses

After extensive fact finding, public outreach, and review of public comments, the Special Master and the Department concluded that the most rational and just way to approach the imponderable task of placing a dollar amount on the pain, emotional suffering, loss of enjoyment of life, and mental anguish suffered by the thousands of victims is to assess the non-economic losses for categories of claimants. The regulations, therefore, set forth presumed awards for non-economic losses sustained. The presumed non-economic loss awards for decedents in the interim final rule were $250,000, plus an additional $50,000 for the spouse and each dependent of the deceased victim. Notably, the regulations further provide the option of a hearing for those claimants who feel the presumed awards do not take into account their extraordinary circumstances.

While many lauded the decision not to distinguish (at least presumptively) between the pain and suffering of victims or loved ones, many others voiced their disapproval and urged that all presumptions be removed. Many of the comments addressing this topic focused on the pain and suffering of those left behind, while others referred to the pain and suffering experienced by the victims who lost their lives.

Those in favor of presumed equality pointed out the alleged difficulty in drawing distinctions. For instance, one commenter (speaking of the pain and suffering she has experienced) focused on another commenter's assertions that he deserved more money for pain and suffering because he spoke to his wife (who was in the World Trade Center) after one of the planes hit her building but before she lost her life. She stated that—although she did not talk to her husband prior to his death—she experienced just as much (if not more) pain and suffering because she never had the opportunity to say goodbye to him.

Other commenters, however, expressed their views on how distinctions should be made. For example, one family member (speaking of his son's pain and suffering) proposed the creation of a separate category of pain and suffering that differentiates between those victims who were trapped above the impact area of each World Trade Center building from those who were physically located below it. He believes his son's pain and suffering was greater than those who died below the respective impact zones. Moreover, proposed distinctions were made depending on whether someone was an emergency worker or not. Some argued that emergency workers should receive more by way of non-economic losses because they sacrificed their lives to save victims. In contrast, others argued that emergency workers should receive less because ''they knew [the] risks when they pursued their careers in public service.''

Further, some argued the presumed awards as a whole were inadequate, while others stated they were too high. Many commenters stated that a victim's life is priceless and suggested that the non-economic presumptions be raised to acknowledge the grief suffered by family members. At least one commenter stated that non-economic losses usually are not available for wrongful death actions and, therefore, should be minimal under the Fund, if recognized at all.

One commenter urged that consequential and incidental damages be included in the non-economic calculations. Another indicated that non-economic losses should not be comparable to military benefits. Finally, at least one commenter argued that those who died without children are being ''forgotten'' or ''penalized.''

It is important once again to emphasize that the final rule specifies only the presumed non-economic losses award, and any claimant may request a hearing to present individualized evidence. However, the Special Master believes that it is important to have some measure of consistency among awards, so that he does not have to ''play Solomon'' by attempting to place a value on human lives on an ad hoc basis.

The selection of a dollar value for non-economic losses is inherently subjective. The Department and the Special Master concluded that an appropriate starting point is the compensation that Congress has made available under existing federal programs for public safety officers who are killed while on duty and members of our military who are killed in the line of duty while serving our nation. *See* 38 U.S.C. 1967 (military personnel); 42 U.S.C. 3796 (Public Safety Officers Benefit Program). That amount ($250,000) is not a cap.

The Department and the Special Master also decided to include an additional component for the spouse and each dependent of deceased victims. The interim final rule set that amount at $50,000 for the spouse and each dependent. After reviewing the public comments and meeting with numerous families of victims, we have decided to double that amount to $100,000 for the spouse and each dependent. Obviously, this will have an upward impact on the amount of the awards for many families of victims. In addition, the definition of ''dependents'' is modified to include those who meet the IRS'' definition of ''dependent'' even where the victim did not include the individual as a dependent on his or her most recent federal tax return.

C. Collateral Source

In enacting the Fund, Congress required that awards be offset by ''collateral source compensation'' such as life insurance benefits, employer death benefits, and benefits from other government programs. Under the law, the Special Master must make these offsets. Nevertheless, the law does give the Special Master some measure of discretion regarding charitable donations, and the interim final rule states that such donations will not be deducted from victims' awards.

Many commenters focused on issues that are beyond the Department's authority to regulate. For example, many commenters addressed the appropriateness of reducing final awards by collateral compensation at all. Many commenters suggested that it was inappropriate to reduce awards for the families of victims who planned ahead by purchasing life insurance or other means of ensuring financial compensation to their families. On the other hand, those comments in favor of maintaining collateral-source offsets shared a similar theme; namely, in their opinion, the intent of the Fund was to ''make sure that nobody's loss is compounded by sudden destitution,'' not to enrich those who already have the financial means to make ends meet.

Despite the unequivocal language in the Act that mandates the Special Master deduct life insurance proceeds from awards, a substantial percentage of comments focused on this issue. While the majority of those comments urged that such proceeds not be deducted—a course that only Congress can prescribe—several commenters had

more limited suggestions. For instance, a few commenters suggested that premiums that were contributed by the policyholder should be subtracted from the proceeds in calculating offsets. Other commenters similarly insisted that ''cash values'' not be included in the deductions.

Additionally, a few commenters were worried that life insurance proceeds that are not paid to a victim's personal representative (or any member of the decedent's current family) would be deducted from the award paid to the personal representative. One commenter proposed that ''[l]ife insurance proceeds should only be offset to the extent they were payed to those persons who are the beneficiaries or distributees of the estate of a deceased victim.''

There also was a high volume of comments regarding workers' compensation. Several commenters stated they are uncertain whether or not workers' compensation benefits constitute a collateral source under the rule. Many argued that such benefits should not be deducted. Others argued they should. Some suggested that offsetting workers' compensation benefits would be impracticable because several ''unknowns'' exist. For example, survival benefits, under certain state laws, are forfeited if and when the recipient remarries, and such benefits, they contend, ''cannot accurately be reduced to present value.'' One organization specializing in New York workers' compensation law raised important technical issues and proposed preemptive solutions.

Although the topic of private charitable awards (as a potential component of collateral source) provoked a large percentage of the comments submitted in response to the Department's Notice of Inquiry, scant mention was made of it in response to the interim final rule. At least one commenter insisted that charities be deducted. Others sought further clarification on the scope of the definition of ''charity'' under the rule.

An important point needs to be made here regarding the differences between the private and federal compensation efforts arising out of the attacks of September 11. Many commenters confused this Victim Compensation Fund, which was created by Congress and is financed by taxpayer revenue, with the private charities (*e.g.,* American Red Cross). For example, some were upset with the Special Master because their private charitable donations were not being divided equally. Others were angry at the Special Master for not disseminating private charitable donations in a more timely fashion. It should be reiterated that the Special Master administering this Fund is not in charge of, nor does he maintain any control over, the private charitable organizations or the money they have collected.

Many comments raised additional collateral source issues. These comments consisted of proposals that, if adopted, would either increase or decrease the amount of offsets. Those wanting decreased offsets argued that pension funds, 401(k) plans, and IRAs essentially are ''savings plans'' and, therefore, should not be offset. Others contended that collateral offsets should affect only the amount of economic loss, rather than economic and non-economic losses combined. At least one commenter urged that money paid into Social Security on behalf of a victim (over his or her lifetime) be subtracted from any offset. One commenter asked that collateral offsets not be considered over $500,000.

Similarly, some commenters argued that pensions and other forms of retirement are, in fact, compensation (or incentives) for either accepting higher risk (in the case of emergency workers) or lower salaries (in the case of government employees). Others proposed that the regulations include a floor whereby every claimant, notwithstanding the amount of collateral-source offsets, is entitled to receive a considerable amount of compensation. These commenters expressed concern that—after collateral-source offsets—they could end up receiving nothing under the Fund.

The public's questions and comments make it clear that the determination of the appropriate collateral source offset will in many situations involve an individualized case-by-case review. It also appears from questions and from reports in the media that some individuals may be over-valuing the collateral source compensation and therefore assuming a much greater offset than would likely be applicable and that there is a great deal of uncertainty regarding the types of compensation that would be subject to the offset. Indeed, many commenters over-valued their particular collateral source compensation by failing to reduce future periodic payments or benefits to present value, a calculation that in many circumstances has a substantial effect on offset amounts. It is both necessary and appropriate therefore to provide more detailed guidance to the victims and their families so that they can make educated choices regarding participation in the program. The following clarifications regarding the interpretation and application of the collateral source compensation provisions of the Act should allow potential claimants to make more informed choices.

The Act defines collateral sources to mean all such sources, including life insurance, pension funds, death benefit programs, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001. The Act and the rule require the Special Master to reduce the total amount of compensation by the amount of the collateral source compensation the claimant (or, in the case of a Personal Representative, the victim's beneficiaries) has received or is entitled to receive as a result of the terrorist-related aircraft crashes. In administering the Fund, consistent with the purpose and terms of the Act, the Special Master will exercise discretion in valuing the appropriate deductions for collateral offsets, including by determining: (1) Whether the particular offsets fall within the definition of collateral sources; (2) whether beneficiaries of the Fund are ''entitled'' to receive compensation from those collateral sources; (3) whether the collateral source compensation is certain or can be computed with sufficient certainty to enable its deduction while ensuring that the beneficiaries receive the total compensation that is appropriate; and (4) the appropriate amount of the compensation that should be deducted, taking into account the time value of money and contributions made before death by the victim in the nature of investment or savings.

1. Definition of Collateral Source Compensation Offset

While it is not possible to define in advance every possible collateral source deduction, a few general illustrations should provide guidance: First, the Special Master has discretion to exclude from consideration life insurance proceeds that are distributed to persons other than the beneficiaries of this Fund; second, the Special Master has discretion to adjust the amount of offsets to exclude premiums or assets that were accumulated by the victim through self-contributions paid into a life insurance program to build up a tax-deferred cash value; third, the Special Master may reduce the amount of the offset for a pension to take account of self-contributions to that plan over the decedent's lifetime.

In addition, the final rule provides that tax benefits received from the federal government as a result of the enactment of the Victims of Terrorism Tax Relief Act of 2001 (Pub. L. 107–

134) will *not* be treated as collateral source compensation. The Victims of Terrorism Tax Relief Act of 2001 provides income and estate tax relief to the families of victims of terrorism. The law waives the income tax liability of a victim who died in one of the attacks for both the year of the attack and the previous year, and ensures that a minimum benefit of $10,000 is provided to the family of each victim. In addition, the law shields the first $8.5 million of a victim's estate from the federal estate tax. For example, prior to the new law, citizens or residents of the United States who died in the September 11, 2001 terrorist attacks, were able to utilize the maximum state death tax credit allowed for federal estate tax purposes, and had made no prior taxable gifts would have had federal estate tax liabilities as follows: a decedent with a federal taxable estate valued at $2,000,000 would have had a federal estate tax liability of approximately $460,650; a decedent with a federal taxable estate valued at $4,000,000 would have had a federal estate tax liability of approximately $1,339,850; and a decedent with a federal taxable estate valued at $8,000,000 would have had a federal estate tax liability of approximately $3,047,050. As a result of the new law, no estate tax would be due in each case. The Victims of Terrorism Tax Relief Act of 2001 therefore provides very substantial tax relief to many victims, and that relief will *not* be treated as collateral source compensation for purposes of determining awards from the Fund. Nevertheless, substantial income tax rebates could bear on financial need, and therefore could conceivably be considered by the Special Master in the context of a hearing.

2. Guidelines for Determining Offset Where Benefit Is Uncertain

Some survivors may be eligible for benefits or payments from certain programs that provide periodic payments subject to adjustment or termination depending on potential future events that cannot be predicted. Examples include Social Security survivor benefits paid to the spouse of a victim. Such benefits are paid only under certain conditions and only for certain periods of time. Further, the benefits are paid periodically over a period of years.

Where the benefits to be paid due to death of the victim are uncertain, unpredictable, or contingent on unknown future events, the amount of the compensation to which the survivor is entitled can be impossible to compute with reasonable certainty. In those instances, the Special Master has discretion not to require a *full* deduction where the amount of the collateral source compensation cannot be determined with reasonable certainty. Thus, for example, the Special Master has determined that workers' compensation benefits that are payable only if the spouse does not re-marry will only be offset to the extent they have already been paid. Likewise, Social Security and similar benefits payable to a surviving spouse only if the spouse does not re-marry or does not earn income above a certain threshold will be offset only to the extent they have already been paid. By contrast, survivor benefits from the Social Security Administration and from the military to children of victims—who generally are entitled by law to periodic payments until they reach the age of 17 or 18—can be reasonably computed and will be offset.

3. Computation of Collateral Source Offset

In light of numerous questions regarding the valuation of collateral source compensation, it is important to clarify that in computing the offset for any collateral source that is to be paid over a period of time, the Special Master will only offset the present value of that collateral source compensation. This has the effect of decreasing offsets and, thus, increasing the amount of awards. As an example, in the case of Social Security children's benefits, the Special Master would determine the monthly benefit to the child, multiply that benefit by the number of months remaining until the child reaches age 17 (taking into account possible limits such as maximum family benefits available), include—if consistent with Social Security guidelines—a factor for inflation, and then discount the total to present value to determine the amount of the offset.

4. Clarification Regarding Charitable Contributions

The interim final rule provides that charitable donations distributed to beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by ''private charitable entities'' are *not* collateral source compensation. § 104.47(b)(2). The interim final rule further provides that the Special Master may determine that funds provided through a private charitable entity constitute, in substance, a payment described in the definition of collateral sources, and therefore *should* be used to offset the award.

Some commenters have expressed concern that the interim final rule's definition could require that privately funded charities would be treated as collateral sources if a governmental entity created or manages the charity. In order to avoid this confusion, the provision is amended to provide that money received from ''privately funded charitable entities'' do *not* constitute collateral source compensation, subject to the same exception described above.

5. Availability of Information Regarding Collateral-Source Offsets

Through this preamble, the Special Master announces his intention to permit applicants to meet with the Special Master or his representative consultants in order to advise such applicants whether particular types of collateral source compensation will fall within the definition of ''collateral source compensation,'' and how such types of collateral sources will be valued. This service is an attempt to deal with an issue raised during the comment period; namely, that potential claimants should not be required to waive their right to sue without having some indication of how particular types of collateral offsets will be treated. The final rule attempts to deal with this problem by striking a careful balance.

The Act does not permit the Special Master to provide claimants any precise estimate of their award prior the claimant opting into the Fund. Indeed, the Special Master and his staff will carefully review the information submitted in any claim before reaching any conclusions regarding an award. Nevertheless, by permitting applicants to inquire as to how the offsets will be calculated for differing types of collateral sources, this provision of the final rule should assist applicants to make a considered election concerning whether to participate in the Fund or not. To be clear, this consultation will focus on broad categories of benefits and will *not* provide applicants with a precise estimate of their eventual award. The determination of an appropriate award requires a deliberative review of a victim's file, including the types of detailed financial records that the application requires. The Special Master cannot, and will not, give a precise computation of an award before a claim is filed. This provision helps to assure claimants a better understanding of their award without requiring the Special Master to engage in individual computation not permitted by the Act.

Finally, some commenters expressed concern that their collateral-source deductions could eliminate their awards altogether. The Act *requires* that

collateral source compensation be deducted from all final awards. The Act, therefore, does not permit us to create a mandatory legal rule requiring minimum payouts for all eligible claimants *after* collateral source deductions. Nevertheless, the Special Master is permitted to consider the individual circumstances of each claimant, including the needs of the victim's family. The Special Master has announced his expectation that, when the total needs of deceased victims' families are considered, it will be very rare that a claimant will receive less than $250,000, except in unusual situations where a claimant has already received very substantial compensation from collateral sources.

D. Eligibility.

The Act requires the Special Master to determine whether a claimant is an ''eligible individual.'' ''Eligibility,'' in turn, is defined by the Act to include: (1) Individuals (other than the terrorists) aboard American Airlines flights 11 and 77 and United Airlines flights 93 and 175; (2) individuals who were ''present at'' the World Trade Center, the Pentagon, or the site of the aircraft crash at Shanksville, Pennsylvania at the time or in the immediate aftermath of the crashes; or (3) personal representatives of deceased individuals who would otherwise be eligible. Moreover, to be eligible for an award, an individual must have suffered physical harm or death as a result of one of the terrorist-related air crashes. The rule addresses eligibility by defining the terms ''present at,'' ''immediate aftermath,'' ''physical harm,'' and ''personal representative.''

Many commenters submitted comments regarding eligibility issues. However, although the rule defined several terms important to eligibility requirements, the majority of comments concerning this topic discussed the scope of the terms ''physical harm'' and ''personal representative.''

1. Physical Harm

To be eligible for compensation under the Fund, victims who did not lose their lives in the terrorist attacks of September 11 must demonstrate that they suffered physical harm. ''Physical harm'' is defined in the interim final rule as ''a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained or within 24 hours of rescue.'' Additionally, such injury must have: (i) Required hospitalization as an in-patient for at least 24 hours; *or* (ii) caused, either temporarily or permanently, partial or total physical disability, incapacity or disfigurement.

The Act does not extend eligibility to those who suffered emotional distress without physical injury. A few commenters therefore urged that the Act be rewritten to include such harm, or that regulations be drafted to interpret emotional distress as a physical injury. At least one commenter stated that those suffering from post-traumatic stress disorder should be eligible under the Fund. Another lauded the program for its restrictions on eligibility based on physical injury.

Several commenters stated that the rule's definition of ''physical harm'' strikes an appropriate balance between compensating victims and preventing fraud or abuse. A few, however, indicated they were severely injured in the immediate aftermath of the terrorist attacks, yet would not be eligible for the Fund because they were not ''treated by a medical professional within 24 hours of the injury having been sustained.'' These commenters urged that the rule be adjusted to allow a longer period of time for treatment by a medical professional. At least one commenter indicated that—despite being seriously injured—he spent more than 24 hours trying to locate his family members and friends who worked in the World Trade Center. Another commenter described how many individuals with serious physical injuries either were reluctant to seek immediate treatment or were persuaded not to seek treatment in the 24 hours following the attacks in order to allow physicians to care for those suffering potentially life-threatening injuries.

The final rule expands the time period in which victims must have obtained medical treatment from 24 hours to 72 hours for those victims who were unable to realize immediately the extent of their injuries or for whom appropriate medical care was not available on September 11. The Special Master has discretion to extend the time period even further for rescue personnel or possibly others who otherwise meet this requirement but did not seek or were not able to seek medical treatment within 72 hours. Of course, the Special Master will continue to require evidence that victims suffered physical injury at the time of, or in the immediate aftermath of, the aircraft crashes, as defined in § 104.2 of this rule.

2. Personal Representative

The Act provides that in the case of an individual who is deceased but who otherwise meets the other criteria for eligibility, a claim may be filed by the personal representative of the decedent. In many or most cases the identity of the personal representative will not be in dispute. Where disputes exist, however, at least two issues arise: (1) What are the rules for determining who is the personal representative; and (2) who should apply the rules and resolve the dispute?

As to the first issue, the regulations rely upon state law. With respect to the second issue, the regulations provide that the Special Master is not obligated to arbitrate, litigate, or otherwise resolve disputes as to the identity of the personal representative. The regulations do provide, however, that the disputing parties may agree in writing on a personal representative to act on their behalf—who may seek and accept payment from the Fund—while those disputing parties work to settle their dispute. Further, in appropriate cases, the Special Master may determine an award, but place the payment in escrow until the dispute regarding the personal representative is ultimately resolved.

While several commenters agreed that state law should govern personal representative issues, others did not. Most commenters who were dissatisfied with the rule's reliance upon state law in this area expressed concern that state law determinations would preclude recovery by particular individuals who lost loved ones in the terrorist attacks. Others, however, expressed concerns regarding possible uncertainty and the lack of uniformity among different states' laws. Consequently, several commenters contended that the rule should provide eligibility requirements that displace state law.

One of the topics receiving the most comments was the eligibility of domestic partners. Many comments submitted on behalf of members of Amnesty International urged that there be ''equal access to benefits under the Fund for all victims, regardless of sexual orientation or marital status.'' Members of this organization, and several other individuals, stated that eligibility should be extended to surviving partners of gays and lesbians. Others urged that partners in common law marriages be eligible. Another group of commenters suggested that eligibility should be construed more broadly to include all partners ''in long standing stable relationships * * *.'' In contrast, scores of comments were submitted by those who feel ''funds should be limited to spouses and other family members * * * and should not extend to domestic partners, including surviving partners of gays and lesbians.''

In addition to fiancees who may be part of a domestic partnership, many other fiancees (and those commenting

on their behalf) similarly expressed frustration they are not (or may not be) eligible under the Fund. Some noted that their state of domicile does not place fiancees in the line of intestate succession. One asked, rhetorically, ''Why am I eligible to recover money from certain private charities, but yet am ineligible under the Fund?'' On a related note, more than one commenter indicated that ex-spouses should be eligible.

The final rule continues to rely upon state law for the determination of the personal representative. Reliance on state law is necessary in part because those who file for recovery under the Fund waive their rights to recover through litigation, in which state law would determine the identity of the appropriate representatives of the decedent, or the decedent's estate, to bring suit. Thus, if the identity of personal representatives for purposes of this Fund were determined by federal regulation, there could be many situations in which the representative as defined by state law would choose litigation while the personal representative as defined by federal regulation would seek to recover from the Fund. While many have voiced criticisms of some of the potentially applicable state laws, those criticisms are more properly directed toward state officials. It is important to note, however, that state intestacy laws are relevant only in the absence of a valid will. Thus, to the extent that some or all of the award would pass by will, the will may determine the identity of some or all of the beneficiaries.

3. Other Eligibility Issues

Many commenters stated they are angry that men and women in the United States armed forces who have died (or may die) fighting terrorism in Afghanistan are not eligible under the Fund. One commenter noted that ''military victims bleed and die like everyone else.'' One commenter argued that more than one claim per family should be allowed under the Act. At least one commenter suggested that the term ''dependent'' be construed more broadly to include all children, including sons and daughters who have reached the age of majority. Another commenter stated that siblings who lived in the same household of the decedent should be compensated. A few commenters urged that all parents and siblings be compensated, even when state law does not provide for it. Last, one commenter noted that those who are found ineligible to recover from the Fund should not have to waive their rights to sue in a court of law.

Congress explicitly provided that only those who suffered physical harm as a result of the air crashes and the personal representatives of those who were killed as a result of the air crashes are eligible claimants. Congress did not, however, address who could ultimately receive compensation. Indeed, the 120-day statutory deadline for adjudicating claims on the Fund could in many instances preclude the Special Master from fairly determining how best to disburse awards among family members. Because state laws routinely serve that type of function, it makes the most sense that they generally provide the bases for distribution. Thus, issues regarding whether siblings and adult offspring of victims can receive part of the award will generally be determined by reference to state (or relevant foreign) law.

E. Distribution of Awards

The interim final rule allows the Special Master to issue awards in a lump sum to eligible claimants. One commenter implied that the rule was not clear on how funds will be distributed once a lump payment is made to a personal representative. She stated her concern that certain distributees under state law may be left out. One organization stated its concern that absent a regulation creating the option of structured awards, the tax-free status of awards may be compromised. Finally, at least one commenter indicated that the option to create a trust is necessary to prevent beneficiaries from squandering lump sums.

The interim final rule provided that the Special Master has discretion to provide claimants with information regarding annuities or other financial planning devices or to offer structured awards with periodic payments. The Special Master is encouraged to provide information to claimants regarding the availability of annuities and other financial planning devices and services. The Special Master strongly recommends that personal representatives or beneficiaries consider annuities and structured settlements.

It has come to the Department's attention that the classification of awards as ''pain and suffering'' awards or as ''wrongful death'' awards will affect the distribution of the awards under the laws of some states. Some, including the judges of New York's Surrogate's Courts, have explained that it would be difficult to determine the appropriate distribution without some guidance from the Special Master regarding the nature of the awards. Therefore, the Special Master has discretion, where appropriate, to specify the amount of the final award that is attributable to economic loss and the amount that is attributable to non-economic loss and other relevant information necessary in order to provide guidance to personal representatives and state courts in determining the proper distribution of awards or in reviewing the distribution plan.

F. Procedural Rules

Certain commenters proposed substantive changes to the interim final rule. A few commenters, however, raised concerns with the procedural framework it envisioned. Most of these commenters criticized the use of presumed awards. Specifically, they contended that presumptive awards should be eliminated altogether, and that all awards made under Fund should be decided primarily on evidence presented at a mandatory hearing. These commenters contended there should exist no rebuttable presumption whatsoever or, in the alternative, surmised that the ''extraordinary circumstances'' burden was too high to have any practical effect on increasing awards. In order to effectuate these proposed changes, a few commenters proposed that hearings not be limited to two hours. Rather, in their opinion, there should exist an unlimited time period at the hearings to discuss each case and present oral testimony or other evidence. One commenter stated that the rule needs to be clear as to whether or not there is risk of receiving less than the presumed award when someone opts for a hearing under Track B.

The final rule leaves intact the ''presumed award'' approach, under which claimants may choose to receive the presumed award and seek review if appropriate, or instead proceed directly to an individualized hearing. With regard to the suggestion that the Special Master jettison the presumed awards altogether in favor of a purely individualized, case-by-case adjudication, we do not believe that such a ''black box'' approach would serve the best interests of the claimants. While the regulations are designed to provide claimants an opportunity to present their individual circumstances, claimants should not waive their rights to litigation without some indication of what they might recover under the Fund.

At the same time, it is important that the Special Master have an opportunity to consider circumstances that are not accounted for in the presumed award charts. The term ''extraordinary

circumstances'' is not intended to signal that there is an unsustainable burden to justify departure from the presumed award. Instead, it reflects the Special Master's sense that the presumed award methodology should be fair and appropriate for a substantial majority of claims. A number of factors could support a determination to depart from the presumed award methodology. For victims who had extremely high incomes (beyond the 98th percentile of individuals in the United States), the Special Master may consider any relevant individual circumstances, including whether the financial needs of those victims' families are being met.

In addition, the final rule explains that there will be no firm time limit for hearings.

Application of Various Laws and Executive Orders to This Rulemaking

Administrative Procedure Act, 5 U.S.C. 553

This rule provides for compensation to eligible individuals who were physically injured and to the personal representatives of those who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001. On December 21, 2001, the Department published its interim final rule and provided a thirty-day period for public comments.

The Department finds ''good cause'' for exempting this rule from the provision of the Administrative Procedure Act providing for a delayed effective date. 5 U.S.C. 553(d). Delaying the opportunity for eligible claimants to avail themselves of the final rule's changes to the regulations would be contrary to the public interest. The interim final rule is already in effect, and it is in the public interest to minimize the amount of time during which nonfinal rules are in effect. In addition, potential claimants may prefer to have their claims resolved under the final rule, and it is in the public interest to allow them to file and, if eligible, receive awards as soon as possible.

Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has designated this final rule as a ''major rule'' as that term is defined by the Congressional Review Act (''CRA''), 5 U.S.C. 801 *et. seq.* Pursuant to section 808(2) of the CRA, the Department finds that ''good cause'' exists for making this rule effective upon publication because delay would be contrary to the public interest favoring prompt disbursement of benefits.

Paperwork Reduction Act of 1995

The Department of Justice (DOJ), Civil Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by March 6. The proposed information collection is published to obtain comments from the public and affected agencies. Two associated information collections, the Registration/Eligibility Form and Application for Emergency Benefits from the Victim Compensation Fund (OMB 1105–0073, SM–001) and the Victim Compensation Fund Objection Form (OMB 1105–0077, SM–002) have already received OMB approval. The Death Compensation Form for the September 11 Victim Compensation Fund (SM–003) and the Personal Injury Compensation Form for the September 11 Victim Compensation Fund (SM–004) are currently under OMB review. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, D.C. 20530.

During the first 60 days of this same review period, a regular review of this information collection will be undertaken. All comments and suggestions, or questions regarding additional information, including obtaining a copy of the proposed information collection instrument with instructions, should be directed to Office of the Special Master, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530. We request written comments and suggestions from the public and affected agencies concerning the proposed emergency collection of information.

Your comments should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) Type of Information Collection: New Collection

(2) Title of the Form/Collection: Death Compensation Form for the September 11 Victim Compensation Fund and Personal Injury Compensation Form for the September 11 Victim Compensation Fund.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: SM–003 (Death Compensation Form) and SM–004 (Injury Compensation Form), Office of the Special Master, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: The primary affected public will be individuals who were physically injured and the Personal Representatives of those killed as a result of the terrorist-related aircraft crashes of September 11, 2001. Abstract: Physically injured victims as a result of the terrorist-related attacks of September 11, 2001 will use the Injury Compensation Form and Personal Representatives of those killed as a result of September 11 will use the Death Compensation Form. Both forms will be used to provide information needed to determine eligibility for the program and to calculate compensation awards.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 5,000 claimants with an average of 15 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 75,000 hours.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Suite 1600, Washington, DC 20004.

Privacy Act of 1974

The Department of Justice, Civil Division (CIV) has established a new Privacy Act system of records entitled ''September 11th Victim Compensation Fund of 2001 File System,'' JUSTICE/CIV–008. By law, regulations addressing certain administrative matters for the September 11th Victim Compensation Fund of 2001 were to be issued within

the 90-day period established by Congress. In compliance with that time period, the Privacy Act notice was published on December 21, 2001 at 66 FR 65991, with no routine uses, and was effective on the date published. It is likely that amendments to this notice, including routine uses, will be published at a later date, with the opportunity to comment. In the interim, disclosures necessary to process claims are being made, and will be made, only with the prior written consent of claimants or as otherwise authorized under 5 U.S.C. 552a(b).

Regulatory Flexibility Act

These regulations set forth procedures by which the Federal government will award compensation benefits to eligible victims of the September 11, 2001 terrorist attacks. Under 5 U.S.C. 601(6), the term ''small entity'' does not include the Federal government, the party charged with incurring the costs attendant to the implementation and administration of the Victims Compensation Fund. To the extent that small entities, including small government entities, will be economically affected by the promulgation of these regulations, such effects will likely be minimal. Further, the number of entities that will be affected will, in all probability, fall short of a ''substantial number'' of small entities. In fact, the Department believes that the promulgation of these rules will play a considerable role in reducing the amount of complex, private litigation, wherein a substantial number of small (and large) entities would undoubtedly be significantly impacted.

Accordingly, the Department has reviewed this rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because it provides compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a ''personal representative'' for those who were killed as a result of those crashes. This rule provides compensation to individuals, not to 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 $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 12866—Regulatory Planning and Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. However, the Department of Justice has worked cooperatively with state and local officials in the affected communities in the preparation of this rule. Also, the Department individually notified national associations representing elected officials of the initial Notice of Inquiry and the subsequent interim final rule, and the Department will be taking similar action in connection with the final rule.

List of Subjects in 28 CFR Part 104

Disaster assistance, Disability benefits, Terrorism.

Accordingly, for the reasons set forth in the preamble, the interim rule amending Part 104 of chapter I of Title 28 of the Code of Federal Regulations that was published on December 21, 2001 at 66 FR 66274 is adopted as a final rule with the following changes:

PART 104—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

1. The authority citation for part 104 continues to read as follows:

Authority: Title IV of Pub. L. 107–42, 115 Stat. 230, 49 U.S.C. 40101 note.

2. Section 104.2 is amended by revising paragraph (c)(1) to read as follows:

§ 104.2 Eligibility definitions and requirements.

* * * * *

(c) * * *

(1) The term *physical harm* shall mean a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained, or within 24 hours of rescue, or within 72 hours of injury or rescue for those victims who were unable to realize immediately the extent of their injuries or for whom treatment by a medical professional was not available on September 11, or within such time period as the Special Master may determine for rescue personnel who did not or could not obtain treatment by a medical professional within 72 hours; and

* * * * *

3. Section 104.3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 104.3 Other definitions.

(a) *Beneficiary.* The term *beneficiary* shall mean a person to whom the Personal Representative shall distribute all or part of the award under § 104.52 of this Part.

(b) *Dependents.* The Special Master shall identify as dependents those persons so identified by the victim on his or her federal tax return for the year 2000 (or those persons who legally could have been identified by the victim on his or her federal tax return for the year 2000) unless:

(1) The claimant demonstrates that a minor child of the victim was born or adopted on or after January 1, 2001;

(2) Another person became a dependent in accordance with then-applicable law on or after January 1, 2001; or

(3) The victim was not required by law to file a federal income tax return for the year 2000.

* * * * *

4. Section 104.6 is revised to read as follows:

§ 104.6 Amendments to this part.

Claimants are entitled to have their claims processed in accordance with the provisions of this Part that were in effect at the time that their claims were submitted under § 104.21(d). All claims will be processed in accordance with the current provisions of this Part, unless the claimant has notified the Special Master that he or she has elected to have the claim resolved under the regulations that were in effect at the time that the claim was submitted under § 104.21(d).

5. Section 104.21(d) is revised to read as follows:

§ 104.21 Filing for compensation.

* * * * *

(d) *Submission of a claim.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for civil actions to recover collateral source obligations and civil actions against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. A claim shall be deemed submitted for purposes of section 405(c)(3)(B) of the Act when the claim is deemed filed pursuant to § 104.21, regardless of whether any time limits are stayed or tolled.

* * * * *

6. Section 104.33 is amended by revising paragraphs (c) and (g), to read as follows:

§ 104.33 Hearing.

* * * * *

(c) *Location and duration of hearings.* The hearings shall, to the extent practicable, be scheduled at times and in locations convenient to the claimant or his or her representative. The hearings shall be limited in length to a time period determined by the Special Master or his designee.

* * * * *

(g) *Determination.* The Special Master shall notify the claimant in writing of the final amount of the award, but need not create or provide any written record of the deliberations that resulted in that determination. There shall be no further review or appeal of the Special Master's determination. In notifying the claimant of the final amount of the award, the Special Master may designate the portions or percentages of the final award that are attributable to economic loss and non-economic loss, respectively, and may provide such other information as appropriate to provide adequate guidance for a court of competent jurisdiction and a personal representative.

7. In Section 104.43, paragraph (a) is amended by:

a. revising the second and third sentences; and

b. adding at the end thereof two new sentences, to read as follows:

§ 104.43 Determination of presumed economic loss for decedents.

* * * * *

(a) * * * The Decedent's salary/income in 1998–2000 (or for other years the Special Master deems relevant) shall be evaluated in a manner that the Special Master deems appropriate. The Special Master may, if he deems appropriate, take an average of income figures for 1998–2000, and may also consider income for other periods that he deems appropriate, including published pay scales for victims who were government or military employees. * * * For victims who were members of the armed services or government employees such as firefighters or police officers, the Special Master may consider all forms of compensation (or pay) to which the victim was entitled. For example, military service members' and uniformed service members' compensation includes all of the various components of compensation, including, but not limited to, basic pay (BPY), basic allowance for housing (BAH), basic allowance for subsistence (BAS), federal income tax advantage (TAD), overtime bonuses, differential pay, and longevity pay.

8. Section 104.44, is amended by revising the first sentence to read as follows:

§ 104.44 Determination of presumed noneconomic losses for decedents.

The presumed non-economic losses for decedents shall be $250,000 plus an additional $100,000 for the spouse and each dependent of the deceased victim. * * *

9. Section 104.47 is amended by:

a. revising paragraphs (a) and (b)(2); and

b. adding paragraph (b)(3), to read as follows:

§ 104.47 Collateral sources.

(a) *Payments that constitute collateral source compensation.* The amount of compensation shall be reduced by all collateral source compensation, including life insurance, pension funds, death benefits programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001. In determining the appropriate collateral source offset for future benefit payments, the Special Master may employ an appropriate methodology for determining the present value of such future benefits. In determining the appropriate value of offsets for pension funds, life insurance and similar collateral sources, the Special Master may, as appropriate, reduce the amount of offsets to take account of self-contributions made or premiums paid by the victim during his or her lifetime. In determining the appropriate collateral source offset for future benefit payments that are contingent upon one or more future event(s), the Special Master may reduce such offsets to account for the possibility that the future contingencies may or may not occur. In cases where the recipients of collateral source compensation are not beneficiaries of the awards from the Fund, the Special Master shall have discretion to exclude such compensation from the collateral source offset where necessary to prevent beneficiaries from having their awards reduced by collateral source compensation that they will not receive.

(b) * * *

(2) Charitable donations distributed to the beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by privately funded charitable entities; provided however, that the Special Master may determine that funds provided to victims or their families through a privately funded charitable entity constitute, in substance, a payment described in paragraph (a) of this section.

(3) Tax benefits received from the Federal government as a result of the enactment of the Victims of Terrorism Tax Relief Act.

10. Section 104.52 is amended by revising the third sentence to read as follows:

§ 104.52 Distribution of award to decedent's beneficiaries.

(a) * * * Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master concludes that the Personal Representative's plan for distribution does not appropriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the Personal Representative to distribute all or part of the award to such spouse, children, or other relatives.

11. Section 104.61(a) is amended by revising the first sentence to read as follows:

§ 104.61 Limitation on civil actions.

(a) *General.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except that this limitation does not apply to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. * * *

* * * * *

Dated: March 7, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–5923 Filed 3–12–02; 8:45 am]

BILLING CODE 4410–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–7157–1]

Withdrawal of the Federal Designated Use for Shields Gulch in Idaho

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In July 1997, EPA promulgated new use designations for five water bodies in the State of Idaho, including the designation of cold water biota for Shields Gulch. On March 14, 2000 the U.S. District Court for the District of Idaho vacated and remanded that portion of the EPA rule designating Shields Gulch for cold water biota uses to the EPA for further consideration. To conform with the U.S. District Court order, EPA is withdrawing the cold water biota designated use for Shields Gulch.

DATES: This rule is effective March 13, 2002.

ADDRESSES: The administrative record for the Federal use designations for surface waters of Idaho is available for public inspection at EPA Region 10, Office of Water, 1200 Sixth Avenue, Seattle, Washington 98101 during normal business hours of 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Robert Van Brunt at EPA Headquarters, Office of Water (4305), 1200 Pennsylvania Ave NW., Washington, DC 20460 (tel: 202–260–2630, fax 202–260–9830) or e-mail *vanbrunt.robert@epa.gov* or Lisa Macchio at EPA Region 10, Office of Water, 1200 Sixth Avenue, Seattle, Washington 98101 (tel: 206–553–1834, fax 206–553–0165) or e-mail *macchio.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities

Citizens concerned with water quality in Idaho may be interested in this rulemaking. Entities discharging pollutants to Shields Gulch, its tributaries, and waters they flow into could be affected by this rulemaking since water quality standards are used in determining NPDES permit limits. Currently, we are not aware of any entities discharging pollutants to Shields Gulch, however, potentially affected categories and entities could include:

Category	Examples of potentially affected entities
Industry	Industries discharging pollutants to Shields Gulch, its tributaries, and waters they flow into.
Federal, State, Tribal or local governments	Publicly-owned treatment works discharging pollutants to Shields Gulch, its tributaries, and waters they flow into.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be potentially affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult Lisa Macchio, listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Background

On July 31, 1997, pursuant to section 303(c) of the Clean Water Act (CWA), EPA promulgated cold water biota as a designated beneficial use for several water body segments, including Shields Gulch (PB 148S)—below mining impact. In designating beneficial uses, EPA relied on the rebuttable presumption implicit in the CWA and EPA's regulations at 40 CFR part 131, that in the absence of data to the contrary, ''fishable'' uses are attainable. EPA concluded that the presumption that fishable uses were attainable had not been rebutted for the water body segments in question.

On March 19, 1999, the Idaho Mining Association challenged EPA's promulgation in the U.S. District Court of Idaho. On March 14, 2000, the Court, while upholding the legality of the rebuttable presumption approach under the CWA, found that EPA was arbitrary and capricious in determining that the presumption of a fishable use had not been rebutted for Shields Gulch. Therefore, the Court ordered that portion of the EPA rule designating Shields Gulch for cold water biota uses vacated and remanded to the EPA for further consideration. To conform with the Court's order, EPA is withdrawing the cold water biota designated use for Shields Gulch. The State has revised its water quality standards since EPA's July 31, 1997, promulgation and now applies the cold water biota use to Shields Gulch as a matter of State law. Therefore, withdrawing the Federal use designation will not result in a change in the level of environmental protection for Shields Gulch.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this is a strictly legal issue of the impact of the District Court decision on the July 31, 1997, Federal designated use for Shields Gulch. Thus, notice and public procedure are impracticable. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

EPA has also determined that good cause exists under section 553(d) of the Administrative Procedure Act to waive the requirement for a 30-day period before the rule becomes effective because this rule relieves a restriction. Therefore, the rule will be effective March 13, 2002.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a

significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule does 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 (65 FR 67249, November 6, 2000).

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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.

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Section 7 of the Endangered Species Act (16 U.S.C. 1656 *et seq.*), requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, to ensure that their actions are unlikely to jeopardize the continued existence of listed species or adversely affect designated critical habitat of such species. EPA has determined that this action has no effect on listed species or critical habitat because there are no listed species in Shields Gulch.

The Congressional Review Act (5 U.S.C 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 13, 2002. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 131

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: March 7, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

§ 131.33 [Amended]

2. Section 131.33 is amended by revising paragraph (b) to read as follows:

§ 131.33 Idaho

* * * * *

(b) *Use designations for surface waters.* In addition to the State adopted use designations, the following water body segments in Idaho are designated for cold water biota: Canyon Creek (PB 121)—below mining impact; South Fork Coeur d'Alene River (PB 140S)—Daisy Gulch to mouth; Blackfoot River (USB 360)—Equalizing Dam to mouth, except for any portion in Indian country; Soda Creek (BB 310)—source to mouth.

* * * * *

[FR Doc. 02–6064 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 180

[OPP–30118; FRL–6774–3]

RIN 2070–AB78

Pesticide Tolerance Processing Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule increases fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). The revision reflects a 4.94%, 3.81%, and 4.77% increase in locality pay for civilian Federal General Schedule employees working in the Washington, DC and Baltimore, MD metropolitan area in 2000, 2001, and 2002, respectively. Fees have not been adjusted since 1999 in anticipation of the tolerance fee revision rule proposed by EPA, which has not occured.

DATES: This rule is effective April 12, 2002.

FOR FURTHER INFORMATION CONTACT: *For general information concerning this rule contact*: Ed Setren, Resources Management Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (703) 305–5927; fax: (703) 305–5060; e-mail address: setren.edward@epa.gov.

For technical information concerning tolerance petitions and individual fees contact: Sonya Brooks, Resources Management Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (703) 308–6423; fax: (703) 305–5060; e-mail address: brooks.sonya@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Rule Apply to Me?

This rule may directly affect any person who might petition the Agency for new tolerances, hold a pesticide registration with existing tolerances, or anyone who is interested in obtaining or retaining a tolerance in the absence of a registration. This group can include pesticide manufacturers or formulators, companies that manufacture chemicals used in formulating pesticides, importers of food, grower groups, or any person who seeks a tolerance. The vast majority of potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	SIC codes	Examples of potentially affected entities
Chemical industry	325320 115112	0286 0287	Pesticide chemical manufacturers Formulators, chemical manufacturers of inert ingredients

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed above could also be regulated. If available, the four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this rule applies to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in the rule (see Unit IV). If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information or Copies of this Document or Other Documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/homepage/fedrgstr/.

2. *In person or by phone*. If you have any questions or need additional information about this action, you may contact the technical person identified under **FOR FURTHER INFORMATION CONTACT**. In addition, the official record for this rule, including the public version, has been established under docket control number OPP–30118. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

III. What Action is the Agency Taking in this Rule?

With this rule, the Agency is increasing the fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). The pay raise in 2000, 2001, and 2002 for Federal General Schedule (GS) employees working in the Washington, DC/Baltimore, MD metropolitan pay area is 4.94%, 3.81%, and 4.77%, respectively. This increase in the fees charged for processing tolerance petitions reflects these recent pay raises.

IV. Why is the Agency Taking this Action?

EPA is charged with the administration of section 408 of FFDCA. Section 408 authorizes the Agency to establish tolerance levels and exemptions from the requirements for tolerances for raw agricultural commodities. Section 408(o) requires the Agency to collect fees that will, in the aggregate, be sufficient to cover the costs of processing petitions for pesticide products. EPA is publishing this action pursuant to 40 CFR 180.33(o).

The current fee schedule for tolerance petitions published in the **Federal Register** of May 26, 1999 (64 FR 28384) (FRL–6056–6), codified at 40 CFR 180.33, and became effective on June 26, 1999. At that time the fees were increased 3.68% in accordance with a provision in the regulation that provides for automatic annual adjustments to the fees based on annual percentage changes in Federal salaries (40 CFR 180.33(o)).

The Federal Employees Pay Comparability Act of 1990 (FEPCA) initiated locality-based comparability pay, known as ''locality pay.'' The intent of the legislation is to make Federal pay more responsive to local labor market conditions by adjusting General Schedule salaries on the basis of a comparison with non-Federal rates on a geographic, locality basis. The processing and review of tolerance petitions is conducted by EPA employees working in the Washington, DC/Baltimore, MD pay area.

The pay raise in 2000, 2001, and 2002 for Federal General Schedule employees working in the Washington, DC/Baltimore, MD metropolitan pay area is 4.94%, 3.81%, and 4.77%, respectively; therefore, the tolerance petition fees are being increased by 4.94%, 3.81%, and 4.77%, respectively. The entire revised fee schedule is presented in § 180.33 of the regulatory text for the reader's convenience. (All fees have been rounded to the nearest $25.00.)

V. Why is EPA Issuing this Action as a Final Rule?

EPA is publishing this action as a final rule pursuant to 40 CFR 180.33(o), which reads in part:

> (o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale [. . .]. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the *Federal Register* as a final rule to become effective 30 days or more after publication, as specified in the rule.

VI. What Regulatory Assessment Requirements Apply to this Action?

This final rule amends the fees charged for processing tolerance petitions under FFDCA to reflect automatic adjustments based on the GS pay scale and is issued as a final rule pursuant to 40 CFR 180.33(o). Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB), nor is this final rule subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045,

entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since the Agency is authorized to make automatic adjustments based on the GS pay scale by issuing a final rule under 40 CFR 180.33(o), and is not required to issue a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this final rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Must EPA Submit this Action to Congress and the General Accounting Office?

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

List of Subjects in 40 CFR Part 180

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

Dated: March 5, 2002.

Stephen L. Johnson,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. Section 180.33 is revised to read as follows:

§ 180.33 Fees.

(a) Each petition or request for the establishment of a new tolerance or a tolerance higher than already established, shall be accompanied by a fee of $77,625, plus $1,950 for each raw agricultural commodity more than nine on which the establishment of a tolerance is requested, except as provided in paragraphs (b), (d), and (h) of this section.

(b) Each petition or request for the establishment of a tolerance at a lower numerical level or levels than a tolerance already established for the same pesticide chemical, or for the establishment of a tolerance on additional raw agricultural commodities at the same numerical level as a tolerance already established for the same pesticide chemical, shall be accompanied by a fee of $17,750 plus $1,175 for each raw agricultural commodity on which a tolerance is requested.

(c) Each petition or request for an exemption from the requirement of a tolerance or repeal of an exemption shall be accompanied by a fee of $14,325.

(d) Each petition or request for a temporary tolerance or a temporary exemption from the requirement of a tolerance shall be accompanied by a fee of $31,000 except as provided in paragraph (e) of this section. A petition or request to renew or extend such temporary tolerance or temporary exemption shall be accompanied by a fee of $4,400.

(e) A petition or request for a temporary tolerance for a pesticide chemical which has a tolerance for other uses at the same numerical level or a higher numerical level shall be accompanied by a fee of $15,425, plus $1,175 for each raw agricultural commodity on which the temporary tolerance is sought.

(f) Each petition or request for repeal of a tolerance shall be accompanied by a fee of $9,700. Such fee is not required when, in connection with the change sought under this paragraph, a petition or request is filed for the establishment of new tolerances to take the place of those sought to be repealed and a fee is paid as required by paragraph (a) of this section.

(g) If a petition or a request is not accepted for processing because it is technically incomplete, the fee, less $1,950 for handling and initial review, shall be returned. If a petition is withdrawn by the petitioner after initial processing, but before significant Agency scientific review has begun, the fee, less $1,950 for handling and initial review, shall be returned. If an unacceptable or withdrawn petition is resubmitted, it shall be accompanied by the fee that would be required if it were being submitted for the first time.

(h) Each petition or request for a crop group tolerance, regardless of the number of raw agricultural commodities involved, shall be accompanied by a fee equal to the fee required by the

analogous category for a single tolerance that is not a crop group tolerance, i.e., paragraphs (a) through (f) of this section, without a charge for each commodity where that would otherwise apply.

(i) Objections under section 408(d)(5) of the Act shall be accompanied by a filing fee of $3,875.

(j)(1) In the event of a referral of a petition or proposal under this section to an advisory committee, the costs shall be borne by the person who requests the referral of the data to the advisory committee.

(2) Costs of the advisory committee shall include compensation for experts as provided in § 180.11(c) and the expenses of the secretariat, including the costs of duplicating petitions and other related material referred to the committee.

(3) An advance deposit shall be made in the amount of $38,750 to cover the costs of the advisory committee. Further advance deposits of $38,750 each shall be made upon request of the Administrator when necessary to prevent arrears in the payment of such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(k) The person who files a petition for judicial review of an order under section 408(d)(5) or (e) of the Act shall pay the costs of preparing the record on which the order is based unless the person has no financial interest in the petition for judicial review.

(l) No fee under this section will be imposed on the Interregional Research Project Number 4 (IR-4 Program).

(m) The Administrator may waive or refund part or all of any fee imposed by this section if the Administrator determines in his or her sole discretion that such a waiver or refund will promote the public interest or that payment of the fee would work an unreasonable hardship on the person on whom the fee is imposed. A request for waiver or refund of a fee shall be submitted in writing to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division (7505C), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A fee of $1,950 shall accompany every request for a waiver or refund, except that the fee under this sentence shall not be imposed on any person who has no financial interest in any action requested by such person under paragraphs (a) through (k) of this section. The fee for requesting a waiver or refund shall be refunded if the request is granted.

(n) All deposits and fees required by the regulations in this part shall be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency. All deposits and fees shall be forwarded to the Environmental Protection Agency, Headquarters Accounting Operations Branch, Office of Pesticide Programs (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. The payments should be specifically labeled ''Tolerance Petition Fees'' and should be accompanied only by a copy of the letter or petition requesting the tolerance. The actual letter or petition, along with supporting data, shall be forwarded within 30 days of payment to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division (7505C), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A petition will not be accepted for processing until the required fees have been submitted. A petition for which a waiver of fees has been requested will not be accepted for processing until the fee has been waived or, if the waiver has been denied, the proper fee is submitted after notice of denial. A request for waiver or refund will not be accepted after scientific review has begun on a petition.

(o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale. In addition, processing costs and fees will periodically be reviewed and changes will be made to the schedule as necessary. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the **Federal Register** as a final rule to become effective 30 days or more after publication, as specified in the rule. When changes are made based on periodic reviews, the changes will be subject to public comment.

[FR Doc. 02–5868 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH–FRL–7157–2]

RIN 2050–AE94

Hazardous Waste Management System; Definition of Solid Waste; Toxicity Characteristic

AGENCY: Environmental Protection Agency.

ACTION: Final Rule; Response to court order vacating regulatory provisions.

SUMMARY: This action responds to two court vacaturs of regulations under the Resource Conservation and Recovery Act (RCRA), first, by deleting regulatory language that classified mineral processing characteristic sludges and by-products being reclaimed as solid wastes under RCRA's hazardous waste management regulations, and secondly, by codifying the decision that the Toxicity Characteristic Leaching Procedure (TCLP) may not be used for determining whether manufactured gas plant (MGP) waste is hazardous under RCRA. The Environmental Protection Agency (EPA) initially took action on these matters as part of the Phase IV Land Disposal Restrictions (LDR) on May 26, 1998. Today's revisions carry out vacaturs ordered by the United States Court of Appeals for the District of Columbia Circuit in *Association of Battery Recyclers* v. *EPA (ABR).* In addition, we are announcing that we plan to propose a separate rule to revise the definition of solid waste.

EFFECTIVE DATE: This rule is effective on March 13, 2002.

ADDRESSES: Supporting materials to this final rule are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–2001–TCVF–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The docket index and some supporting materials are available electronically. See the beginning of the Supplementary Information section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 920–9810 or TDD (703) 412–3323. For information on definition of solid waste aspects of the rule, contact Ms. Ingrid Rosencrantz, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460. [e-mail address and telephone number: *rosencrantz.ingrid@epa.gov* (703–308–8285).] For information on the manufactured gas plant wastes and the TCLP, contact Mr. Greg Helms, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,

Washington, D.C., 20460. [E-mail address and telephone number: *helms.greg@epa.gov* (703–308–8845).]

SUPPLEMENTARY INFORMATION: Whenever the terms ''we'' or ''Agency'' are used throughout this document, they refer to the Environmental Protection Agency (EPA).

The docket index for the rule is available in electronic format on the Internet at: <*http://www.epa.gov/epaoswer/hazwaste/recycle/battery.htm*>.

We will keep the official record for this action in paper form. The official record is the paper record maintained at the RCRA Information Center, also referred to as the Docket, at the address provided in the **ADDRESSES** section at the beginning of this document.

I. Why Are We Taking This Action?

EPA is taking today's action in response to vacaturs ordered by the United States Court of Appeals for the District of Columbia Circuit in *Association of Battery Recyclers,* v. *EPA* 208 F.3d 1047 (2000). After EPA promulgated the final Phase IV LDR rule on May 26, 1998 (63 *FR* 28556), the Association of Battery Recyclers, the National Mining Association and other trade groups challenged this rule. On April 21, 2000, the D.C. Circuit issued a decision that vacated two parts of the Phase IV LDR rule. The court vacated the portion of the rule that asserted jurisdiction and imposed conditions over mineral processing characteristic by-products and sludges being stored prior to being recycled in beneficiation or primary mineral processing operations. The court also vacated the portion of the rule providing for use of the TCLP for determining whether MGP waste exhibits the characteristic of toxicity. *Association of Battery Recyclers* v. *EPA,* 208 F.3d 1047 (2000).

Regarding the mineral processing secondary materials, the Phase IV LDR rule revised a 1985 rule that defined the circumstances under which EPA classified secondary mineral processing materials undergoing reclamation as solid wastes under Subtitle C of RCRA. The 1998 Phase IV LDR rule amended the 1985 rule and relaxed jurisdiction over spent materials reclaimed within the mineral processing industry, provided certain conditions were met. The Phase IV LDR rule also asserted jurisdiction over some previously-unregulated secondary materials (characteristic by-products and sludges) reclaimed within the mineral processing industry. The rule classified these by-products and sludges as wastes if they were stored without meeting the same conditions. EPA codified the conditions under which the materials would be regulated as solid wastes at 40 CFR 261.4(a)(17) and inserted references to these conditions into the regulation asserting authority over reclamation in 40 CFR 261.2(c)(3). Today, in response to the D.C. Circuit Court's decision, EPA is codifying the vacatur by deleting a parenthetical statement in the second sentence of 40 CFR 261.2(c)(3) and making conforming changes to 40 CFR 261.4(a)(17). In § 261.4(a)(17), EPA is replacing the term ''secondary materials'' (which includes sludges and by-products, as well as spent materials) with the more narrow term ''spent materials.'' These changes inform the public that mineral processing characteristic sludges and by-products being reclaimed are not solid wastes, and mineral processing characteristic spent materials remain eligible for the conditional exclusion when being reclaimed.

To further the goal of encouraging legitimate recycling while protecting human health and the environment, EPA has decided to undertake a separate future rulemaking to propose additional revisions to its current recycling regulations. We believe that removing the specter of RCRA control where it is not necessary can spur increased reuse and recycling of hazardous waste, and will lead to better resource conservation and improved materials management overall. For materials undergoing reclamation, in the proposed rule we expect to request comment on how interested parties would distinguish materials that are discarded from materials that remain in use in a continuous industrial process and anticipate proposing a definition of ''continuous industrial process.'' In addition, EPA has been working with a group of stakeholders concerned with recycling in the metal finishing industry and we are committed to proposing, either as part of that action or as a separate rule, removal of regulatory barriers in order to increase recycling of sludges from metal finishing operations.

Although EPA has not established a formal comment period, we anticipate moving quickly to propose this rule; interested parties are welcome to submit suggestions now for this future proposal, directing them to Ms. Ingrid Rosencrantz at the address given in the **FOR FURTHER INFORMATION CONTACT** section.

The court's decision in *ABR* also addressed another provision of the Phase IV LDR Rule providing for use of the Toxicity Characteristic Leaching Procedure (TCLP) to determine whether mineral processing waste, and manufactured gas plant [1] (MGP) wastes, are RCRA hazardous wastes under 40 CFR 261.24 (63 *FR* 28597–98; May 26, 1998).

In its ruling in *ABR,* the court found that EPA produced sufficient evidence that the TCLP bears a ''rational relationship'' to plausible mineral processing waste management practices, and upheld the use of the TCLP to evaluate mineral processing wastes. Regarding MGP waste, the court found that EPA produced insufficient evidence that co-disposal of MGP waste from remediation sites with municipal solid waste (MSW) has happened or is likely to happen. The court concluded that ''* * * the EPA has not justified its application of the TCLP to MGP waste'' and consequently ''* * * vacate[d] the Phase IV rule insofar as it provides for the use of the TCLP to determine whether MGP waste exhibits the characteristic of toxicity.'' *ABR* v. *EPA,* 208 F.3d at 1064. EPA is taking final action today to codify this vacatur by promulgating language exempting MGP wastes from the Toxicity Characteristic regulation.

II. Why Do We Have Good Cause for Promulgating an Immediately Effective Final Rule Without Prior Notice and Opportunity for Public Comment?

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public comment procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for removal of these provisions without prior proposal and opportunity for comment. As a matter of law, the order issued by the United States Court of Appeals for the District of Columbia Circuit on April 21, 2000, vacated the provisions of the final Phase IV LDR rules described above, making them non-binding and unenforceable. It is, therefore, unnecessary to provide notice and an opportunity for comment on this action, which merely carries out the

[1] Manufactured gas plants are facilities that produced gas from coal or oil for lighting, cooking, and heating during the 1800s until the mid 1900s. No active MGP facilities currently exist, although a range of gas production residues remain at the sites of former MGP facilities. Therefore, the only wastes generated at these sites will be from site remediation. MGP wastes are typically tars, sludges, lampblack, light oils, spent oxide wastes, and other hydrocarbons, and soils and debris contaminated with these materials. See 63 FR 28574, May 26, 1998, and EPA 542–R–00–005, *A Resource for MGP Site Characterization and Remediation* for more information on MGP sites and wastes.

court's order. For the same reasons, EPA finds that it has good cause to make the revisions immediately effective under 5 U.S.C. 553(d) and section 3010(b) of RCRA. 42 U.S.C. 6930(b). Further, the rule imposes no new requirements, so members of the regulated community do not need time to come into compliance.

III. To Whom Does the Final Rule Withdrawal of Provisions Apply?

This final rule applies to the owners and operators of facilities that generate or reclaim characteristically hazardous by-products or sludges within the mineral processing industry and to generators of manufactured gas plant wastes. We plan to further consider other revisions to the definition of solid waste (40 CFR 261.2) and will propose these revisions, as appropriate, in the future.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a ''good cause'' finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This action does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

This action does not involve the application of new technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272) do not apply. This action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). 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. This 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.*). The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of March 13, 2002. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 261

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

Dated: March 7, 2002.

Christine T. Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows.

PART 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, 6924(y), and 6938.

2. Section 261.2 is amended by revising paragraph (c)(3) to read as follows:

§ 261.2 Definition of solid waste.

* * * * *

(c) * * *

(3) *Reclaimed.* Materials noted with a ''*'' in column 3 of Table 1 are solid wastes when reclaimed (except as provided under § 261.4(a)(17)). Materials noted with a ''—''in column 3 of Table 1 are not solid wastes when reclaimed.

* * * * *

3. Section 261.4 is amended by revising paragraph (a)(17) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(17) Spent materials (as defined in § 261.1) (other than hazardous wastes listed in subpart D of this part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

(i) The spent material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(ii) The spent material is not accumulated speculatively;

(iii) Except as provided in paragraph (a)(17)(iv) of this section, the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 40 CFR 260.10), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent significant releases to the environment of these materials.

(iv) The Regional Administrator or State Director may make a site-specific determination, after public review and

comment, that only solid mineral processing spent material may be placed on pads rather than tanks containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The decision-maker must affirm that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The decision-maker must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: The volume and physical and chemical properties of the secondary material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads must meet the following minimum standards: Be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material, capable of withstanding physical stresses associated with placement and removal, have run on/runoff controls, be operated in a manner which controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under this paragraph, the Regional Administrator or State Director must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

(v) The owner or operator provides notice to the Regional Administrator or State Director providing the following information: The types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of paragraph (a)(7) of this section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

* * * * *

4. Section 261.24 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 261.24 Toxicity characteristic.

(a) A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, test Method 1311 in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication SW–846, as incorporated by reference in § 260.11 of this chapter, the extract from a representative sample of the waste contains any of the contaminants listed in table 1 at the concentration equal to or greater than the respective value given in that table.

* * *

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[FR Doc. 02–6063 Filed 3–12–02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45, 98–77, 90–571, 92–237, 99–200, and 95–116; FCC 02–43]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts certain modifications to the existing federal universal service contribution system. Based on examination of the record, the Commission concludes that these modifications are warranted because they will streamline and improve the current system without undue disruption while the Commission considers other, more substantial reforms.

DATES: Effective April 12, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, and 95–116, FCC 02–43 released on February 26, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In the Report and Order, we adopt certain modifications to the existing federal universal service contribution system. Based on examination of the record, we conclude that these modifications are warranted because they will streamline and improve the current system.

II. Report and Order

2. In the Notice of Proposed Rulemaking initiating this proceeding, *see* 66 FR 28718 (May 24, 2001), we recognized the need to reassess periodically the current contribution methodology to ensure that it remains consistent with the goals of the Act as the telecommunications marketplace evolves. Although we are seeking more focused comment on specific proposals to reform the Commission's universal service contribution methodology, we conclude that certain modifications to the current revenue-based contribution assessment methodology should be adopted now to ensure that the goals of the Act are maintained in the short term. Specifically, the measures we adopt in the Order will ensure that universal service funding remains specific and predictable while we consider whether to implement more substantial changes to the contribution methodology. In addition, these modifications will ensure that the recovery of universal service contributions is more understandable for consumers. These measures also will further reduce the regulatory costs of complying with universal service obligations and will ensure that the assessment of contributions remains equitable and nondiscriminatory.

3. First, we revise the Commission's rules to exclude universal service contributions from a contributor's assessable gross-billed interstate telecommunications revenues. This modification addresses ''circularity'' in the current methodology that may cause contributors to mark-up line items. Second, we amend the rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries. Third, we increase from eight to 12 percent the amount of domestic interstate revenues a contributor may have and still qualify for the limited international revenues

exception to our universal service contribution requirements.

A. Eliminating Circularity

4. We adopt our proposal to exclude universal service contributions from a contributor's assessable gross-billed interstate telecommunications revenues, so-called ''circularity.'' This measure will eliminate one cause for contributors to recover amounts in excess of the contribution factor.

5. We clarify how the exclusion of contributor contributions from the contribution base will operate in practice. Contributors will continue to file the Form 499–Q with their gross-billed interstate telecommunications revenues from the prior quarter. A contributor's reported gross-billed interstate telecommunications revenues from the prior quarter serve as the basis for its contributions in the next quarter. The Universal Service Administrative Company (USAC) will subtract from a contributor's contribution base in the upcoming quarter those amounts contributed to universal service in the prior quarter. Contributions will be credited in the quarter in which they are received by USAC. We direct USAC to begin excluding carrier contributions from the contribution base in the third quarter of 2002.

B. Consolidated Form 499 Filing for Certain Contributors

6. We modify our reporting requirements to enable contributors meeting certain criteria to file the Form 499 Worksheet on a consolidated basis. The criteria we adopt for permitting consolidated filings are designed to ensure that a contributor actually functions as a single entity, and to obtain essential revenue and contact information from such a contributor. The ability to file a consolidated Worksheet may substantially decrease the administrative burdens on some contributors. For example, it may ameliorate the need of some contributors to artificially divide their whole company revenues into separate revenue amounts for their subsidiaries solely for Worksheet reporting purposes. We anticipate that many wireless contributors will qualify and choose to file the Worksheet on a consolidated basis. Furthermore, this revision may dramatically decrease the number of Worksheets filed with USAC, thereby reducing the administrative burden on the Commission's data collection agent and fund administrators. Most importantly, permitting contributors to have the option of filing on a consolidated basis will have no negative impact on the integrity of the information contained in the Worksheet.

7. Under the modified reporting requirements we adopt here, consolidated filing will be permitted only if the filing entity certifies that all of the following conditions are met:

(1) A single entity oversees the management of the affiliated systems;

(2) A single entity sends bills to customers and these bills identify a single entity (or trade name) as the service provider, rather than identifying the individual legal entities;

(3) All revenues are posted to a single general ledger;

(4) To the extent that separate revenue and expense accounts exist, they are derived from one consolidated set of books and the consolidated filing must cover all revenues contained in the consolidated books;

(5) Customers have a single point of contact;

(6) The consolidated filer acknowledges that process served on the consolidated filer would represent process served on any or all of the affiliated legal entities;

(7) The consolidated filer agrees to document and resolve all slamming complaints that might be served on either the filing entity or any of the affiliated legal entities;

(8) The consolidated filer obtains a separate FRN from those assigned to its affiliated legal entities;

(9) The consolidated filer acknowledges that its obligations with regard to universal service, Telecommunications Relay Services, Local Number Portability, North American Numbering Plan Administrator, and regulatory fees will be based on the data provided in consolidated Worksheet filings, that it bears the responsibility to satisfy those obligations, and that all legal entities covered by the filing are jointly and severally liable for such obligations; and

(10) The consolidated filer acknowledges that it: (A) Was not insolvent on the date it undertook to make payments on a consolidated basis or on the date of actual payments to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees, and did not become insolvent as a result of such undertaking or payments; (B) was not left with unreasonably small capital as a result of such undertaking or payments; and (C) was not left unable to pay debts as they matured as a result of such undertaking or payments.

8. Each year, entities choosing to file on a consolidated basis must file a statement certifying that they meet all of the above conditions. Such certification also must include: (1) A list of the legal names of all legal entities that are covered by the filing; (2) the Form 499 identification numbers of all legal entities that are covered by the filing; (3) the consolidated filer's FCC Registration Number (FRN); and (4) for wireless carriers, a list of all radio licenses (call signs) issued to each legal entity covered by the filing. Consolidated filers should file this certification with the Commission's Data Collection Agent. Furthermore, a contributor choosing to file on a consolidated basis should recognize that any penalties associated with failure to pay or with underpayment of any of its obligations will be assessed on the total revenue reported on the consolidated basis, rather than on a separate legal entity basis. We direct USAC to begin accepting such consolidated Worksheets in the second quarter of 2002.

9. We also amend § 54.702 by removing § 54.702(f) of our rules. Under § 54.702(f) of our rules, USAC is required to periodically compare information from ''Telecommunications Relay Services Fund Worksheets'' with information submitted on ''Universal Service Worksheets.'' In 1999, however, the Commission established the FCC Form 499 Telecommunications Reporting Worksheet, which consolidated reporting requirements for the universal service mechanisms, the Telecommunications Relay Services Fund, the cost recovery mechanism for administration of the North American Numbering Plan, and the cost recovery mechanism for administration of long-term number portability. As a result, § 54.702(f) was made obsolete, but inadvertently was not removed at that time. Accordingly, we remove it now.

C. Limited International Revenues Exception

10. We conclude that the limited international revenues exception should be increased from eight to 12 percent. Consistent with section 254(d) of the Act, we conclude that raising the threshold to 12 percent will ensure that a contributor's universal service contribution does not exceed the amount of its interstate end-user telecommunications revenues by providing a margin of safety to account for any possible increases to the contribution factor over time. When the limited international revenues exception was implemented in November 1999, the universal service contribution factor was 5.8995 percent, and the Commission anticipated that the universal service contribution factor would not exceed eight percent in the

near future. The Commission recently established a universal service contribution factor of 6.808 percent. As a result of many factors, including possible decreases in assessable revenues and increases in universal service funding requirements over time, modest increases to the contribution factor may occur in the foreseeable future. If the universal service contribution factor increases to eight percent, a contributor may become obligated to contribute to the universal service mechanisms an amount that exceeds the amount of its interstate end-user telecommunications revenues. With the elimination of ''circularity'' and anticipated implementation of interstate access support for non-price cap carriers, Commission staff projects that the contribution factor may exceed 8 percent in 2002. This projection is predicated on the removal of prior period universal service contributions from the contribution base, the continuation of the current assessment system based on revenues, anticipated growth in the universal service mechanisms, and continued modest growth in assessable interstate end-user telecommunications revenues. Large-scale migration to services that are not easy to categorize by jurisdiction or marketplace disruptions, such as a prolonged recession, may result in additional increases to the contribution factor over time. We therefore conclude that increasing the threshold to qualify for the international revenues exception to 12 percent will ensure that contributors are not required to contribute more to universal service than they derive from interstate end-user telecommunications revenues. We direct USAC to begin applying the higher threshold to qualify for the international revenues exception in the second quarter of 2002.

11. Our adoption of a 12 percent threshold to qualify for the limited international revenues exception should not be taken as an indication that we expect the contribution factor to rise to that level in the near future. To the contrary, we choose 12 percent because it will provide for a more than adequate margin of safety if the current contribution factor increases over time.

III. Procedural Issues

A. Final Regulatory Flexibility Act Analysis

1. Need for, and Objectives of, the Report and Order

12. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *2001 Notice*, (66 FR 28718, May 24, 2001). The Commission sought written public comment on the proposals in the *2001 Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

13. In the Order, we adopt modifications to our current universal service contribution methodology, which will further refine and streamline the assessment of universal service contributions. First, we exclude universal service contributions from contributors' assessable gross-billed interstate telecommunications revenues. This modification addresses ''circularity'' in our current methodology that may cause contributors to mark-up line items. Second, we amend our rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries. This modification will allow certain carriers to reduce the burdens associated with complying with the reporting requirements of the universal service fund. Third, we increase from eight to 12 percent the amount of domestic interstate revenues a contributor may have and still qualify for the limited international revenue exception to our universal service contribution requirements. Examination of the record in this proceeding demonstrates the need for these modifications, which address specific concerns raised by commenters to the *2001 Notice*.

2. Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

14. The Commission received comments related to the needs of small local telephone companies. In particular, the Small Business Administration's Office of Advocacy suggested that the Commission should retain the current contribution methodology to avoid raising the administrative costs on small businesses associated with compliance. While we retain the current methodology, we note that the Commission, concurrent with the issuance of the Order, adopted a Further Notice (published elsewhere in this issue) that seeks comment on proposals to fundamentally reform the contribution methodology. The proposals detailed in the Further Notice of Proposed Rulemaking may result in a program with significantly reduced administrative burdens.

15. In the Order, however, the Commission adopts certain modifications to the existing methodology. In particular, the Commission adopted a proposal suggested by many wireless carriers to allow certain contributors to file on a consolidated basis, which should alleviate some of the administrative burden associated with complying with the universal service fund. Additionally, the Commission's reform of the limited international revenue exception should help continue to ensure that contributors are not required to contribute more to universal service than they derive from interstate end-user telecommunications revenues. The Commission has through these modifications minimized potential burdens created by its contribution methodology.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

16. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA.

17. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

18. We have included small incumbent carriers in this RFA analysis. As noted, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent carriers are not dominant in their field of operation because any such dominance is not

''national'' in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

19. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,822 interstate carriers. These carriers include, *inter alia,* incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

20. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in the Order.

21. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in the Order.

22. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually on the Form 499–A. According to our most recent data, there are 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in the Order.

23. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends Report,* 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small cellular service carriers that may be affected by the proposed rules, if adopted.

24. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

25. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order* (62 FR 16004, April 3, 1997), we adopted criteria for defining small and very small

businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

26. *Private and Common Carrier Paging.* In the Paging *220 MHz Third Report and Order,* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends Report,* 427 carriers reported that they were engaged in the provision of paging and messaging services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 427 small paging carriers that may be affected by the decisions and rules adopted in the Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

27. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

28. *Narrowband PCS.* To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order* (65 FR 35875, June 6, 2000). A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

29. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

30. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we

estimate that almost all of them qualify as small under the SBA definition.

31. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

32. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

33. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMRs, 38 are small or very small entities.

4. Description of Reporting, Recordkeeping, and Other Compliance Requirements

34. Pursuant to the Order, the only new or modified reporting requirement is that we amend our rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries. The Commission based its decision in part on the fact that the reduction in administrative costs for these carriers would be significant. The Commission will seek OMB approval for this new or modified reporting requirement when it submits the modified Form 499–Q for approval.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternative Considered

35. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

36. The Commission has taken numerous steps to minimize significant economic impacts on small entities of modifying the universal service contribution methodology adopted in the Order. By eliminating circularity that exists under the current contribution methodology, we reduce one cause for contributors to recover amounts in excess of the current contribution factor and will help address consumer concerns regarding the disparate recovery of universal service contributions through line items. Further, by amending our rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries, we substantially decrease the administrative burdens of some contributors. We anticipate that many wireless contributors, for example, will choose to file on a consolidated basis. Finally, by increasing the international revenue exception from 8 percent to 12 percent, we ensure that a contributor's universal service obligation does not exceed the amount of its interstate end-user telecommunications revenues.

6. Report to Congress

37. The Commission will send a copy of the Order, including the FRFA analysis, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including the FRFA analysis, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA analysis (or summaries thereof) also will be published in the **Federal Register**.

7. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

38. None.

8. Paperwork Reduction Act Analysis

39. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose no new or modified reporting and recordkeeping requirement on the public, although it may eliminate certain reporting requirements for some entities.

IV. Ordering Clauses

40. Pursuant to the authority contained in sections 4(i), 4(j), 254, and 303(r) of the Communications Act of 1934, as amended, the Report and Order is adopted.

41. Part 54 of the Commission's rules, 47 CFR part 54, is amended, effective April 12, 2002.

42. The Commission's Consumer Information Bureau, Reference Information Center shall send a copy of the Report and Order to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citations continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

§ 54.702 [Amended]

2. Section 54.702 is amended by removing paragraph (f) and by

redesignating paragraphs (g) through (n) as paragraphs (f) through (m).

3. Section 54.706 is amended by revising paragraphs (b) and (c) to read as follows:

§ 54.706 Contributions.

* * * * *

(b) Except as provided in paragraph (c) of this section, every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and every payphone provider that is an aggregator shall contribute to the federal universal service support mechanisms on the basis of its interstate and international end-user telecommunications revenues, net of prior period actual contributions.

(c) Any entity required to contribute to the federal universal service support mechanisms whose interstate end-user telecommunications revenues comprise less than 12 percent of its combined interstate and international end-user telecommunications revenues shall contribute to the federal universal service support mechanisms for high cost areas, low-income consumers, schools and libraries, and rural health care providers based only on such entity's interstate end-user telecommunications revenues, net of prior period actual contributions. For purposes of this paragraph, an ''entity'' shall refer to the entity that is subject to the universal service reporting requirements in 47 CFR 54.711 and shall include all of that entity's affiliated providers of telecommunications services.

* * * * *

4. Section 54.709 is amended by revising paragraphs (a) introductory text, (a)(1), and (a)(2) to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) Contributions to the universal service support mechanisms shall be based on contributors' end-user telecommunications revenues and a contribution factor determined quarterly by the Commission.

(1) For funding the federal universal service support mechanisms, the subject revenues will be contributors' interstate and international revenues derived from domestic end users for telecommunications or telecommunications services, net of prior period actual contributions.

(2) The quarterly universal service contribution factor shall be determined by the Commission based on the ratio of total projected quarterly expenses of the universal service support mechanisms to the total end-user interstate and international telecommunications revenues, net of prior period actual contributions. The Commission shall approve the Administrator's quarterly projected costs of the universal service support mechanisms, taking into account demand for support and administrative expenses. The total subject revenues shall be compiled by the Administrator based on information contained in the Telecommunications Reporting Worksheets described in § 54.711(a).

* * * * *

[FR Doc. 02–6028 Filed 3–12–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN: 1018–AH75

Conferring Designated Port Status on Anchorage, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service confers designated port status on Anchorage, Alaska, pursuant to section 9(f) of the Endangered Species Act of 1973. Designated port status will allow the direct importation and exportation of wildlife through this growing international port. A public hearing has been held on this designation.

DATES: This rule is effective March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Special Agent Julie Scully, (703) 358–1949, or Special Agent Stanley Pruszenski, Assistant Regional Director for Law Enforcement, U.S. Fish and Wildlife Service, Anchorage, Alaska, (907) 786–3311.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act requires that all fish and wildlife, with only limited exceptions, be imported and exported through designated ports. Designated ports facilitate U.S. efforts to monitor wildlife trade and enforce wildlife protection laws and regulations by funneling wildlife shipments through a limited number of locations. The Secretary of the Interior, with approval of the Secretary of the Treasury, designates ports for wildlife trade by regulation after holding a public hearing and collecting and considering public comments. The Service presently has 13 designated ports of entry for the importation and exportation of wildlife: Los Angeles, California; San Francisco, California; Miami, Florida; Honolulu, Hawaii; Chicago, Illinois; New Orleans, Louisiana; New York, New York; Seattle, Washington; Dallas/Fort Worth, Texas; Portland, Oregon; Baltimore, Maryland; Boston, Massachusetts; and Atlanta, Georgia. The Service maintains a staff of wildlife inspectors at each designated port to inspect and clear wildlife shipments. Regulatory exceptions allow certain types of wildlife shipments to enter or leave the country through ports that are not designated. Under certain conditions, importers and exporters can obtain a permit from the Service authorizing their use of non-designated ports. The importer or exporter will accrue additional fees associated with the inspection and permit authorizing use of a non-designated port.

Summary of Comments and Information Received

Section 9(f) of the Endangered Species Act of 1973, 16 U.S.C. 1538 (f)(1), requires that the public be given an opportunity to comment at a hearing before the Secretary of the Interior confers designated port status on any port. The Service published a proposed rule in the **Federal Register** of August 20, 2001 (66 FR 43554), to make Anchorage, Alaska, a designated port under section 9 (f) and to announce a public hearing.

Accordingly, the Service held a public hearing on September 17, 2001, beginning at 6 p.m., at the Fish and Wildlife Service Alaska Regional Office, Anchorage, Alaska. The Service received oral comments from two persons in the import and export arena: A manager from the Federal Express Corporation and the director of the Alaska Export Assistance Center, U.S. Department of Commerce.

One commenter stated that his company has supported the Service's effort to designate the Port of Anchorage for a long time. The second commenter said that the opportunity to use Anchorage as a designated port for wildlife trade promised continued expansion of Alaska's business potential and would facilitate increased exports from the State.

Service Response

The Service appreciates the oral comments received at the public hearing in support of the designation of

Anchorage as a designated port. No written comments were submitted to the Service in response to the proposed rule.

Need for Final Rulemaking

The proximity of Anchorage to the Asian continent has prompted the State of Alaska, the City of Anchorage, and private groups such as international express carriers, the Alaskan tourism industry, and the outdoor recreational industry to target foreign trade markets as a way to bring increased economic growth to Anchorage. Stevens International Airport is expanding and a 100,000-square-foot warehouse is being constructed to accommodate both the growth in airline passengers and the 20 million tons of air freight that already pass through Anchorage each year. This volume is one of the highest for any airport in the United States, and future increases of 11.1 percent per year are projected. International cargo off-loaded in Anchorage has been estimated at 341 million pounds for the year 2000.

Two large international express carriers have regional hubs in Anchorage. Since 1995, both carriers have experienced an annual increase in the volume of international shipments of between 18 to 22 percent. Parallel growth has occurred in the number of wildlife shipments. Since the Service charges higher fees for inspecting and clearing shipments at Anchorage and other non-designated ports, wildlife importers using these facilities have asked that over 70 percent of their shipments be cleared at designated ports of entry in the lower 48 States. Making Anchorage a designated port will facilitate clearance of these shipments and reduce costs for all importers and exporters bringing wildlife through this city.

Increases in international visitors to Alaska have also affected the number of wildlife shipments requiring clearance. The number of U.S. and foreign hunters requesting clearance of wildlife trophies in Anchorage has increased by nearly 300 percent in the last 5 years. Since 1995, the number of foreign hunters exporting Alaskan big game trophies has jumped by 73 percent, adding substantially to the total number of wildlife shipments cleared in Anchorage.

The Service's data for fiscal year 2000 show that the port of Anchorage handled a total of 3,555 wildlife shipments with a declared value of $9.3 million. Anchorage has the highest number of declared wildlife shipments per wildlife inspector of any port in the Nation. The Service projects that the number of wildlife shipments will triple over the next 3 to 5 years following the establishment of Anchorage as a designated port. This projection is based on trends associated with the designation of the ports of Dallas-Fort Worth, Portland, and Atlanta.

Existing and projected increases in air and express cargo along with substantial growth in the number of airline passengers, international visitors, and hunters seeking clearance of wildlife imports and exports justify the designation of the port of Anchorage. This change will improve service to international mail carriers, small businesses, and the public while maintaining effective regulation of U.S. wildlife trade.

In accordance with 5 U.S.C. 553(d)(1), we are making this rule effective upon publication because it recognizes an exemption to the restriction in 50 CFR 14.11.

Required Determinations

This final rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

The purpose of this rule is to confer designated port status on Anchorage, Alaska. This conferral will have very little or no adverse effect on the economic sector, productivity, jobs or the environment, or other units of government. It is intended to decrease the administrative and financial burden on wildlife importers and exporters by allowing them to use the port of Anchorage for all varieties of wildlife shipments. This rule provides a small benefit to those businesses that deal in wildlife trade by allowing the inspection of shipments in Anchorage, and will result in a savings of approximately $65 per shipment for the importer or exporter.

The funds necessary to confer designated port status on Anchorage have been specifically allocated by the United States Congress as part of the FY 2001 budget.

b. This rule will not create inconsistencies with other agencies' actions. The Service is responsible for regulating the import and export of wildlife, and their parts and products. Therefore, this proposed policy has no effect on other agencies' responsibilities and will not create inconsistencies with other agencies' actions.

c. This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. It will, however, affect user fees. User fees will be decreased or cancelled depending on the importer or exporter's status as a licensee. 50 CFR 14.91 specifies that persons engaged in business as importers or exporters of wildlife are required to be licensed by the Service. Engage in business is defined as devoting time, attention, labor, or profit to an activity for gain or profit. As stated in 50 CFR 14.94, the inspection fees during normal working hours at non-designated ports (Anchorage) for licensees and non-licensees are $55 plus a two-hour minimum at $20/hr. A $25 designated port exception permit is also required to use the port of Anchorage. The inspection fee associated with designated ports during normal working hours is $55 for licensees and no charge for non-licensees. As a consequence, licensees will save approximately $65 per shipment by having inspection capability in Anchorage for all wildlife shipments.

d. This rule will not raise novel legal or policy issues. This rule will not raise novel legal or policy issues because it is based upon specific language in the Endangered Species Act and the Code of Federal Regulations which has been applied numerous times to various ports around the country.

The Department of the Interior (Department) has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Service anticipates that the addition of the port of Anchorage to the list of Service-designated ports for the importation and exportation of wildlife will have no adverse effect upon individual industries and cause no demographic changes in populations. In addition, the Service anticipates that this rule will not increase direct costs for small entities and will have no effect upon information collection and record keeping requirements. In light of this analysis, the Service has determined that the rule will not have a significant economic effect on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The Service has determined that this rule will not affect energy supplies, distribution, and use as described in Executive Order 13211. Therefore, this action is not a significant energy action

and no Statement of Energy Effects is required.

This final rule has no private property takings implications as defined in Executive Order 12630. The only effect of this rule will be to make it easier for businesses to import and export wildlife directly through Anchorage, Alaska.

This action does not contain any federalism impacts as described in Executive Order 13132.

This final rule does not contain any information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

These changes in the regulations in part 14 are regulatory and enforcement actions covered by a categorical exclusion from National Environmental Policy Act procedures under 516 Department Manual, Chapter 2, Appendix 1.10.

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

A determination has been made under Section 7 of the Endangered Species Act that this revision of Part 14 will not affect federally listed species.

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not ''significantly or uniquely'' affect small governments.

This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. The port of Anchorage currently clears imports when the shipper requests clearance in Anchorage, as opposed to continuing under U.S. Customs bond to a designated port. The economic impact of authorizing Anchorage as a designated port can be approximated by multiplying the average number of shipments by the average difference in fees associated with designated and non-designated ports. The estimated annual benefit to importers and exporters will be roughly $250,000. This benefit will accrue primarily to small businesses involved in the wildlife trade.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

In accordance with the presidential memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. Individual tribal members are subject to the same regulatory requirements as other individuals who engage in the import and export of wildlife.

Author

The originator of this final rule is Special Agent Julie Scully, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and record keeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Service amends part 14, subchapter B, of title 50 of the Code of Federal Regulations as set forth below.

PART 14—[AMENDED]

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

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

2. Revise § 14.12 to read as follows:

§ 14.12 Designated ports.

The following ports of entry are designated for the importation and exportation of wildlife and are referred to hereafter as ''designated ports:''

(a) Los Angeles, California.
(b) San Francisco, California.
(c) Miami, Florida.
(d) Honolulu, Hawaii.
(e) Chicago, Illinois.
(f) New Orleans, Louisiana.
(g) New York, New York.
(h) Seattle, Washington.
(i) Dallas/Fort Worth, Texas.
(j) Portland, Oregon.
(k) Baltimore, Maryland.
(l) Boston, Massachusetts.
(m) Atlanta, Georgia.
(n) Anchorage, Alaska.

Dated: February 13, 2002.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–5860 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 030702D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season amount of the Pacific cod total allowable catch (TAC) apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 9, 2002, until 1200 hrs, A.l.t., September 1, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area is 13,387 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season amount of the Pacific cod TAC apportioned to

vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA will be reached. In accordance with § 679.20(a)(11)(iii), Pacific cod bycatch taken between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment. Therefore, the Regional Administrator is establishing a directed fishing allowance of 13,387 mt. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2002 A season Pacific cod TAC specified for the inshore component in the Central Regulatory Area constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2001 A season Pacific cod TAC specified for the inshore component in the Central Regulatory Area constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 8, 2002.

Bruce Morehead,

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

[FR Doc. 02–6018 Filed 3–8–02; 1:24 pm]

BILLING CODE 3510–22–S

Rules and Regulations

Federal Register
Vol. 67, No. 49
Wednesday, March 13, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV01–905–3 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Citrus Administrative Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.0055 to $0.005 per 4/5 bushel carton of Florida citrus handled. The Committee locally administers the marketing order which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. Authorization to assess Florida citrus handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT: William Pimental, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, FL 33884; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Florida citrus beginning August 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues to decrease the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.0055 to $0.005 per 4/5 bushel carton or equivalent of citrus handled.

The Florida citrus marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Florida citrus. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2000–01 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on August 29, 2001, and unanimously recommended 2001–02 expenditures of $280,000 and an assessment rate of $0.005 per 4/5 bushel carton of Florida citrus. In comparison, last year's budgeted expenditures were $255,500. The assessment rate of $0.005 is $0.0005 lower than the rate previously in effect. Last fiscal year, Committee revenues exceeded expenses by $38,500. Committee members agreed that the excess revenues should be used to reduce the assessment rate. The $38,500 was added to the anticipated assessment revenue along with interest income for a revenue total of $280,000 for the 2001–02 fiscal period.

The major expenditures recommended by the Committee for the 2001–02 fiscal period include $121,300 for salaries, $25,000 for Manifest USDA–FDACS, $21,000 for insurance and bonds, $18,750 for retirement plan, $44,550 for miscellaneous and reserve, and $10,000 for telephone. Other expenses for 2001–02 total $39,400.

Budgeted expenses for these items in 2000–01 were $118,300, $36,000, $19,900, $18,500, $12,450, and $10,000 respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh Florida citrus. Florida citrus shipments for the year are estimated at 48,000,000 cartons which should provide $240,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $90,334) will be kept within the maximum permitted by the order (one half of one fiscal period's expenses; § 905.42).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 11,000 producers of Florida citrus in the production area and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida citrus during the 2000–01 season was approximately $7.92 per 4/5 bushel carton for all shipments, and the total fresh shipments for the 2000–01 season are estimated at 53.8 million 4/5 bushel cartons of Florida citrus. Approximately 68 percent of the handlers handled 93 percent of Florida citrus shipments. Using information provided by the Committee, about 60 percent of citrus handlers could be considered small businesses under the SBA definition. Although specific data is unavailable, USDA believes that the majority of Florida citrus producers may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.0055 to $0.005 per 4/5 bushel carton of Florida citrus. The Committee unanimously recommended 2001–02 expenditures of $280,000 and an assessment rate of $0.005 per 4/5 bushel carton. The assessment rate of $0.005 is $0.0005 lower than the 2000–01 rate. The quantity of assessable Florida citrus for the 2001–02 fiscal period is estimated at 48 million 4/5 bushel cartons. Thus, the $0.005 rate should provide $240,000 in assessment income. Assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover this year's expenses.

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include $121,300 for salaries, $25,000 for Manifest Department-FDACS, $21,000 for insurance and bonds, $18,750 for retirement plan, $44,550 for miscellaneous and reserve, and $10,000 for telephone. Budgeted expenses for these items in 2000–01 were $118,300, $36,000, $19,900, $18,500, $12,450, and $10,000, respectively.

Last fiscal year, Committee revenues exceeded expenses by $38,500. Committee members agreed that the excess revenues should be used to reduce the assessment rate. The $38,500 was added to the anticipated assessment revenue along with interest income for a revenue total of $280,000 for the 2001–02 fiscal period.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $280,000, which includes increases in some administrative costs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Budget Subcommittee, the Grapefruit Subcommittee, and the Regulatory Subcommittee. Alternative expenditure levels were discussed by these groups, based upon previous seasons and the general condition of the Florida citrus industry. The assessment rate of $0.005 per 4/5 bushel carton of assessable citrus was then determined by dividing the total recommended budget by the quantity of assessable citrus, estimated at 48,000,000 4/5 bushel cartons for the 2001–02 fiscal period. This rate is expected to generate $240,000. This is $40,000 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001–02 season could range between $4.60 and $10.70 per 4/5 bushel of oranges, grapefruit, tangerines, and tangelos. Therefore, the estimated assessment revenue for the 2001–02 fiscal period as a percentage of total grower revenue could range between .04 and .1 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 29, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

An interim final rule concerning this action was published in the **Federal Register** on November 9, 2001 (66 FR 56595). Copies of that rule were also mailed or sent via facsimile to all Florida citrus handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on January 8, 2002, and no comments were received.

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

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

List of Subjects in 7 CFR Part 905

Grapefruit, Oranges, Tangelos, Tangerines, Marketing agreements, Reporting and recordkeeping requirements.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 905 which was published at 66 FR 56595 on November 9, 2001, is adopted as a final rule without change.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5938 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV01–966–2 FIR]

Tomatoes Grown in Florida; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Florida Tomato Committee (Committee) for the 2001–02 and subsequent fiscal periods from $0.025 to $0.02 per 25-pound container of tomatoes handled. The Committee locally administers the marketing order which regulates the handling of tomatoes grown in Florida. Authorization to assess tomato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: April 12, 2002.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Winter Haven, FL 33884; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Jay.Guerber@usda.gov.*

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

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable tomatoes beginning August 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues to decrease the assessment rate established for the Committee for the 2001–02 and subsequent fiscal periods from $0.025 to $0.02 per 25-pound container of tomatoes handled.

The Florida tomato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on September 6, 2001, and unanimously recommended 2001–02 expenditures of $1,666,650 and an assessment rate of $0.02 per 25-pound container of tomatoes. In comparison, last year's budgeted expenditures were $1,910,000. The

assessment rate of $0.02 is $0.005 lower than the rate previously in effect. The Committee's authorized reserve is larger than necessary. In an effort to reduce the amount in the reserve fund, the Committee unanimously recommended reducing the assessment rate.

The major expenditures recommended by the Committee for the 2001–02 fiscal year include $700,000 for education and promotion, $418,650 for salaries and benefits, $320,000 for research, $51,500 for employee retirement, and $31,000 for office rent. Budgeted expenses for these items in 2000–01 were $1,000,000, $407,800, $315,700, $44,900, and $24,500, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes, while considering other factors such as the current balance in the reserve fund. Tomato shipments for the year are estimated at 50,000,000 25-pound containers which should provide $1,000,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $1,900,000) will be kept within the maximum permitted by the order (approximately one fiscal period's expenses, § 966.44).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2001–02 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 100 producers of tomatoes in the production area and approximately 82 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the industry and Committee data, the average annual price for fresh Florida tomatoes during the 2000–01 season was $9.16 per 25-pound container or equivalent, and total fresh shipments for the 2000–01 season were 53,649,508 25-pound equivalent cartons of tomatoes. Committee data indicates that approximately 21 percent of the Florida handlers handle 80 percent of the total volume shipped outside the regulated area. Based on this information, the shipment information for the 2000–01 season, and the 2000–01 season average price, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes also may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.025 to $0.02 per 25-pound container of tomatoes. The Committee unanimously recommended 2001–02 expenditures of $1,666,650 and an assessment rate of $0.02 per 25-pound container. The assessment rate of $0.02 is $0.005 lower than the 2000–01 rate. The quantity of assessable tomatoes for the 2001–02 season is estimated at 50,000,000 25-pound cartons. Thus, the $0.02 rate should provide $1,000,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2001–02 fiscal year include $700,000 for education and promotion, $418,650 for salaries and benefits, $320,000 for research, $51,500 for employee retirement, and $31,000 for office rent. Budgeted expenses for these items in 2000–01 were $1,000,000, $407,800, $315,700, $44,900, and $24,500, respectively.

In the past two seasons, assessments collected have exceeded budgeted expenses, primarily due to a larger than expected supply of tomatoes. This has increased the total in the reserve. In addition, the Committee voted to reduce the education and promotion budget for the 2001–02 season, reducing total recommended expenses by approximately $300,000. The authorized reserve fund is now larger than necessary. In an effort to reduce the amount in the reserve fund and considering the reduced budget, the Committee unanimously recommended reducing the assessment rate. The funds collected from assessments, along with money from the reserve fund will be adequate to cover the Committee's expenditures for the 2001–02 fiscal year.

The Committee reviewed and unanimously recommended 2001–02 expenditures of $1,666,650 which included decreases in office rent, and education and promotion programs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, Finance Subcommittee, Research Subcommittee, and Education and Promotion Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the tomato industry. The assessment rate of $0.02 per 25-pound container of assessable tomatoes was then determined by dividing the total recommended budget by the quantity of assessable tomatoes, while considering other factors such as the current balance in the reserve fund. Estimated shipments of tomatoes are 50,000,000 25-pound containers for the 2001–02 fiscal period. At the recommended rate, $1,000,000 in assessment income will be collected. This is approximately $600,000 below the anticipated expenses, which the Committee determined to be acceptable, in view of its goal of reducing its operating reserve.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for the 2001–02 season could range from $4.25 and $13.53 per 25-pound container of tomatoes.

Therefore, the estimated assessment revenue for the 2001–02 season as a percentage of total grower revenue could range between 1.5 and 4.7 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 6, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

An interim final rule concerning this action was published in the **Federal Register** on November 9, 2001, (66 FR 56599). Copies of that rule were also mailed or sent via facsimile to all tomato handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on January 8, 2002, and no comments were received.

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

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

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

PART 966—TOMATOES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 966 which was published at 66 FR 56599 on November 9, 2001, is adopted as a final rule without change.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5939 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV01–982–1 FIR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 2000–2001 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule is adopting and reinstating, without change, an interim final rule that established interim and final free and restricted percentages for domestic inshell hazelnuts for the 2000–2001 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. This action is necessary because the interim final rule inadvertently allowed the marketing percentages to expire on June 30, 2001. The Department of Agriculture is therefore adopting and reinstating the interim final rule. The marketing percentages established by the interim final rule will continue to apply until all restricted hazelnuts from the 2000–2001 marketing year have been properly disposed of in accordance with marketing order requirements. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the marketing order.

DATES: *Effective date:* March 14, 2002. *Applicability date:* This final rule applies from July 1, 2000, until all restricted hazelnuts generated during the 2000–2001 marketing year are properly disposed of in accordance with marketing order requirements.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Marketing Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 2000–2001 marketing year (July 1, 2000, through June 30, 2001), or until all restricted hazelnuts from that year are properly disposed of in accordance with marketing order requirements. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that

the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule reinstates percentages that allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year, and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three ''normal'' years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine the percentages are specified in § 982.40 of the order.

The quantity to be marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled or otherwise disposed of by handlers (restricted). Prior to September 20 of each marketing year, the Board must compute and announce preliminary free and restricted percentages. The preliminary free percentage releases 80 percent of the inshell trade demand to the domestic market. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage is to guard against an underestimate of crop size. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

The National Agricultural Statistics Service (NASS) has estimated hazelnut production at 25,000 tons for the Oregon and Washington area. The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The Board initially adjusted the crop estimate down to 24,153 tons by taking into consideration the average crop disappearance over the preceding three years (8.32 percent) and the undeclared carry-in (1,234 tons). The Board computed the adjusted inshell trade demand of 3,163 tons by taking the difference between the average of the past three years' sales (4,347 tons) and the declared carry-in from last year's crop (1,184 tons).

The Board computed and announced preliminary free and restricted percentages of 10 percent and 90 percent, respectively, at its August 31, 2000, meeting. The Board computed the preliminary free percentage by multiplying the adjusted trade demand by 80 percent and dividing the result by the adjusted crop estimate (3,163 tons × 80 percent/24,153 tons = 10 percent). The preliminary free percentage thus initially released 2,530 tons of hazelnuts from the 2000 supply for domestic inshell use, and the restricted percentage withheld 21,738 tons for the export and kernel market.

Under the order, the Board must meet again on or before November 15 to recommend interim final and final percentages. The Board uses current crop estimates to calculate interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season (i.e., desirable carryout). The order requires that the final free and restricted percentages shall be effective 30 days prior to the end of the marketing year, or earlier, if recommended by the Board and approved by the Secretary. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 14, 2000, and reviewed and approved an amended marketing policy and recommended the establishment of interim final and final free and restricted percentages. The interim final free and restricted percentages were recommended at 14 percent free and 86 percent restricted. Final percentages, which included an additional 15 percent of the average of the preceding three-years' trade acquisitions for desirable carry-out, were recommended at 17 percent free and 83 percent restricted effective May 1, 2001. The final free percentage releases 3,815 tons of inshell hazelnuts from the 2000 supply for domestic use.

The final marketing percentages are based on the Board's final production estimate and the following supply and demand information for the 2000–2001 marketing year:

	Tons
Inshell Supply:	
(1) Total production (Board's estimate)	23,000
(2) Less substandard, farm use (disappearance)	1,914
(3) Merchantable production (Board's adjusted crop estimate; Item 1 minus Item 2)	21,086
(4) Plus undeclared carry-in as of July 1, 2000, subject to regulation	1,233
(5) Supply subject to regulation (Item 3 plus Item 4)	22,319
Inshell Trade Demand:	
(6) Average trade acquisitions of inshell hazelnuts for three prior years	4,347
(7) Less declared carry-in as of July 1, 2000, not subject to regulation	1,184
(8) Adjusted Inshell Trade Demand (Item 6 minus Item 7)	3,163
(9) Desirable carry-out on August 31, 2001 (15 percent of Item 6)	652
(10) Adjusted Inshell Trade Demand plus desirable carry-out (Item 8 plus Item 9)	3,815

Percentages	Free	Restricted
(11) Interim final percentages (Item 8 divided by Item 5) × 100	14	86
(12) Final percentages (Item 10 divided by Item 5) × 100	17	83

In addition to complying with the provisions of the order, the Board also considered USDA's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages are based on the final inshell trade demand, and made available an additional 652 tons for desirable carry-out effective May 1, 2001. The total free supply for the 2000–2001 marketing year is 4,999 tons of hazelnuts, which is the sum of the final trade demand of 4,347 tons and the 652 ton desirable carry-out. This amount is 115 percent of prior years' sales and exceeds the goal of the Guidelines.

Final Regulatory Flexibility Analysis

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

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

There are approximately 800 producers of hazelnuts in the production area and approximately 19 handlers subject to regulation under the order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using these criteria, all of the producers are small agricultural producers and a majority of the 22 handlers are small agricultural service firms. In view of the foregoing, it can be concluded that the majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market while preventing oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last 10 years, from a low of 15,500 tons in 1998 to a high of 47,000 tons in 1997. Average production has been around 29,800 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all producers and handlers, both large and small. For instance, production in the shortest crop year (1998) was 55 percent of the 10-year average (1990–1999). Production in the biggest crop year (1997) was 158 percent of the 10-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

As an alternative, the Board discussed not regulating the 2000–2001 hazelnut crop. However, without any regulations in effect, the Board believes that the industry would oversupply the inshell domestic market.

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the United States. This production represents, on average, less than 5 percent of total U.S. tree nut production, and less than 5 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the United States. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is historically the primary world market for U.S. produced inshell hazelnuts. A third market is for shelled hazelnuts (kernels) sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

There are some reporting, recordkeeping, and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The

information collection requirements have been previously approved by the Office of Management and Budget under OMB No. 0581–0178. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other marketing order programs, reports and forms are periodically reviewed to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This final rule does not change those requirements. In addition, the USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this regulation.

Further, the Board's meeting was widely publicized throughout the hazelnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the November 14, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Additionally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule regarding this action was published in the **Federal Register** on March 6, 2001. A copy of the rule was provided to the Board's staff for distribution to Board members as well as the hazelnut industry. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided for a 60-day comment period that ended on May 7, 2001. No comments were received. USDA is adopting and reinstating the interim final rule because the marketing percentages inadvertently expired on June 30, 2001. The marketing percentages established by the interim final rule will continue to apply until all restricted hazelnuts from the 2000–2001 marketing year have been properly disposed in accordance with marketing order requirements. Some of these dispositions are made after June 30, 2001, the end of the 2000–2001 marketing year.

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

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that adopting and reinstating as a final rule without change the provisions of § 982.248 in the interim final rule published in the **Federal Register** (66 FR 13396, March 6, 2001), will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The percentages established by the interim final rule continue to apply until all restricted hazelnuts from the 2000–2001 marketing year have been properly disposed of in accordance with the marketing order requirements; (2) the interim final rule was published in the **Federal Register** on March 6, 2001, with a May 7, 2001, comment period, and no comments were received; and (3) handlers are aware of this action and are prepared to comply with the marketing percentages.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, § 982.248 as published in the interim final rule at 66 FR 13396 on March 6, 2001, is adopted and reinstated as a final rule without change. Section 982.248 reads as follows:

§ 982.248 Free and restricted percentages—2000–2001 marketing year.

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 2000–2001 marketing year shall be 14 and 86 percent, respectively.

(b) On May 1, 2001, the final free and restricted percentages for merchantable hazelnuts for the 2000–2001 marketing year shall be 17 and 83 percent, respectively.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5940 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE177, Special Conditions 23–112–SC]

Special Conditions; Eclipse Aviation Corporation, Model 500 Airplane; Protection of Systems From High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: This document issues special conditions for the Eclipse Aviation Corporation, 2503 Clark Carr Loop SE, Albuquerque, NM 87106 on the Eclipse Model 500 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) displays manufactured by Eclipse Aviation Corporation for which the applicable regulations do not contain adequate or appropriate airworthiness standard for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is February 21, 2002. Comments must be received on or before April 12, 2002.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE156, Room 506, 901 Lucust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE177. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4123.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment

hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contract with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE177.'' The postcard will be date stamped and returned to the commenter.

Background

On July 12, 2001, Eclipse Aviation Corporation applied for a type certificate for their new Eclipse Model 500 airplane. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an electronic displays, electronic engine controls, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, Eclipse Aviation Corporation must show that the Eclipse Model 500 airplane meets the following:

(1) Applicable provisions of 14 CFR part 23, effective December 18, 1964, as amended by Amendments 23–1 through 23–54 (September 14, 2000).

(2) Part 34 of the Federal Aviation Regulations effective September 10, 1990, plus any amendments in effect on the date of type certification.

(3) Part 36 of the Federal Aviation Regulations effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect on the date of type certification.

(4) Noise Control Act of 1972.

(5) Special conditions that are not relevant to these proposed special conditions, if any;

(6) Exemption, if any;

(7) Equivalent level of safety findings, if any; and

(8) Special conditions adopted by this rulemaking action.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 23) do not contain adequate or appropriate safety standards for the Eclipse Model 500 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, as defined in § 11.19, are issued in accordance with § 11.38 after public notice and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended late to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The Eclipse Model 500 airplane will incorporate the following novel or unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include electronic engine control systems, electronic displays, and any other critical systems which are susceptible to the HRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF)

Recent advances in technology have given rise to the application in aircraft designs of advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpot window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–20 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50

Frequency	Field strength (volts per meter)	
	Peak	Average
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

Note.—The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, peak electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term ''critical'' means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to the Eclipse Model 500 airplane. Should Eclipse Aviation Corporation apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special condition upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.17; and 14 CFR 11.38 and 11.19.

The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for the Eclipse Aviation Corporation Model 500, Airplane.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri on February 21, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–5808 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–06–AD; Amendment 39–12673; AD 2002–05–05]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Cirrus Design Corporation (Cirrus) Models SR20 and SR22 airplanes. This AD requires you to incorporate temporary operating limitations into the Limitation Section of the airplane flight manual (AFM) for certain affected airplanes and install a cable clamp external to the cone adapter on the Cirrus Aircraft Parachute System (CAPS) activation cable for all affected airplanes. The operating limitations will reduce the need to use the CAPS system in a loss of aircraft control emergency situation. The installation will prevent the cable housing from going into the rocket cone and will allow the rocket to fire correctly. This AD is the result of a report from the manufacturer that certain CAPS may not activate in an emergency situation. The actions specified by this AD are intended to initially limit the chance of failure of the CAPS activation system in an emergency situation and eventually eliminate this potential failure. Failure of this system would result in occupant injury and/or loss of life and loss of aircraft.

DATES: This AD becomes effective on March 19, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of March 19, 2002.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before April 26, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–06–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2002–CE–06–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get the service information referenced in this AD from Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811; telephone: (218) 727–2737; or electronically at the following address: *www.cirrusdesign.com/sb.* You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–06–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory J. Michalik, Aerospace Engineer, FAA, Chicago ACO, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7135; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The FAA has received a report from the type certificate holder that a condition exists that could cause the Cirrus Airplane Parachute System (CAPS) installed on certain Cirrus Design Corporation (Cirrus) Model SR20 and SR22 airplanes not to activate in the event of an emergency. Ballistic Recovery Systems (BRS), the supplier of the CAPS, discovered the condition during a supplemental type certificate (STC) certification test of the same unit on another airplane.

Investigation revealed that the rocket cone could allow for variance in the internal diameter at the threaded end of the rocket cone. This variance could result in the retaining nut internal to the cone adapter not to be fully secured on the affected parachutes. When the igniter end of the cable housing is unsecured, the cable will not pull the igniter pin free to release the parachute.

This condition is prevalent on a manufacturing lot of 187 systems that BRS developed under a process change. The condition could exist on the other earlier systems that BRS developed.

Section 23.221 of the Federal Aviation Regulations (14 CFR 23.221) requires that single-engine, normal category airplanes demonstrate compliance with either the one-turn spin or the spin-resistant requirements. The airplane, for spin recovery compliance, must recover from a one-turn spin or a three-second spin, whichever takes longer, in not more than one additional turn after the controls have been applied for recovery. The Cirrus SR20/SR22 are not certificated to meet the spin requirements or spin resistant requirements of 14 CFR 23.221. Instead, Cirrus installed an Airplane Parachute System (CAPS) that was FAA-approved as part of the SR20/SR22 type design.

What Are the Consequences if the Condition Is Not Corrected?

Failure of the igniter end of the cable housing to release the igniter pin, if not corrected, could result in CAPS not activating in an emergency situation. This would result in occupant injury and/or loss of life and loss of aircraft.

Is There Service Information That Applies to This Subject?

Cirrus Design has issued Alert Service Bulletin SB A20–95–01, Issued: February 25, 2002, and Alert Service Bulletin A22–95–01, Issued: February 25, 2002. These service bulletins specify modifying the CAPS activation cable assembly in accordance with Ballistic Recovery Systems Inc. Service Bulletin SB 95–01, Issued: February 25, 2002. This service bulletin includes procedures for installing a cable clamp external to the cone adapter.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

The FAA has reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Cirrus Model SR20 and SR22 airplanes of the same type design;

—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Does This AD Require?

This AD requires you to:

—Incorporate temporary operating limitations into the Limitation Section of the airplane flight manual (AFM) for the airplanes with a CAPS that incorporates the process change. The operating limitations will reduce the need to use the CAPS system in a loss of aircraft control emergency situation. This action is accomplished by the pilot prior to further flight after the effective date of the AD; and

—Install a cable clamp external to the cone adapter on the Cirrus Aircraft Parachute System (CAPS) activation cable within 10 hours time-in-service (TIS) after the effective date of this AD for those airplanes with a CAPS that incorporates the process change and within 25 hours TIS after the effective date for all other airplanes. This installation will prevent the cable housing from going into the rocket cone and will allow the rocket to fire correctly.

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We have included, in the rulemaking docket, a discussion of information that may have influenced this action.

Will I Have the Opportunity To Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in failure of the CAPS activation system in an emergency situation, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and

determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of the AD I Should Pay Attention To?

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I Be Sure FAA Receives My Comment?

If you want us to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2002–CE–06–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2002–05–05 Cirrus Design Corporation: Amendment 39–12673; Docket No. 2002–CE–06–AD.

(a) *What airplanes are affected by this AD?* This AD applies to the following airplane models and serial numbers that are certificated in any category:

Model	Serial Numbers
(1) Group 1	
SR20	1148 through 1178, except 1151
SR22	0029 through 0160, except 0159
(2) Group 2	
SR20	1005 through 1147
SR22	0002 through 0028

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to initially limit the chance of failure of the CAPS activation system in an emergency situation and eventually eliminate this potential failure. Failure of this system would result in occupant injury and/or loss of life and loss of aircraft.

(d) *What must I do to address this problem?* To address this problem, you must perform the following actions, unless already accomplished:

Actions	Compliance	Procedures
(1) For Group 1 airplanes: in order reduce the need to use the CAPS system in a loss of aircraft control emergency situation, incorporate the following into the Limitation Section of the airplane flight manual (AFM): ''(i) Do not operate the airplane in instrument flight rules (IFR) conditions, only operate the airplane in visual flight rules (VFR) conditions; and (ii) Operate the airplane during daytime hours only, do not operate at night.	Prior to further flight after March 19, 2002 (the effective date of this AD) until the installation required by paragraph (d)(2) of this AD is accomplished.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may incorporate into the AFM the information specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) For all affected airplanes: in order to prevent the cable housing from going into the rocket cone and in order to allow the rocket to fire correctly, install a cable clamp external to the cone adapter on the Cirrus Aircraft Parachute System (CAPS) activation cable.	For Group 1 airplanes: within the next 10 hours time-in-service (TIS) after March 19, 2002 (the effective date of this AD). The AFM Limitations requirement in paragraph (d)(1) of this AD is no longer required when this installation is accomplished. For Group 2 airplanes: within the next 25 hours TIS after March 19, 2002 (the effective date of this AD).	In accordance with Ballistic Recovery Systems Inc. Service Bulletin SB 95–01, Issued: February 25, 2002, as specified in Cirrus Alert Service Bulletin SBA 20–95–01, Issued: February 25, 2002, and Alert Service Bulletin A22–95–01, Issued: February 25, 2002.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Chicago Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so

that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Gregory J. Michalik, Aerospace Engineer, FAA, Chicago ACO, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7135; facsimile: (847) 294–7834.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided you comply with the following:

(1) The aircraft is operated in Visual Flight Rules (VFR) conditions only; and

(2) The aircraft is operated during daytime hours only.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Ballistic Recovery Systems Inc. Service Bulletin SBA 95–01, Issued: February 25, 2002, as specified in Cirrus Alert Service Bulletin SBA 20–95–01, Issued: February 25, 2002, and Cirrus Alert Service Bulletin A22–95–01, Issued: February 25, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Cirrus Design Corporation, 4515 Taylor Circle, Duluth, MN 55811; telephone: (218) 727–2737; or electronically at the following address: www.cirrusdesign.com/sb. You may view this information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on March 19, 2002.

Issued in Kansas City, Missouri, on March 5, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–5703 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 37, 38, 41, and 155

RIN 3038–AB83

Regulation To Restrict Dual Trading in Security Futures Products

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') hereby adopts regulation 41.27 that restricts dual trading by floor brokers in security futures products. Under the regulation, the dual trading restriction affects floor brokers that trade security futures products through open outcry on the trading floor of a designated contract market (''DCM'') or registered derivatives transaction execution facility (''DTF''). The regulation provides for certain exceptions to the restriction, including provisions for the correction of errors, customer consent, spread transactions, market emergencies, and unique or special characteristics of an agreement, contract, or transaction, or of the DCM or DTF.

EFFECTIVE DATE: April 12, 2002.

ADDRESSES: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or by e-mail to *secretary@cftc.gov*. Reference should be made to ''Restriction of Dual Trading in Security Futures Products by Floor Brokers.''

FOR FURTHER INFORMATION CONTACT: Stephen Braverman, Associate Director, or Rachel Berdansky, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5490, Electronic mail: sbraverman@cftc.gov or rberdansky@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 15, 2000, Congress passed the Commodity Futures Modernization Act of 2000 (''CFMA''), which was signed by the President and became effective on December 21, 2000. Among other things, the CFMA, which substantially amended the Commodity Exchange Act (''Act''), establishes two categories of markets subject to Commission regulatory oversight, DCMs and DTFs.[1] In addition, Title II of the CFMA repeals the longstanding ban on single stock futures and directs the Commission and the Securities and Exchange Commission (''SEC'') to implement a joint regulatory framework for security futures products.

On July 11, 2001, the Commission published proposed regulation 41.27 (''proposing release''), which generally restricts floor brokers from dual trading security futures products through open outcry during the same trading session, in accordance with the statutory mandate of section 4j(a) of the Act, as amended by section 251(c) of the CFMA.[2] Section 4j(a), as amended, also requires that the Commission permit exceptions to the dual trading restriction in order to ensure fairness and orderly trading in security futures product markets.[3] Moreover, section 2(a)(D)(i) of the Act sets forth listing standards for security futures products traded on a DCM or DTF. In particular, section 2(a)(D)(i)(VI) requires that security futures products be subject to the dual trading restriction of section 4j of the Act and the regulations thereunder or section 11(a) of the Securities Exchange Act of 1934 (' '34 Act'') and the regulations thereunder.[4]

Section 5f of the Act provides that any board of trade that is registered with the SEC as a national securities exchange or as a national securities association, or as an alternative trading system, shall be considered a DCM in security futures products, provided that certain enumerated requirements are satisfied upon filing a notice with the Commission. Section 5f(b)(1)(B), however, specifically exempts such notice-registered entities from section 4j of the Act. Similarly, section 6(g) of the '34 Act, as amended by section 202(a) of

[1] Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000). Prior to its recent amendment, the Act referred to ''designated contract markets'' as Commission-approved products traded on a board of trade. The Act, as amended, however, uses the term ''designated contract market'' to refer to the approved or licensed market on which futures contracts and commodity options are traded. Regulation 41.27 refers to DCMs in this sense.

[2] See Proposed Regulation to Restrict Dual Trading in Security Futures Products, 66 FR 36218.

[3] Section 4j of the Act, as amended, is different in scope than its predecessor and the Commission regulation promulgated thereunder. Commission regulation 155.5 restricted dual trading in any contract market that exceeded certain volume thresholds unless an exchange requested, and the Commission granted, a dual trading exemption. As part of this rulemaking, the Commission is removing regulation 155.5.

[4] With certain enumerated exceptions, section 11(a)(1) of the '34 Act and SEC rule 11a–1 make it unlawful for any member of a national securities exchange to effect any transaction for his or her own account, the account of an associated person, or an account with respect to which it or an associated person has discretion.

the CFMA, provides that any board of trade that has been designated as a contract market by the Commission or has registered with the Commission as a DTF may register with the SEC as a national securities exchange by filing notice with the SEC solely for the purposes of trading security futures products, provided that certain enumerated requirements are satisfied. DCMs and DTFs that notice register with the SEC for the purpose of trading security futures products are exempt from section 11(a)(1) of the '34 Act.

The Commission received four comment letters on a variety of issues regarding the proposing release.[5] CME fully supported proposed regulation 41.27, and stated that, ''the Commission's proposed dual trading regulation for security futures products appropriately balances customer protection with regulatory oversight.'' CBOT, AMEX, and NYBOT raised several issues regarding the proposing release's definition of ''customer'' and ''dual trading,'' application of the dual trading restriction under certain circumstances to electronic trading systems, and the possible addition of a low volume exception. Those comments are discussed, as appropriate, below.

II. Final Rule

A. Definitions

1. Customer

Proposed regulation 41.27(a)(4) defined ''customer'' to mean an account owner for which a trade is executed other than (i) an account in which a floor broker's ownership interest or share of trading profits is ten percent or more; (ii) an account for which a floor broker has discretion; (iii) an account controlled by a person with whom a floor broker has a relationship through membership in a broker association; (iv) a house account for a floor broker's clearing member; or (v) an account for another member present on the floor of a DCM or DTF or an account controlled by such other member. To make the regulation more consistent with section 11(a) of the '34 Act, the Commission has modified the language of section 41.27(a)(4)(i) by deleting the reference to ''ten percent or more.''[6] Thus, § 41.27(a)(4)(i), as adopted, provides, ''(c)ustomer means an account owner for which a trade is executed other than (i) an account in which such floor broker has any interest.''[7]

CBOT and NYBOT commented regarding the proposed definition of ''customer'' in § 41.27(a)(4). NYBOT commented that proposed § 41.27(a)(4)(iv) and (v) included two categories of non-customer accounts, a house account for a floor broker's clearing member, and an account for another member present on the floor of a DCM or DTF or an account controlled by such other member, that were not considered non-customer accounts under regulation 155.5.[8] Specifically, NYBOT believes that regulation 155.5 permitted a floor broker to trade security futures products for a customer and for the house account of a floor broker's clearing member or for another member present on the floor during the same trading session.[9]

After carefully reviewing regulation 155.5, the Commission believes that although it intended that a house account for a floor broker's clearing member and an account for another member present on the floor or an account controlled by such other member be considered non-customer accounts, the language in regulation 155.5 was ambiguous. Accordingly, regulation 41.27 clearly expresses the Commission's intent that floor brokers be prohibited from trading the same security futures product for a customer and for a house account for a floor broker's clearing member or for an account for another member present on the floor or an account controlled by such member during the same trading session. In this regard, the Commission believes that to allow otherwise could disadvantage customers because a floor broker may be motivated to obtain a better fill for its clearing member or for another member present on the floor. Regulation 41.27, however, would permit a floor broker to trade the same security futures product for his or her own account and non-customer accounts enumerated under regulation 41.27(a)(4)(i)–(v) during the same trading session.

Additionally, the Commission requested comment as to whether accounts for clearing members other than the house account of a floor broker's clearing member and members not present on the floor should be considered non-customer accounts for the purpose of regulation 41.27(a)(4). By defining these accounts as non-customer accounts, a floor broker would be permitted to trade for these accounts and the floor broker's personal account during the same trading session. NYBOT and CBOT commented that accounts for clearing members other than the house account of a floor broker's clearing member and members not present on the floor, should not be included as non-customer accounts in § 41.27(a)(4).[10] The Commission therefore has determined that the accounts of clearing members other than the floor broker's clearing member, and the accounts of members not present on the floor of a DCM or DTEF, should be included as customer accounts for purposes of this rule.

2. Dual Trading

Section 41.27(a)(6) of the proposing release, which is renumbered as § 41.27(a)(5) in the final rule, defined ''dual trading'' as the ''execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes, directly or indirectly, either through open outcry or through a trading system that electronically matches bids and offers, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account'' of a non-customer.

This definition referred to a floor broker executing ''directly or indirectly'' a transaction for a non-customer account, but did not explain what was meant by ''indirectly.'' Rather, in discussing the various sections of the proposed rule, the proposing release noted that the word ''indirectly'' was

[5] Letters were received from: (1) Chicago Mercantile Exchange (''CME''), (2) Board of Trade of the City of Chicago (''CBOT''), (3) The American Stock Exchange (''AMEX''), and (4) Board of Trade of the City of New York (''NYBOT'').

[6] See infra note 4.

[7] AMEX commented that the final regulation should delete the ''ten percent or more'' ownership provision because it limited the definition of dual trading and was not included in section of 4j of the Act, as amended.

[8] Similarly, CBOT commented that the inclusion of an account for another member present on the floor of a DCM or DTF or an account controlled by such other member as a non-customer account differs from the treatment of such accounts under Regulation 155.5.

[9] NYBOT would like the Commission to remove an account for a floor broker's clearing member, or an account for another member present on the floor of a DCM or DTF or an account controlled by such other member, from the list of non-customer accounts. CBOT would include the house account for a floor broker's clearing member as a non-customer account, but would like the Commission to create an exception to the dual trading restriction for the accounts of all other clearing members, members present on the floor, and members not present on the floor.

[10] Both NYBOT and CBOT contend that if clearing members other than the house account of a floor broker's clearing member and members not present on the floor are included as non-customer accounts in § 41.27(a)(4), floor brokers would be limited to trading security futures products during the same trading session for such accounts and other non-customer accounts listed in § 41.27(a)(4)(i)–(v). In particular, CBOT believes that ''these are not the types of brokers to whom other clearing firms or members would be likely to direct their orders.''

intended to prevent a floor broker from executing a customer order and during the same trading session initiating and passing an order for a non-customer account identified by regulations 41.27(a)(4)(i)–(v) to another broker for execution. CBOT commented that to avoid ambiguity, the Commission should explicitly state what it means by ''indirect execution'' in the final regulation, similar to the dual trading definition in regulation 155.5(a)(4).[11] The Commission agrees and has made the appropriate change in the final regulation.

Additionally, the Commission is amending the language of the dual trading definition that describes an electronic trading system not subject to the dual trading prohibition to make it more precise and consistent with current practices. Specifically, the words ''a trading system that electronically matches bids and offers'' has been amended in § 41.27(a)(5) of the regulation to read ''a trading system that electronically matches bids and offers pursuant to a predetermined algorithm.'' [12]

3. Other Definitions

The proposing release also defined the terms ''trading session,'' ''member,'' ''broker association,'' and ''security futures product.'' [13] The term ''security futures product'' will be deleted from § 41.27(a) in the final regulation because of a final Commission rulemaking subsequent to the proposing release that defined the term.[14] No comments were received regarding § 41.27(a)(1)–(3) of the proposing release and the Commission has determined to adopt those sections as proposed.

B. Application of the Dual Trading Prohibition to Electronic Trading Systems

In the proposing release, the Commission stated that under the plain language of section 4j of the Act, as amended, the dual trading restriction would not apply to a DCM or DTF that trades security futures products solely through an electronic trading system. This interpretation takes into account the plain language of the statute, which refers to ''floor brokers'' who ''execute'' orders.[15] In addition, this interpretation recognizes that a floor broker who executes a customer order through open outcry has more control over that order than a customer order entered into an electronic trading system that matches bids and offers pursuant to a predetermined algorithm where members do not have a time and place advantage. In the latter instance, the floor broker does not have the ability to influence or guide the order once it enters the system because the order is matched pursuant to a predetermined algorithm.

The Commission also acknowledged in the proposing release that a DCM or DTF may permit the simultaneous trading of security futures products through open outcry on a trading floor and on an electronic trading system for the same product, also known as ''side-by-side trading.'' The Commission would permit a floor broker, during the same trading session, to enter a bid or offer for a security futures product for a customer account on an electronic trading system and to trade the same product for non-customer accounts listed in §§ 41.27(a)(4)(i)–(v) through open outcry. However, recognizing the extent of control that a floor broker exercises with respect to an open outcry customer order, the Commission noted that a floor broker would be prohibited during the same trading session from executing a customer order for a particular security futures product through open outcry and entering a bid or offer on an electronic trading system for the same product for non-customer accounts.

NYBOT and AMEX contend that the Act does not limit the dual trading restriction to open outcry trading and commented that a dual trading restriction also should be applicable to the trading of security futures products on electronic trading systems. CBOT disagrees with NYBOT and AMEX, and commented that it believes the Commission correctly determined that under the Act a dual trading restriction is not applicable to a DCM or DTF that trades security futures products solely through an electronic trading system, because there is no floor broker involved in the trade.[16] CBOT, however, disagrees with the Commission's application of the dual trading restriction with respect to side-by-side trading. Specifically, CBOT does not believe that a dual trading restriction should be applicable to side-by-side trading, regardless of whether the customer order is executed though open outcry or entered on an electronic trading system.

The Commission is not persuaded by the comments that its interpretation and application of the dual trading restriction is inconsistent with the Act. In this connection, NYBOT commented that ''the definition of ''floor broker'' must be read in the light of the evolution of the markets to electronic trading, and the dual trading restrictions applied to all orders that are intermediated, regardless of the ultimate mode of execution.'' In adopting the CFMA, however, Congress did not substantively amend the definition of ''floor broker,'' nor does the Act, as amended, include language demonstrating that Congress intended to apply a dual trading restriction to security futures products traded on an electronic trading system.

Nonetheless, the Commission has separately determined, given the possibility of further developments in electronic markets and electronic trading systems, to adopt § 41.27(b)(2).[17] Section 41.27(b)(2) would require a DCM or DTF that operates an electronic market or electronic trading system that

[11] Regulation 155.5(a)(4) defined dual trading as ''the execution of customer orders by a floor broker during the same trading session in which the floor broker executes directly or *initiates and passes to another member* for execution in the same contract market. * * *'' (emphasis added).

[12] The ''dual trading'' definition set forth in § 41.27(a)(5) will now read:

Dual trading means the execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes directly or by initiating and passing to another member, either through open outcry or through a trading system that electronically matches bids and offers pursuant to a predetermined algorithm, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account described in paragraphs (a)(4)(i)–(v) of this section.

[13] See sections 41.27(a)(1), (2), (3), and (5) of the proposing release, respectively.

[14] Regulation 41.1(i) provides that ''(s)ecurity futures product shall have the meaning set forth in section 1a(32) of the Act.'' 66 FR 44960, 44965 (August 27, 2001).

[15] Section 4j(b) defines dual trading as the ''execution of customer orders by a floor broker during the same trading session in which the floor broker executes any trade in the same contract [on a designated contract market] or registered derivatives transaction execution facility.''

[16] As stated earlier, the Commission noted in the proposing release that the dual trading definition found in section 4j(b) of the Act refers to ''floor brokers'' who ''execute'' customer orders. Floor brokers execute customer orders on the trading floor, whereas various registrants as well as unregistered individuals enter orders into electronic trading systems that then match orders pursuant to a predetermined algorithm where members do not have a time and place advantage and relinquish the ability to influence or guide the order once it enters the system. In this connection, the definition of ''floor broker'' found in section 1a(16) of the Act contemplates a person ''in or surrounding * * * any pit, ring, or post * * *'' on the floor of an exchange and not through a system that electronically matches bids and offers.

[17] Section 41.27(b) of the proposing release is renumbered as § 41.27(b)(1) in the final rule. In addition, a reference to § 41.27(e) has been added to this paragraph. Section 41.27(b)(1) will now read:

No floor broker shall engage in dual trading in a security futures product on a designated contract market or registered derivatives transaction execution facility, except as otherwise provided under paragraphs (d), (e), and (f) of this section.

provides market participants with a time or place advantage, or the ability to override a predetermined algorithm, to submit an appropriate rule proposal to the Commission pursuant to the procedures enumerated in regulation 40.5. Specifically, the proposed rule must prohibit electronic market participants with a time or place advantage or with the ability to override a predetermined algorithm from trading a security futures product for accounts in which these same participants have any interest during the same trading session that they also trade the same security futures product for other accounts.[18] The Commission notes, however, that § 41.27(b)(2) would not apply to execution priorities or quantity guarantees granted to market makers who perform that function, or to market participants who receive execution priorities based on price improvement activity, in accordance with rules governing the DCM or DTF.

C. Rules Implementing the Dual Trading Prohibition

As the Commission indicated in the proposing release, prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a DCM or DTF must adopt a rule prohibiting dual trading. Under regulation 41.27(c)(1), a DCM must submit such a rule to the Commission in accordance with regulation 40.6, along with a written certification that the rule complies with the Act and the regulations promulgated there-under, or must obtain Commission approval of such a rule pursuant to regulation 40.5. Under regulation 41.27(c)(2), a DTF must notify the Commission in accordance with regulation 37.7(b) that it has adopted a rule prohibiting dual trading or obtain Commission approval of such a rule pursuant to regulation 37.7(c). No comments were received regarding § 41.27(c). Accordingly, the Commission is adopting § 41.27(c) as proposed.

D. Specific Permitted Exceptions to the Dual Trading Prohibition and Unique or Special Characteristics of an Agreement, Contract, or Transaction, or of the DCM or DTF

Proposed regulation 41.27(d) would implement the directive of sections 4j(a)(2)(A) and (B) of the Act to permit certain exceptions to the dual trading restriction. Regulation 41.27(d)(1)–(4) provides exceptions to the dual trading restriction to permit the correction of errors resulting from the execution of a customer order, to permit a customer to designate in writing a floor broker to dual trade while executing orders for the customer's account, to permit a broker who unsuccessfully attempts to leg into a spread transaction to take the executed leg into his or her personal account and to offset such position, and to address market conditions that result in a temporary emergency. As the Commission indicated in the proposing release, a DCM or DTF, prior to permitting such exceptions to a dual trading prohibition, would have to adopt a rule permitting the specific exceptions and submit the rule to the Commission or obtain Commission approval pursuant to the rule submission procedures of regulations 41.27(e)(1) or (2).[19]

One comment was received regarding § 41.27(d). CBOT encouraged the Commission to add a low volume exception to regulation 41.27. The CBOT believes that adding a low volume exception may assist fledgling security futures products to become established before a trading prohibition would become applicable, and would improve liquidity. CBOT noted that section 11(c) of the '34 Act permits the SEC, upon application of an exchange, to grant a low volume exemption from section 11(a).

At this time, the Commission does not have data on the trading volume of security futures products upon which to base a threshold amount to create a low volume exception. However, similar to section 11(c) of the '34 Act with respect to the SEC, section 4j(a)(2)(C) of the Act affords the Commission broad authority to permit exceptions to ''further the public interest consistent with the promotion of market efficiency, innovation, and expansion of investment opportunities.'' Specifically, § 41.27(f) would allow DCMs and DTFs to permit, pursuant to a rule, an exception to the dual trading prohibition to address an agreement, contract, or transaction that presents a unique or special characteristic, or to address a unique or special characteristic of the specific DCM or DTF. Accordingly, an exchange seeking a low volume exception to the dual trading restriction could seek to implement such an exception by making a submission pursuant to the procedures set forth in § 41.27(f).

The Commission did not receive any other comments regarding § 41.27(d) or (f) and is adopting those sections as proposed.

III. Amendments to Regulations 37.2, 38.2 and 41.34

In order to facilitate the promulgation of proposed regulation 41.27, the Commission also is promulgating procedural amendments to regulations 37.2 and 38.2. Regulations 37.2 and 38.2 generally exempt DCMs and DTFs from certain Commission regulations and list those regulations that are applicable under the Act. Regulation 41.27 is hereby added to the list of regulations that remain applicable to DCMs and DTFs pursuant to regulations 37.2 and 38.2.[20]

Additionally, the Commission is amending regulation 41.34(b) to exempt notice designated contract markets in security futures products (''SFPCMs'') from regulation 41.27.[21] As discussed

[18] An example of a time advantage would be providing certain market participants with faster access to an electronic trading system. An example of a place advantage would be granting certain market participants with better access to the market or market information. To date, however, no entity with electronic trading system characteristics identified in section 41.27(b)(2) has sought designation as a contract market or registration as a derivatives transaction execution facility.

[19] These procedures are identical to the procedures under regulation 41.27(c)(1) and (2) for a DCM or DTF to submit a rule prohibiting dual trading.

[20] Amended § 37.2 would provide:

Contracts, agreements, or transactions traded on a derivatives transaction execution facility registered as such with the Commission under section 5a of the Act, the facility and the facility's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 37 and §§ 1.3, 1.31, 1.59(d), 1.63(c), 15.05, 33.10, *41.27,* part 40, and part 190 of this chapter, and as applicable to the market, parts 15 through 21 of this chapter, which are applicable to a registered derivatives transaction execution facility as though they were set forth in this section and included specific reference to derivatives transaction execution facilities. (emphasis added).

Amended § 38.2 would provide:

Agreements, contracts, or transactions traded on a designated contract market under section 6 of the Act, the contract market and the contract market's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 38 and §§ 1.3, 1.12(e), 1.31, 1.38, 1.52, 1.59(d), 1.63(c), 1.67, 33.10, *41.27,* parts 15 through 21, part 40, and part 190 of this chapter. (emphasis added).

[21] Amended § 41.34 provides:

Any board of trade notice-designated as a contract market in security futures products pursuant to § 41.31 of this chapter also shall be exempt from:

(a) The following provisions of the Act, pursuant to section 5f(b)(1) of the Act:

(1) Section 4(c)(c);

(2) Section 4(c)(e);

(3) Section 4(c)(g);

(4) Section 4j;

(5) Section 5;

(6) Section 5c;

(7) Section 6a;

(8) Section 8(d);

(9) Section 9(f);

(10) Section 16 and;

(b) The following provisions, pursuant to section 5f(b)(4) of the Act:

(1) Section 6(a);

(2) Part 38 of this chapter;

(3) Part 40 of this chapter; and

earlier, section 5f(b)(1)(B) of the Act specifically exempts boards of trade that register with the SEC as a national securities exchange, a national securities association, or as an alternative trading system from section 4j of the Act, upon filing notice with the Commission.[22] Regulation 41.34(b) generally exempts SFPCMs from certain Commission regulations. Therefore, because regulation 41.27 is being promulgated pursuant to section 4j of the Act, the Commission is adding regulation 41.27 to the list of 41.34(b) exemptions.

IV. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) simply requires the Commission to consider the costs and benefits of its action in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations.

The Commission's proposing release contained an analysis of the consideration of the costs and benefits and solicited public comment thereon.[23] The Commission specifically invited commenters to submit any data that they had quantifying the costs and benefits of the proposed rules with their comment letters.[24] The Commission did not receive any comments on this issue.

Compliance with regulation 41.27 would impose costs on DCMs and DTFs with respect to enacting and enforcing rules restricting dual trading of security futures products traded through open outcry on a trading floor. The costs of enacting and enforcing rules associated with regulation 41.27 are either balanced or outweighed by the increased protection of market participants and the public. The Commission's exercise of its discretion in implementing the Congressional directive to restrict dual trading, as set forth in section 4j of the Act, would not unreasonably increase costs related to efficiency, competitiveness, and financial integrity of financial markets; price discovery; or sound risk management practices. After considering these factors, the Commission has determined to adopt regulation 41.27.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires federal agencies, in promulgating regulations, to consider the impact of those regulations on small entities. The regulation adopted herein would affect DCMs, DTFs, and floor brokers. The Commission previously has established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[25] In its previous determinations, the Commission has concluded that contract markets are not small entities for the purpose of the RFA.[26] The Commission has recently determined that DTFs, for reasons similar to those applicable to contract markets, are not small entities for purposes of the RFA.[27]

As the Commission stated in its proposing release, certain floor brokers would be affected by proposed regulation 41.27. The Commission, however, believes that regulation 41.27 as adopted will not have a significant economic impact on a substantial number of small entities. The Commission requested comment on this issue, but received no comments. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the rule amendments will not have a significant impact on a substantial number of small entities.

B. Paperwork Reduction Act of 1995

This rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3507(d)) the Commission has submitted a copy of this rule to the Office of Management and Budget for its review. No comments were received in response to the Commission's invitation in the proposing release to comment on any potential paperwork burden associated with this regulation.

List of Subjects in 17 CFR Parts 37, 38, 41, and 155

Commodity futures, Contract markets, Reporting and recordkeeping requirements, Security futures products.

PART 37—DERIVATIVES TRANSACTION EXECUTION FACILITIES

1. The authority citation for Part 37 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6, 6c, 7a and 12a.

2. Section 37.2 is revised to read as follows:

§ 37.2 Exemption.

Contracts, agreements, or transactions traded on a derivatives transaction execution facility registered as such with the Commission under section 5a of the Act, the facility and the facility's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 37 and §§ 1.3, 1.31, 1.59(d), 1.63(c), 15.05, 33.10, 41.27, part 40, and part 190 of this chapter, and as applicable to the market, parts 15 through 21 of this chapter, which are applicable to a registered derivatives transaction execution facility as though they were set forth in this section and included specific reference to derivatives transaction execution facilities.

PART 38—DESIGNATED CONTRACT MARKETS

3. The authority citation for Part 38 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6, 6c, 7a and 12a.

4. Section 38.2 is revised to read as follows:

§ 38.2 Exemption.

Agreements, contracts, or transactions traded on a designated contract market under section 6 of the Act, the contract market and the contract market's operator are exempt from all Commission regulations for such activity, except for the requirements of this part 38 and §§ 1.3, 1.12(e), 1.31, 1.38, 1.52, 1.59(d), 1.63(c), 1.67, 33.10, 41.27, parts 15 through 21, part 40 and part 190 of this chapter.

PART 41—SECURITY FUTURES

5. The authority citation for Part 41 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6f, 6j, 7a–2, 7b, 12a.

6. Section 41.27 is added as follows:

(4) *Section 41.27 of this chapter.* (emphasis added).

[22] See section I. of the preamble for a more detailed discussion.

[23] 66 FR at 36221.

[24] *Id.*

[25] *See* 47 FR 18618–21 (Apr. 30, 1982).

[26] *See* 47 FR 18618 at 18619 (discussing contract markets).

[27] *See* A New Regulatory Framework for Trading Facilities, Intermediaries and Clearing Organizations 66 FR 42256, 42268 (August 10, 2001).

§ 41.27 Prohibition of Dual Trading In Security Futures Products By Floor Brokers.

(a) Definitions. For purposes of this section:

(1) Trading session means hours during which a designated contract market or registered derivatives transaction execution facility is scheduled to trade continuously during a trading day, as set forth in its rules, including any related post settlement trading session. A designated contract market or registered derivatives transaction execution facility may have more than one trading session during a trading day.

(2) Member shall have the meaning set forth in section 1a(24) of the Act.

(3) Broker association includes two or more designated contract market or registered derivatives transaction execution facility members with floor trading privileges of whom at least one is acting as a floor broker who:

(i) Engage in floor brokerage activity on behalf of the same employer;

(ii) Have an employer and employee relationship which relates to floor brokerage activity;

(iii) Share profits and losses associated with their brokerage or trading activity; or

(iv) Regularly share a deck of orders.

(4) Customer means an account owner for which a trade is executed other than:

(i) An account in which such floor broker has any interest;

(ii) An account for which a floor broker has discretion;

(iii) An account controlled by a person with whom a floor broker has a relationship through membership in a broker association;

(iv) A house account of the floor broker's clearing member; or

(v) An account for another member present on the floor of a designated contract market or registered derivatives transaction execution facility or an account controlled by such other member.

(5) Dual trading means the execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes directly or by initiating and passing to another member, either through open outcry or through a trading system that electronically matches bids and offers pursuant to a predetermined algorithm, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account described in paragraphs (a)(4)(i)–(v) of this section.

(b) Dual Trading Prohibition. (1) No floor broker shall engage in dual trading in a security futures product on a designated contract market or registered derivatives transaction execution facility, except as otherwise provided under paragraphs (d), (e), and (f) of this section.

(2) A designated contract market or a registered derivatives transaction execution facility operating an electronic market or electronic trading system that provides market participants with a time or place advantage or the ability to override a predetermined algorithm must submit an appropriate rule proposal to the Commission consistent with the procedures set forth in § 40.5. The proposed rule must prohibit electronic market participants with a time or place advantage or the ability to override a predetermined algorithm from trading a security futures product for accounts in which these same participants have any interest during the same trading session that they also trade the same security futures product for other accounts. This paragraph, however, is not applicable with respect to execution priorities or quantity guarantees granted to market makers who perform that function, or to market participants who receive execution priorities based on price improvement activity, in accordance with the rules governing the designated contract market or registered derivatives transaction execution facility.

(c) Rules Prohibiting Dual Trading. (1) Designated contract markets. Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a designated contract market:

(i) Must submit to the Commission in accordance with § 40.6, a rule prohibiting dual trading, together with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to § 40.5.

(2) Registered derivatives transaction execution facilities. Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a registered derivatives transaction execution facility:

(i) Must notify the Commission in accordance with § 37.7(b) that it has adopted a rule prohibiting dual trading; or

(ii) Must obtain Commission approval of such rule pursuant to § 37.7(c).

(d) Specific Permitted Exceptions. Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or a registered derivatives transaction execution facility pursuant to one or more of the following specific exceptions:

(1) Correction of errors. To offset trading errors resulting from the execution of customer orders, provided, that the floor broker must liquidate the position in his or her personal error account resulting from that error through open outcry or through a trading system that electronically matches bids and offers as soon as practicable, but, except as provided herein, not later than the close of business on the business day following the discovery of error. In the event that a floor broker is unable to offset the error trade because the daily price fluctuation limit is reached, a trading halt is imposed by the designated contract market or registered derivatives transaction execution facility, or an emergency is declared pursuant to the rules of the designated contract market or registered derivatives transaction execution facility, the floor broker must liquidate the position in his or her personal error account resulting from that error as soon as practicable thereafter.

(2) Customer consent. To permit a customer to designate in writing not less than once annually a specifically identified floor broker to dual trade while executing orders for such customer's account. An account controller acting pursuant to a power of attorney may designate a dual trading broker on behalf of its customer, provided, that the customer explicitly grants in writing to the individual account controller the authority to select a dual trading broker.

(3) Spread transactions. To permit a broker who unsuccessfully attempts to leg into a spread transaction for a customer to take the executed leg into his or her personal account and to offset such position, provided, that a record is prepared and maintained to demonstrate that the customer order was for a spread.

(4) Market emergencies. To address emergency market conditions resulting in a temporary emergency action as determined by a designated contract market or registered derivatives transaction execution facility.

(e) Rules Permitting Specific Exceptions. (1) Designated contract markets. Prior to permitting dual trading under any of the exceptions provided in paragraphs (d)(1)–(4) of this section, a designated contract market:

(i) Must submit to the Commission in accordance with § 40.6, a rule permitting the exception(s), together

with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to § 40.5.

(2) Registered derivatives transaction execution facilities. Prior to permitting dual trading under any of the exceptions provided in paragraphs (d)(1)–(4) of this section, a registered derivatives transaction execution facility:

(i) Must notify the Commission in accordance with § 37.7(b) that it has adopted a rule permitting the exception(s); or

(ii) Must obtain Commission approval of such rule pursuant to § 37.7(c).

(f) Unique or Special Characteristics of Agreements, Contracts, or Transactions, or of Designated Contract Markets or Registered Derivatives Transaction Execution Facilities.

Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or registered derivatives transaction execution facility to address unique or special characteristics of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility as provided herein. Any rule of a designated contract market or registered derivatives transaction execution facility that would permit dual trading when it would otherwise be prohibited, based on a unique or special characteristic of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility must be submitted to the Commission for prior approval under the procedures set forth in § 40.5. The rule submission must include a detailed demonstration of why an exception is warranted.

7. Section 41.34 is revised to read as follows:

§ 41.34 Exempt Provisions.

Any board of trade notice-designated as a contract market in security futures products pursuant to § 41.31 also shall be exempt from:

(a) The following provisions of the Act, pursuant to section 5f(b)(1) of the Act:

(1) Section 4(c)(c);
(2) Section 4(c)(e);
(3) Section 4(c)(g);
(4) Section 4j;
(5) Section 5;
(6) Section 5c;
(7) Section 6a;
(8) Section 8(d);
(9) Section 9(f);
(10) Section 16 and;

(b) The following provisions, pursuant to section 5f(b)(4) of the Act:

(1) Section 6(a);
(2) Part 38 of this chapter;
(3) Part 40 of this chapter; and
(4) Section 41.27.

PART 155—TRADING STANDARDS

8. The authority citation for Part 155 continues to read as follows:

Authority: 7 U.S.C. 6b, 6c, 6g, 6j and 12a, unless otherwise noted.

§ 155.5 [Removed and Reserved]

9. Section 155.5 is removed and reserved.

Issued in Washington, DC on March 1, 2002 by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 02–5778 Filed 3–12–02; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket Nos. RM02–4–000]

Notice of Extension of Time

March 6, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of extension of time.

SUMMARY: On January 16, 2002, the Commission issued a Notice of Inquiry (NOI) to determine whether to revise its rules to address public availability of critical infrastructure information (67 FR 3129, January 23, 2002). The Commission is extending the date for filing responses to the NOI at the request of several major trade associations involved in energy infrastructure.

DATES: Comments should be filed on or before March 25, 2002.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 1st Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Carol C. Johnson, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0457.

Rule Regarding Critical Energy Infrastructure Information and Policy Statement on the Treatment of Previously Public Documents; Notice of Extension of Time

On March 5, 2002, the Alliance of Energy Suppliers (Alliance), Edison Electric Institute (EEI), Electric Power Supply Association (EPSA), Interstate Natural Gas Association of America (INGAA), and National Hydropower Association (NHA) filed a joint request for an extension of time to file comments in response to the Commission's Notice of Inquiry and Guidance for Filings in the Interim issued January 16, 2002, in Docket No. RM02–4–000. The motion states that because the issues addressed in the NOI are of significant importance to each of the associations joining in this request and because each represents major sectors of the energy industry that will be directly affected by Commission's policy on Critical Energy Infrastructure Information, additional time is needed to allow the associations to pursue further discussions and to prepare complete responses to the NOI.

Upon consideration, notice is hereby given that an extension of time for filing responses to the Commission's January 16, 2002, NOI is granted to and including March 25, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5972 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Blue Ridge Pharmaceuticals, Inc. The ANADA provides for oral use of ivermectin tablets for prevention of heartworm disease in dogs.

DATES: This rule is effective March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Blue Ridge Pharmaceuticals, Inc., 4249–105 Piedmont Pkwy., Greensboro, NC 27410, filed ANADA 200–270 that provides for veterinary prescription use of IVERHART (ivermectin) Tablets for prevention of canine heartworm disease by elimination of the tissue stage of heartworm (*Dirofilaria immitis*) larvae for a month after infection. Blue Ridge's IVERHART Tablets is approved as a generic copy of Merial Ltd.'s HEARTGARD Tablets, approved under NADA 138–412. ANADA 200–270 is approved as of November 30, 2001, and 21 CFR 520.1193 is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(d)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.1193 is revised to read as follows:

§ 520.1193 Ivermectin tablets and chewables.

(a) *Specifications.* (1) Each tablet or chewable contains 68, 136, or 272 micrograms (mcg) ivermectin.

(2) Each chewable contains 55 or 165 mcg ivermectin.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 050604 for use of tablets or chewables described in paragraph (a)(1) as in paragraph (d)(1) and chewables described in paragraph (a)(2) as in paragraph (d)(2) of this section.

(2) No. 065274 for use of tablets described in paragraph (a)(1) as in paragraph (d)(1) of this section.

(c) *Special considerations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*—(1) *Dogs.* For use in dogs 6 weeks of age and older as follows:

(i) *Amount.* 6.0 mcg per kilogram (kg) of body weight (2.72 mcg per pound (lb)), minimum. Up to 25 lb, 68 mcg; 26 to 50 lb, 136 mcg; 51 to 100 lb, 272 mcg; over 100 lb, a combination of the appropriate tablets. Administer at monthly dosing intervals.

(ii) *Indications for use.* To prevent canine heartworm disease by eliminating the tissue stage of heartworm larvae (*Dirofilaria immitis*) for 1 month (30 days) after infection.

(2) *Cats.* For use in cats 6 weeks of age and older as follows:

(i) *Amount.* Up to 2.3 kilograms (up to 5 lb), 55 mcg; 2.3 to 6.8 kilograms (5 to 15 lb), 165 mcg; over 6.8 kilograms (15 lb), a combination of the appropriate chewables (recommended minimum dose of 24 mcg/kg of body weight (10.9 mcg/lb)). Administer once a month.

(ii) *Indications for use.* To prevent feline heartworm disease by eliminating the tissue stage of heartworm larvae *Dirofilaria immitis* for a month (30 days) after infection, and for removal and control of adult and immature (L4) hookworms *Ancylostoma tubaeforme* and *A. braziliense*.

Dated: January 31, 2002.

Stephen F. Sundlof,

Center for Veterinary Medicine.

[FR Doc. 02–5060 Filed 3–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 251

[T.D. ATF–474]

RIN 1512–AC58

Delegation of Authority

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places ATF authorities with the ''appropriate ATF officer'' and requires that persons file documents required with the ''appropriate ATF officer'' or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director and the word ''region.'' Concurrently with this Treasury Decision, ATF Order 1130.12 is being issued and will be available to the public as specified in this rule. Through this order, the Director has delegated all of the authorities to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are to be filed. In addition, this final rule removes the regulations relating to a repealed tax on imported perfumes.

EFFECTIVE DATE: This rule is effective March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Room 5003, Washington, DC 20226 (telephone 202–927–8210 or e-mail to *alctob@atfhq.atf.treas.gov).*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120–01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC) and the Federal Alcohol Administration (FAA) Act. The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51 of

the IRC or the FAA Act, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 251 that were previously delegated and places those authorities with the ''appropriate ATF officer.'' All of the authorities of the Director that were not previously delegated are also placed with the ''appropriate ATF officer.'' Along with this final rule, ATF is publishing ATF Order 1130.12, Delegation of the Director's Authorities in 27 CFR part 251, Importation of Distilled Spirits, Wines, and Beer, which delegates authorities to appropriate ATF officers. The effect of these changes is to consolidate all delegations of authority in part 251 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms indicate the officer with whom they must be filed. Similarly, this final rule also amends part 251 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the ''appropriate ATF officer'' identified in ATF Order 1130.12. These changes will facilitate the identification of the officer with whom forms and other required submissions are to be filed.

This final rule also makes various technical amendments to Subpart A—Scope of Regulations of 27 CFR part 251. First, a new § 251.3 is added to recognize the authority of the Director to delegate regulatory authorities in part 251 and to identify ATF Order 1130.12 as the instrument reflecting such delegations. Second, § 251.2 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF has made or will make similar changes in delegations to all other parts of Title 27 of the Code of Federal Regulations through separate rulemakings.

Miscellaneous Changes

Section 136(a) of Public Law 103–465 (108 Stat. 4841), known as the Uruguay Round Agreements Act, repealed section 5001(a)(3) of the Internal Revenue Code of 1986. This section had previously imposed a tax on perfumes imported into the United States containing distilled spirits, a tax of $13.50 per wine gallon. Consequently, we are removing sections in part 251 of the Code of Federal Regulations that refer to this repealed tax.

Corrections

Sections 251.55 and 251.59 are being amended to remove references to obsolete regulations and an obsolete form.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Spices and flavorings, Transportation, Warehouses, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations is amended as follows:

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Paragraph 1. The authority citation for part 251 continues to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

§§ 251.2, 251.11, 251.77, 251.181, 251.206, 251.209 and 251.221 [Amended]

Par. 2. Remove the words ''Director'' each place it appears and add, in substitution, the words ''appropriate ATF officer'' in the following places:

(a) Section 251.2(a);

(b) The definition of ''Liquor bottle'' in § 251.11;

(c) Section 251.77(d);

(d) Section 251.181(a);

(e) Section 251.206;

(f) Section 251.209; and

(g) The undesignated paragraph following § 251.221(b)(3).

Par. 3. Amend § 251.2 by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 251.2 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site (*http://www.atf.treas.gov/*).

* * * * *

Par. 4. In Subpart A—Scope of Regulations, a new § 251.3 is added as follows:

§ 251.3 Delegations of the Director.

All of the regulatory authorities of the Director contained in part 251 of the regulations are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.12, Delegation of the Director's Authorities in 27 CFR part 251, Importation of Distilled Spirits, Wines, and Beer. ATF delegation orders, such as ATF Order 1130.12, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site *(http://www.atf.treas.gov/).*

Par. 5. Section 251.11 is further amended by:

a. Removing the definitions of ''ATF Officer'', ''Region'', and ''Regional Director (compliance)'';

b. Adding a new definition of ''Appropriate ATF officer'' to read as follows:

§ 251.11 Meaning of Terms.

* * * * *

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.12, Delegation of the Director's Authorities in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer.

* * * * *

Par. 6. Revise the heading for Subpart D to read as follows: Subpart D—Tax On Imported Distilled Spirits, Wines, and Beer.

Par. 7. Revise the undesignated center heading following the heading for Subpart D to read as follows: Distilled Spirits.

Par. 8. Remove § 251.41.

Par. 9. Redesignate § 250.40a as § 250.41.

Par. 10. Remove the words and punctuation ''Regulations 1,'' and ''(Form 1631)'' in § 251.55.

Par. 11. Remove the words and punctuation ''Regulations 4,'' each place that they appear in § 251.59.

Par. 12. Amend § 251.77(d) by removing the words ''ATF National Laboratory'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 13. Revise the second sentence of § 251.136(a) to read as follows:

§ 251.136 Filing.

(a) * * * The appropriate ATF officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate ATF officers desiring to examine the files or delay in the timely submission of documents, and are not inconsistent with Customs recordkeeping requirements (See 19 CFR part 163).

* * * * *

Par. 14. Revise § 251.137 to read as follows:

§ 251.137 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part, must be retained for not less than three years, and during this period must be available, during business hours, for inspection and copying by appropriate ATF or Customs officers. Furthermore, the appropriate ATF officer may require these records to be kept for an additional period of not more than three years in any case where the appropriate ATF officer determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, must also be made available for inspection and copying.

Par. 15. Amend the last sentence of § 251.172 by removing the words ''regional director (compliance) in which the consignee is located'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 16. Amend § 251.182 by:

a. Revising paragraphs (b)(1) and (d) to read as follows:

§ 251.182 Application and permit, Form 5150.33.

* * * * *

(b) *Application.* (1) A Government agency of the United States must apply for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the appropriate ATF officer, Form 5150.33 will be returned to the agency.

* * * * *

(d) *Cancellation of permit.* All permits on Form 5150.33 and previous editions on Form 1444 remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency must obtain and destroy all photocopies of the permit furnished to port directors of Customs, and forward the original to the appropriate ATF officer for cancellation.

* * * * *

Par. 17. Amend § 251.204 by:

a. Removing the words ''to the Director'' from the second sentence of paragraph (a);

b. Removing the word ''Director'' from the third sentence of paragraph (a) and adding, in substitution, the words ''appropriate ATF officer''; and

c. Removing the word ''Director'' from the introductory text of paragraph (b) and adding, in substitution the words ''appropriate ATF officer''; and

d. Removing the word ''Director'' from the second sentence of undesignated text following paragraph (b) and adding, in substitution, the words ''appropriate ATF officer''.

Par. 18. Amend § 251.208 by removing the words ''regional director (compliance) of the region in which the port of entry is situated'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 19. Revise the introductory text of paragraphs (a) and (b) of § 251.221 to read as follows:

§ 251.221 Alternate methods or procedures.

(a) Application. An importer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part must file an application, in triplicate, with the appropriate ATF officer. Each application must:

* * * * *

(b) *Approval.* When an application for use of an alternate method or procedure is received, the appropriate ATF officer must determine whether approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The appropriate ATF officer may approve the alternate method or procedure if such officer finds that:

* * * * *

Signed: January 16, 2002.

Bradley A. Buckles,

Director.

Approved: January 31, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 02–5880 Filed 3–12–02; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 104

[CIV 104F; AG Order No. 2564–2002]

RIN 1105–AA79

September 11th Victim Compensation Fund of 2001

ACTION: Final rule.

SUMMARY: Shortly after the September 11, 2001 terrorist attacks, the President signed the ''September 11th Victim Compensation Fund of 2001'' (the ''Fund'') into law as Title IV of Public Law 107–42 (''Air Transportation Safety and System Stabilization Act'') (the ''Act''). The Act authorizes compensation to any individual (or the personal representative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes on that day. This final rule is the third and final step in the Department of Justice's promulgation of regulations pursuant to § 407 of the Act, following the November 5, 2001 Notice of Inquiry and Advance Notice of Rulemaking (''Notice of Inquiry'') and the December 21, 2001 interim final rule.

After reviewing the extensive public comments and meeting with numerous victims, victims' families, and other groups, the Department of Justice, in consultation with the Special Master, is issuing this final rule and associated commentary, which make certain clarifications and changes that are designed to address issues raised by victims, their families, and thousands of other Americans. Specifically, the final rule clarifies, supplements, and amends the interim final rule by, among other things: Clarifying how the Special Master will treat certain ''collateral sources,'' including pensions, to lessen their impact in reducing victims' awards; expressing the Special Master's intention to assist claimants in understanding how certain types of collateral offsets will be treated under the Fund before they decide whether to participate; adjusting the ''presumed'' economic loss methodology in a manner that should increase potential awards for most claimants; increasing the ''presumed'' non-economic award in certain cases; clarifying the Special Master's intention that most families of victims who died should receive a minimum of $250,000 from the Fund; and providing certain exceptions to the requirement that injured victims received medical treatment within 24 hours of injury.

DATES: This final rule takes effect on March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW., Washington, DC 20530, telephone 888–714–3385 (TDD 888–560–0844).

SUPPLEMENTARY INFORMATION:

Statement by the Special Master

Since December 21, 2001, the date of the promulgation of the interim final rule, I have been engaged in meetings and conversations with September 11 victims, their families, public officials, representatives of private charities and interested concerned citizens of our nation and foreign nations as well. I have listened carefully to both supporters and critics of the interim final rule. I have benefitted tremendously from their input. I believe that, as a direct result of that varying input, this final rule constitutes a product worthy of support by all those interested in a just, fair and efficient compensation program.

No amount of money can right the horrific wrongs done on September 11, 2001. Nor can any of us who has not shared such immediate and irrevocable loss fully understand the depths of suffering that families and victims are enduring.

The September 11th Victim Compensation Fund is a unique federal program created by Congress in recognition of the special tragic circumstances these victims and their families confront. The Fund provides an alternative to the significant risk, expense, and delay inherent in civil litigation by offering victims and their families an opportunity to receive swift, inexpensive, and predictable resolution of claims. The Fund provides an *unprecedented* level of federal financial assistance for surviving victims and the families of deceased victims.

There has been significant public commentary regarding the Fund's proposed structure. The plan has been described as ''about as fair as it could possibly be'' (*Newsweek,* December 31, 2001), ''a good start on the road to recovery'' (*The New York Times,* December 23, 2001), ''an eminently fair plan'' (*The New York Daily News,* December 28, 2001), and a program that ''offers speedy and rational compensation'' (*The Washington Post,* January 18, 2002). I believe that—when compared to the alternative of a protracted, uncertain lawsuit—the Fund provides a vastly preferable method of assuring fair compensation to all eligible claimants.

The comments submitted to the Department of Justice have been starkly divided regarding the methodologies for calculating awards and, in particular, the ''presumed award'' charts I released at the same time as the interim final rule. Many have argued that the presumed awards are too high, particularly for victims who had high incomes. Others, in contrast, have argued, for differing reasons, that the high end ''presumed awards'' should be even higher.

Under the ''presumed award'' methodology, presumed awards ranged from several hundred thousand dollars to more than $3 million for certain eligible applicants. We have spent considerable time carefully evaluating the comments on the ''presumed award'' methodology and have made certain adjustments that have the effect of increasing the expected presumed awards. In addition, we have clarified the definition of ''collateral source compensation'' in a manner that should have an additional, upward impact on awards.

As I have repeatedly stated to the victims and their families, there are many aspects of the Fund that are mandated by Congress and cannot be changed by me or by the Department. Indeed, many of the most controversial aspects of the Fund—such as the requirement that awards be offset by life insurance and other collateral source compensation—are specifically required by Congress. I have no power to usurp or disregard congressional mandates. Rather, my goal has always been to provide the most fair and appropriate compensation within the parameters established by Congress.

Accordingly, within the discretion available, we have made the following clarifications and improvements in the final rule:

• *Definition of Collateral Sources.* As already indicated, the final rule clarifies the definition of ''collateral source'' compensation by expressly stating that certain government benefits, such as tax relief, contingent Social Security benefits, and contingent workers' compensation benefits (or comparable contingent benefits for government employees), need *not* be treated as collateral source compensation. Also, because we do not believe that Congress intended to treat a victim's savings accounts or similar investments as collateral source compensation, the collateral-source offsets will not include

moneys or other investments in victims' 401(k) accounts.

• *Valuation of Collateral-source offsets.* While Congress left us little choice on whether to make certain collateral source deductions, we have slightly more discretion in how to calculate the appropriate deduction. For example, we will adjust the collateral source offset for pensions and life insurance policies to ensure that we are not counting ''self-contributions'' or premium payments as part of the offset. In addition, for collateral source compensation that claimants will receive through future payments, we will employ present value methodologies to apply a proper discount to the amount actually deducted from a victim's award. This obviously has the effect of reducing offsets and, in turn, increasing awards. Finally, to ensure that the impact of collateral-source offsets is clear to potential claimants *before* they decide whether to participate in the Fund, we will also make available an advisory service to provide additional information for potential applicants as to how the Fund will treat different types of collateral source compensation.

• *Discretion Where the Recipients of Collateral Source Compensation Are Not Beneficiaries of Awards.* In cases where the recipients of collateral source compensation are not beneficiaries of the awards from the Fund, the Special Master will have discretion to exclude such compensation from the collateral source offset where necessary to prevent beneficiaries from having their awards reduced by collateral source compensation they will not receive.

• *Clarification of Definition of Charitable Donations.* The final rule clarifies that benefits from charities disbursing private donations will not be treated as collateral source compensation, even if such charities were created or managed by governmental entities.

• *Increase in Compensation for Non-economic Losses.* The amount of additional presumed non-economic loss compensation for the spouse and each dependent of a deceased victim is doubled from $50,000 to $100,000. This increase is in addition to the $250,000 presumed non-economic loss that is awarded on behalf of all decedents. This means that a family of a victim who was survived by a spouse and two minor children would be entitled to a presumed non-economic award of over half a million dollars *before collateral-source offsets.*

• *Adjustments to the Presumed Economic Loss Methodology.* The Special Master has adjusted his methodology for determining presumed economic losses in several respects that are described herein. As a result, no presumed awards are lower than under the original methodology, and most are higher.

• *Policy Toward Final Awards.* The Act *requires* that collateral source compensation be deducted from all final awards. The Act, therefore, does not permit us to create a mandatory legal rule requiring minimum payouts for all eligible claimants *after* collateral source deductions. Nevertheless, the Special Master is permitted to consider the individual circumstances of each claimant, including the needs of the victim's family. Having personally met with thousands of individual family members, discussing with them their various needs, I anticipate that, when the total needs of deceased victims' families are considered, it will be very rare that a claimant will receive less than $250,000, except in unusual situations where a claimant has already received very substantial compensation from collateral sources.

• *Physical Harm Requirements.* The time period for obtaining medical treatment under the definition of ''physical harm'' is increased from 24 hours to 72 hours for those victims who were unable to realize immediately the extent of their injuries or for whom appropriate health care was not available on September 11. The Special Master has discretion to extend the time period even further on a case-by-case basis for rescue personnel who otherwise meet this requirement but did not seek or were not able to seek medical treatment within 72 hours.

• *Time for Hearings.* Under the interim final rule, claimants had the option of requesting a formal hearing. This option remains part of the final rule, but we have eliminated the suggested two-hour hearing limitation.

Congress offered little guidance regarding the procedural framework for resolving claims. Nevertheless, we have provided varied procedural options for applicants because we know that one size and one system will not fit all. Victims who so choose may take a simple and direct route, filing forms and accepting payment within a matter of weeks. Other victims may opt for a more detailed and lengthy process, electing for a hearing and exercising their opportunity to present their cases personally in greater detail.

Some have argued that it is essential that each claimant know how much he or she will recover from the Fund before a formal application is submitted, particularly in light of the congressional requirement that each participating claimant waive the right to file a civil lawsuit in connection with the September 11 attacks. Others, however, have argued precisely the opposite—namely, that no formula can account for all of a claimant's individual circumstances, and that recovery should therefore be determined solely on the basis of an individualized hearing.

The Act requires that the award be determined only *after* the application is submitted and *after* a review of the requested economic and other information. It would therefore be inappropriate for me to provide any binding estimates of individual awards before we go through that process. However, to ensure that potential applicants have the ability to estimate roughly the possible ranges of their own recoveries, we have produced tables of presumed awards, and our consultants are available to provide additional guidance on the methodology for valuing different types of pension benefits and other collateral-source offsets. Accordingly, no claimant will be required to waive litigation options before receiving some indication from the Special Master as to how collateral-source offsets will be treated generally.

The efforts that I have taken to inform potential claimants of the likely range of their awards should not be mistaken for some sort of ''cap'' on awards. Although we still anticipate that awards in excess of $3 or $4 million will be rare, we emphasize again that there are no ''caps'' under this program. To the contrary, each claimant has the option to ask for a hearing at which he or she may assert additional individualized circumstances and argue that the presumed award methodology is inadequate to resolve his or her particular claim in a fair manner. We will consider all such individual circumstances, including, but not limited to, the financial needs of victims and victims' families.

One final concern should be addressed. I have received during the comment period, and have read in the newspapers, comments from a few American citizens expressing the opinion that the victims and their families are ''greedy'' in seeking additional compensation. As I have repeatedly stated, both publicly and privately, I believe that such a characterization is unfair. This Fund, and the comments of distressed family members, are not about ''greed'' but, rather, reflect both the horror of September 11 and the determination of family members to value the life of loved ones suddenly lost on that tragic day. I believe the American people understand this and in no way associate

the efforts of family members to secure compensation with any characterization of ''greed.'' This Fund represents the best spirit and compassion of the American people. I believe that America is unique in creating such a Fund that expresses the compassion, concern and determination of its people in coming to the aid of the victims of September 11.

In sum, we believe the changes adopted in this final rule best ensure that claimants will receive fair and appropriate awards. I remain personally committed to ensuring that every claimant is compensated fairly.

Background

This preamble discusses the public comments regarding the interim final rule and the additions and amendments to that rule that have been adopted through this final rulemaking. It does not purport to provide a complete overview of the program or an explanation of all of the many aspects of the interim final rule that remain unchanged. For an explanation of those aspects that remain unchanged, the reader is directed to the Department's interim final rule, published at 66 FR 66274 (Dec. 21, 2001). In addition, more detailed information regarding the program, including a flow chart of applicable procedures, a revised table of the Special Master's estimated or ''presumed'' awards, claim forms, and answers to frequently asked questions are available on the Victim Compensation Fund website at *www.usdoj.gov/victimcompensation.*

I. The Statute

The President signed the ''September 11th Victim Compensation Fund of 2001'' (the ''Fund'') into law on September 22, 2001, as Title IV of Public Law 107–42 (''Air Transportation Safety and System Stabilization Act'') (the ''Act''). The purpose of this Fund is to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a ''personal representative'' for those who died as a result of the crashes. Generally, eligibility is limited to: (1) Individuals on the planes at the time of the crashes (other than the terrorists); and (2) individuals present at the World Trade Center, the Pentagon, or the site of the crash in Pennsylvania at the time of the crashes or in the immediate aftermath of the crashes.

The Fund is designed to provide a no-fault alternative to tort litigation for eligible claimants. Congress has determined that others who may have suffered losses as a result of those events (*e.g.,* those without identifiable physical injuries but who lost employment) are not included in this special program. Accordingly, compensation will be provided only for losses caused on account of personal physical injuries or death, even though the victims may have suffered other losses, such as property loss. For this reason, the Department and the Special Master anticipate that all awards from the Fund will be free of federal taxation. *See* I.R.C. section 104(a)(2) (stating that damages received ''on account of personal physical injuries or physical sickness'' are excludable from gross income for purposes of federal income taxation).

A claimant who files for compensation waives any right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for actions to recover collateral source obligations or civil actions against any person who is a knowing participant in any conspiracy to hijack any aircraft or to commit any terrorist act.

Determinations of eligibility and the amount of compensation are to be made by the Special Master. After determining whether an individual is an eligible claimant under the Act, the Special Master is to determine the amount of compensation to be awarded based upon the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

The law also provides that the Special Master make a final determination on any claim within 120 days after filing of the claim and, if an award is made, to authorize payment within 20 days thereafter. The determinations of the Special Master are final and not reviewable by any court. Claims with the Fund must be filed on or before December 21, 2003, two years after the effective date of the interim final rule. Payments from the Fund are made by the United States Government, which in turn obtains the right of subrogation to each award.

The Department is promulgating this final rule pursuant to section 407 of the Act, which provides that the Department, in consultation with the Special Master, must promulgate regulations on the following matters:

(1) Forms to be used in submitting claims;

(2) The information to be included in such forms;

(3) Procedures for hearing and the presentation of evidence; and

(4) Procedures to assist an individual in filing and pursuing claims under this title.

In addition, section 407 authorizes, but does not require, the Department to issue additional rules to implement the program. This final rule addresses issues beyond the four specifically required by the Act in order to create a program that will be efficient, will treat similarly situated claimants alike, and will allow potential claimants to make informed decisions regarding whether to file claims with the Fund. Nonetheless, the Department recognizes that it cannot anticipate all of the issues that will arise over the course of the program and that there will inevitably be many difficult issues the Special Master will have to resolve in the course of making determinations on individual claims.

II. Rulemaking History to Date

On November 5, 2001, the Department requested public input on a number of issues. *See* 66 FR 55901. The Department noted that, at that time, the Special Master had not yet been appointed, but that it wanted as much public comment as feasible before issuing the regulations by December 21, 2001. On November 26, 2001, the Attorney General appointed Kenneth R. Feinberg as Special Master.

The Department reviewed the more than 800 comments submitted in response to the Department's Notice of Inquiry. On December 21, 2001, the Department promulgated an interim final rule governing the Fund. 66 FR 66274. The interim final rule had immediate force of law and allowed the Special Master to begin accepting applications and providing ''Advance Benefits'' to certain classes of eligible claimants. In addition, the Rule provided for a 30-day public comment period on the interim final rule.

The Department has received thousands of comments since the December 21 publication of the interim final rule. The Department and the Special Master's Office have reviewed each of these comments, and the Special Master has met personally with more than 1,000 victims, victims' advocates, public officials, and others. As was the case with the interim final rule, the Department and the Special Master have considered all comments in promulgating the final rule.

III. Comments on the Interim Final Rule

A. The Creation of the Fund

Congress created the Victim Compensation Fund to compensate those injured or killed in the September 11 terrorist attacks. A number of people

commented on whether or not Congress should have created this program in the first place.

Scores of commenters—recognizing Congress' belief that the airlines were facing imminent bankruptcy and could be effectively judgment proof—described the Fund as a testament to Congressional and taxpayer generosity. Many described the Fund as compassionate and critical to meet the needs of victims of September 11. A few noted that they wish Congress had enacted similar legislation prior to September 11 to care for the needs of those in previous tragedies, and voiced their support for similar programs in the future.

Many others, however, expressed their disapproval of Congress for creating the Fund. For example, several argued that Osama bin Laden and his al Qaeda network are the sole responsible parties and that the government should not expend taxpayer dollars to compensate those who are not in immediate financial need. Several commenters indicated that taxpayer revenue should instead be spent on the homeless and other social programs ''that currently lack adequate funding.''

Others expressed their regret that victims of other tragedies were not given the same benefit of compensation. These commenters raised several questions, including: Why were not the victims of the Oklahoma City bombing given the same opportunities? What about victims on the U.S.S. Cole? Victims of anthrax? Those who died in the embassy bombings in East Africa? Why are the soldiers in the United States military not included? What about those who volunteered or were drafted to fight in World War II, Vietnam, and other arenas of combat who died defending the United States? What about those who perished in floods, hurricanes, snowstorms, fires, tornados, earthquakes, and other domestic tragedies? What about those persons who were murdered on September 10 and 12?

On the other hand, a number of commenters who indicated that they are eligible to file a claim with the Fund voiced concerns that Congress had inappropriately limited their right to sue potentially liable third parties for their loss. Some of these commenters argued that several companies and agencies ''contributed'' to the September 11 attacks and ''should be held responsible'' for their alleged ''negligence.''

While the Department and the Special Master have reviewed the many comments both in favor and in opposition to the Fund, such comments principally address Congress' legislation. The Department's regulations are designed to implement the Act as written; we cannot rewrite the Act or nullify Congressional intent. The goal in this final rule was simply to create the best and fairest program possible within the requirements set by Congress.

B. Amount of Compensation in the Special Master's Presumed Award Charts

The Act does not specify the amount of the awards for individual claimants. Instead, the Act gives the Special Master discretion to determine the amount of the award ''based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.'' Section 405(b)(1)(B)(ii). The Act further provides that the Special Master's determination ''shall be final and not subject to judicial review.'' Section 405(b)(3).

The Act thus permits the Special Master to determine the amount of awards on a case-by-case basis without giving any guidance to potential claimants regarding the awards that they would likely receive if they waived their rights to litigation and opted into the Fund. Further, such case-by-case determinations would not be subject to judicial review. As a practical matter, of course, the Special Master would need some methodology to ensure a measure of consistency among awards to similarly situated claimants, to give potential claimants some idea of their likely range of awards, and to make the Fund administratively feasible. The Department and the Special Master decided that the interests of potential claimants would be best served by providing, where reasonably possible, information concerning the Special Master's methodology for calculating awards. The Special Master has not imposed any ''cap'' on awards nor limited claimants from presenting evidence of their individual circumstances.

On December 20, 2001, Kenneth R. Feinberg, the Special Master of the Fund, publicly announced the completion of the interim final rule and, along with the rule, unveiled several charts illustrating in a general way presumptive, non-binding estimated awards available for those eligible claimants filing on behalf of certain deceased victims. Furthermore, in heeding the Attorney General's instruction to help the neediest victims as quickly as possible, Mr. Feinberg also introduced a means by which most eligible claimants could receive immediate, advance benefits in the amount of $50,000 for decedents and $25,000 for most of those with serious physical injuries. The interim final rule permitted claimants either to accept the presumed award or to argue for a greater award either at an individual hearing or, at the claimant's option, on submitted documentation.

While the Special Master's presumed award charts are not part of the Department's rulemaking, the amount of compensation reflected on those charts received more public comments than any other subject. Both the Department and the Special Master's office have considered those comments, just as they have considered the comments regarding the interim final rule.

The comments regarding the presumptive awards varied greatly. While many described the presumptive awards as just and fair, others criticized them as either too high or too low. These disagreements were based in large part upon differing views regarding the purposes of the Fund. Some commenters began with the presumption that the Act's provision of recovery for both economic and non-economic losses, accompanied by the requirement that claimants waive their right to civil litigation, indicated that the amount of compensation under the Fund should mirror past jury awards in airline litigation. Those commenters, for the most part, concluded that the presumed awards were insufficient, particularly for victims with the highest incomes.

Many other commenters took a very different view of the program. These commenters viewed the program not as a replication of the tort system, but instead as a government program designed to assist the victims and their families. Those commenters therefore concluded that there should not be a disparity among the awards based upon the income of the victim. Some vigorously criticized the proposition that the wealthiest victims should receive more from the taxpayers than many of the public safety officers and Pentagon employees would receive. Indeed, some commenters expressed frustration that people are demanding more than the presumed awards, contending that the awards are ''more than generous'' and that it is inappropriate for the federal government to ''make victims' families millionaires with taxpayer money.''

Other commenters noted the competing goals of the Act and the complexities of placing dollar figures on a life and determining awards within the prescriptions of the Act. For example, one commenter stated that ''[t]here is no way for distribution of

these funds to be totally fair in the eyes of everyone. That's just the way it is.'' Those commenters, by and large, praised the efforts of the Special Master.

The Department and the Special Master have thoroughly reviewed and considered the differing views regarding the amounts of compensation reflected in the Special Master's presumed award charts and have concluded that no single analogy should dictate the compensation under the Fund. Civil litigation often takes years, with awards varying greatly from one claimant to another, particularly where the incomes of the victims vary. Indeed, under the tort system, while many claimants receive extremely large awards, many others walk away empty-handed due to the requirement that plaintiffs prove fault. In contrast, the Fund is a no-fault alternative to civil litigation designed to provide fair compensation in a matter of months.

At the same time, the Department and the Special Master do not believe that any other federal government program provides a perfect analogy for determining the amount of awards. The Fund is a unique program that provides compensation for both economic and non-economic losses and requires that claimants waive their rights to civil litigation.

The final rule makes some important changes that will increase the amount of compensation in the Special Master's presumed award charts. While the Department and the Special Master believe that the original presumed award charts are entirely sound and are based upon neutral, current data and generally accepted methodologies, the public comments did suggest certain adjustments that we determined were appropriate to implement. Specifically, as described in more detail below, the final rule increases the amount of non-economic loss compensation by providing that the presumed awards will include $100,000, rather than $50,000, for the spouse and each dependent of a deceased victim (in addition to the $250,000 presumed non-economic award for each deceased victim). In connection with publication of this final rule, the Special Master will also announce revised presumed award charts that modify presumed economic loss in a manner that will further increase presumed awards. In addition, as explained below, the definition of collateral source compensation is clarified in a manner that will lead to higher final awards than many in the public had assumed.

Of course, it bears repeating that the Special Master's ''presumed award charts'' are estimates and do not determine the final award for claimants who request individualized hearings. Rather, the Special Master stands prepared to depart from the presumed awards for individual claims based upon the extraordinary circumstances of the claimants.

1. Economic Loss

Although prescribed by the Act, many commenters expressed frustration that a victim's income is considered in calculating economic loss. One commenter stated that ''rich people do not deserve more because they are rich.'' Others believed that the distribution of taxpayer dollars should be equal to all victims regardless of income levels. At least one commenter noted that persons with substantial incomes should not receive higher awards because they are the ones, he argued, with the ''financial savvy'' to protect their loved ones with life insurance.

Several commenters raised issues with respect to deriving a victim's average annual income from the years 1998–2000 in determining the foundation for calculating economic loss. One commenter noted that only the last year of annual income should be included. Many comments on this subject, however, contended that the three-year period used to obtain the average encompasses the wrong period of years. These commenters suggested the Special Master use the average income from 1999–2001 (rather than 1998–2000), arguing that 2001 is more indicative of a victim's actual earning potential. In addition, several families of victims of the Pentagon attack expressed concern that the description of income in the interim final rule did not account fully for income of employees of the military, which often uses terms of art to describe various forms of compensation.

In response to these suggestions, the interim final rule is amended to allow the Special Master discretion to consider on a prorated basis a victim's income from 2001 as well as published salary scales for government or military employees. In addition, the interim final rule is amended to clarify that military service members' and uniformed service members' compensation includes all of the various components of compensation, including, but not limited to, basic pay (BPY), basic allowance for housing (BAH), basic allowance for subsistence (BAS), federal income tax advantage (TAD), overtime bonuses, differential pay, and longevity pay.

Several comments also raised issues regarding the fact that the Special Master's schedules, tables, and charts only identify presumed economic determinations of economic loss up to a salary level commensurate with the 98th percentile of individual income in the United States. Commenters had mixed reactions to this component of the calculations. Some complained that the program is inappropriately ''making millionaires'' of victims' families and that the high end presumed awards for earners at the 98th percentile were inordinately high when compared to the average or lower end awards. One commenter stated that the percentile should be lowered because, as currently implemented, it ''unfairly discriminates against lower-income families.'' Other commenters, however, indicated that those same presumed awards that many regarded as too high were actually too low—that the amounts at the 98th percentile failed to fully redress losses for the most successful of all victims (in the top 2% of annual income). These commenters often inaccurately described the 98th percentile as a ''cap'' on awards.

The final rule does not change the interim final rule's provision that the presumed award charts will address incomes only up to the 98th percentile of income in the United States. Many of the criticisms of that provision were based upon the incorrect assumption that the provision constitutes a ''cap'' on economic loss recovery. To be absolutely clear: The fact that the ''presumed awards'' address incomes only up to the 98th percentile does *not* indicate that awards from the Fund are ''capped'' at that level. In extending the presumed awards only up to the 98th percentile, we merely recognized that calculation of awards for many victims with extraordinary incomes beyond the 98th percentile could be a highly speculative exercise and that, moreover, providing compensation above that level would rarely be necessary to ensure that the financial needs of a claimant are met. Calculation of an award beyond that point using the presumed award methodology without a detailed record could very well produce inappropriate results. Accordingly, we permitted applicants with extraordinary prior earnings to accept awards at the 98th percentile or seek calculation of an award based upon a more detailed record. We also note that the Special Master has express authority under the Act to consider the ''individual circumstances of the claimant'' in fashioning awards, including the *financial needs* of victims and surviving families in rebuilding their lives. As indicated, the Special Master will strive

to deliver a fair and equitable sum to each eligible claimant.

Many commenters argued for changes in other components of the economic calculations, the effect of which would increase awards. Some commenters stated that the wage growth rates used in the economic calculations are too low. A few commenters noted their opposition to consumption factors being used. Another stated that a person engaged to be married should not be straddled with an unmarried person's consumption rate. Some suggested that the work life estimates are outdated and gender biased. One commenter stated that the promotion and merit assumptions are inconsistent and unfair to particular age groups. Another indicated that taxes should not be deducted from future lost earnings. One commenter stated that economic loss for foreign nationals should be calculated by percentages. She suggested that the Special Master determine the percentile of the foreign national's income in his or her own country (in light of national averages), and calculate the economic loss in light of the income of the corresponding percentage in the United States. Finally, some commenters were worried that victims just out of school (but with degrees or professional licenses in industries offering top-level salaries), and without any income history, would be treated unfairly.

On the other hand, several commenters argued that the calculations were too generous and suggested changes, the effect of which would decrease awards. Some indicated that the wage growth rates are too high. One commenter suggested that personal representatives of single claimants should not be entitled to economic losses because they would not have benefitted from the decedent's economic gain absent death. Another commenter generally agreed with that proposition, but stated that economic loss should be limited to any amount a single deceased victim was obligated or ordered to pay in child support. Other commenters argued that economic awards should not assume that surviving spouses or other family members will never work again. Lastly, one commenter stated that divorce rates should be factored in to the economic loss calculations.

The new presumed award charts released by the Special Master make several changes that are designed to improve the economic loss methodology in light of the comments. While this methodology is not part of the Department's rulemaking, we believe it is helpful to offer this explanation here. These changes will have the overall effect of increasing presumed awards for all claimants. Specifically:

(1) The Special Master's original presumed economic loss methodology relied upon expected work life data from the publication ''A Markov Process Model of Work-Life Expectancies Based on Labor Market Activity in 1997–1998,'' by James Ciecka, Thomas Donley, and Jerry Goldman in the Journal of Legal Economics, Winter 1999–2000. Contrary to the assertions of some commenters, the Special Master did not use data from the 1970s; rather, the study was conducted in 1997 and 1998. Also, the Special Master's original presumed award methodology did not, as some suggested, discriminate against women. Rather, the original methodology relied upon the same assumptions for men and women—the combined average of All Active Males and All Active Females. However, in order to increase awards for all claimants by maximizing the duration of expected foregone earnings and accommodating potential increases by women in the labor force, the Special Master's revised presumed economic loss methodology uses the most generous data available. Specifically, the new methodology uses the All Active Males table for all claimants.

(2) To address concerns about wage growth assumptions and the application of wage growth assumptions to different age groups, the Special Master has adjusted the wage growth assumptions to growth rates that incorporate annual adjustments for inflation, productivity in excess of inflation and life cycle increases using data from the March 2001 Current Population Survey conducted by the Bureau of the Census for the Bureau of Labor Statistics. For life cycle increases, the Special Master is applying the higher age-specific life cycle increases (those for males) for all claimants. For inflation and productivity increases, the Special Master has applied rates of 2 percent and 1 percent, respectively. These rates are consistent with the long-term relationship between wage growth and risk-free interest rates. The net effect of this adjustment is to better represent the expected earnings pattern of the victims over their expected careers as compared to the original methodology, which based anticipated wage growth on the victim's age at death. The original assumptions reflected and indeed emphasized the fact that real increases are typically higher in the earlier stages of a career but was subject to some criticism because it did not adjust the growth continually throughout the work life and thus created differentials at specific ages (particularly, age 31 and age 51). By adopting the revised assumptions, the Special Master adjusts wage growth throughout the duration of the work life, thus reducing the differences between age groups. In addition, although the data indicate that wages actually fall at a certain stage in the career, the Special Master has chosen to assume that peak earnings remain constant and do not decline at any stage in the career.

(3) As with the original presumed award calculations, the Special Master subtracts from the annual projected compensable income the victim's ''consumption'' as a percentage of after-tax income instead of before-tax income. While the consumption adjustment is standard, the application of the adjustment to after-tax income lowers the amount of the consumption offset below the amount that would typically apply in an economic loss calculation. In addition, as with the initial model, the Special Master's assumptions eliminate some of the components typically used in estimating consumption, thereby further limiting the consumption deduction.

(4) To better reflect typical life cycle earnings expectation, the Special Master has incorporated into the calculation a factor to account for risk of unemployment—again, a common factor in the calculation of future lost earnings.

(5) Finally, the Special Master has elected to use three blended after-tax discount rates to compute the present value of the award and has adjusted the discount rate to reflect current yields on mid-to long-term U.S. Treasury securities. Although this adjustment creates a more complex computational process, the Special Master believes that the effect will be to better reflect the different ages of the victims and the fact that the survivors will receive awards reflecting different assumed future years of work life.

Overall, it is important to understand that the basic factor that affects the economic loss analysis is the victim's own data: each presumed award will be calculated using the victim's data regarding actual compensation, including fringe benefits and forms of compensation and effective tax rate. It is also important to emphasize that the presumed award methodology is intended to facilitate the computation of a large number of awards without the detailed review that might typically be employed in a lengthy economic loss analysis in an individual case. To achieve this objective, the Special Master specifically adopted assumptions that are intended to be favorable to claimants and to enable prompt analysis and payment. Needless

to say, a case specific analysis that took into account the actual consumption and savings rates of a particular individual could require a substantial amount of time and could very well produce *lower* awards in some cases.

It is also relevant to note comments suggesting that the economic loss calculations fail to incorporate sufficiently replacement services loss. The Special Master recognizes that such losses are variable, and thus claimants may present at a hearing individualized data to support a departure from the presumed award.

2. Non-Economic Losses

After extensive fact finding, public outreach, and review of public comments, the Special Master and the Department concluded that the most rational and just way to approach the imponderable task of placing a dollar amount on the pain, emotional suffering, loss of enjoyment of life, and mental anguish suffered by the thousands of victims is to assess the non-economic losses for categories of claimants. The regulations, therefore, set forth presumed awards for non-economic losses sustained. The presumed non-economic loss awards for decedents in the interim final rule were $250,000, plus an additional $50,000 for the spouse and each dependent of the deceased victim. Notably, the regulations further provide the option of a hearing for those claimants who feel the presumed awards do not take into account their extraordinary circumstances.

While many lauded the decision not to distinguish (at least presumptively) between the pain and suffering of victims or loved ones, many others voiced their disapproval and urged that all presumptions be removed. Many of the comments addressing this topic focused on the pain and suffering of those left behind, while others referred to the pain and suffering experienced by the victims who lost their lives.

Those in favor of presumed equality pointed out the alleged difficulty in drawing distinctions. For instance, one commenter (speaking of the pain and suffering she has experienced) focused on another commenter's assertions that he deserved more money for pain and suffering because he spoke to his wife (who was in the World Trade Center) after one of the planes hit her building but before she lost her life. She stated that—although she did not talk to her husband prior to his death—she experienced just as much (if not more) pain and suffering because she never had the opportunity to say goodbye to him.

Other commenters, however, expressed their views on how distinctions should be made. For example, one family member (speaking of his son's pain and suffering) proposed the creation of a separate category of pain and suffering that differentiates between those victims who were trapped above the impact area of each World Trade Center building from those who were physically located below it. He believes his son's pain and suffering was greater than those who died below the respective impact zones. Moreover, proposed distinctions were made depending on whether someone was an emergency worker or not. Some argued that emergency workers should receive more by way of non-economic losses because they sacrificed their lives to save victims. In contrast, others argued that emergency workers should receive less because ''they knew [the] risks when they pursued their careers in public service.''

Further, some argued the presumed awards as a whole were inadequate, while others stated they were too high. Many commenters stated that a victim's life is priceless and suggested that the non-economic presumptions be raised to acknowledge the grief suffered by family members. At least one commenter stated that non-economic losses usually are not available for wrongful death actions and, therefore, should be minimal under the Fund, if recognized at all.

One commenter urged that consequential and incidental damages be included in the non-economic calculations. Another indicated that non-economic losses should not be comparable to military benefits. Finally, at least one commenter argued that those who died without children are being ''forgotten'' or ''penalized.''

It is important once again to emphasize that the final rule specifies only the presumed non-economic losses award, and any claimant may request a hearing to present individualized evidence. However, the Special Master believes that it is important to have some measure of consistency among awards, so that he does not have to ''play Solomon'' by attempting to place a value on human lives on an ad hoc basis.

The selection of a dollar value for non-economic losses is inherently subjective. The Department and the Special Master concluded that an appropriate starting point is the compensation that Congress has made available under existing federal programs for public safety officers who are killed while on duty and members of our military who are killed in the line of duty while serving our nation. *See* 38 U.S.C. 1967 (military personnel); 42 U.S.C. 3796 (Public Safety Officers Benefit Program). That amount ($250,000) is not a cap.

The Department and the Special Master also decided to include an additional component for the spouse and each dependent of deceased victims. The interim final rule set that amount at $50,000 for the spouse and each dependent. After reviewing the public comments and meeting with numerous families of victims, we have decided to double that amount to $100,000 for the spouse and each dependent. Obviously, this will have an upward impact on the amount of the awards for many families of victims. In addition, the definition of ''dependents'' is modified to include those who meet the IRS'' definition of ''dependent'' even where the victim did not include the individual as a dependent on his or her most recent federal tax return.

C. Collateral Source

In enacting the Fund, Congress required that awards be offset by ''collateral source compensation'' such as life insurance benefits, employer death benefits, and benefits from other government programs. Under the law, the Special Master must make these offsets. Nevertheless, the law does give the Special Master some measure of discretion regarding charitable donations, and the interim final rule states that such donations will not be deducted from victims' awards.

Many commenters focused on issues that are beyond the Department's authority to regulate. For example, many commenters addressed the appropriateness of reducing final awards by collateral compensation at all. Many commenters suggested that it was inappropriate to reduce awards for the families of victims who planned ahead by purchasing life insurance or other means of ensuring financial compensation to their families. On the other hand, those comments in favor of maintaining collateral-source offsets shared a similar theme; namely, in their opinion, the intent of the Fund was to ''make sure that nobody's loss is compounded by sudden destitution,'' not to enrich those who already have the financial means to make ends meet.

Despite the unequivocal language in the Act that mandates the Special Master deduct life insurance proceeds from awards, a substantial percentage of comments focused on this issue. While the majority of those comments urged that such proceeds not be deducted—a course that only Congress can prescribe—several commenters had

more limited suggestions. For instance, a few commenters suggested that premiums that were contributed by the policyholder should be subtracted from the proceeds in calculating offsets. Other commenters similarly insisted that ''cash values'' not be included in the deductions.

Additionally, a few commenters were worried that life insurance proceeds that are not paid to a victim's personal representative (or any member of the decedent's current family) would be deducted from the award paid to the personal representative. One commenter proposed that ''[l]ife insurance proceeds should only be offset to the extent they were payed to those persons who are the beneficiaries or distributees of the estate of a deceased victim.''

There also was a high volume of comments regarding workers' compensation. Several commenters stated they are uncertain whether or not workers' compensation benefits constitute a collateral source under the rule. Many argued that such benefits should not be deducted. Others argued they should. Some suggested that offsetting workers' compensation benefits would be impracticable because several ''unknowns'' exist. For example, survival benefits, under certain state laws, are forfeited if and when the recipient remarries, and such benefits, they contend, ''cannot accurately be reduced to present value.'' One organization specializing in New York workers' compensation law raised important technical issues and proposed preemptive solutions.

Although the topic of private charitable awards (as a potential component of collateral source) provoked a large percentage of the comments submitted in response to the Department's Notice of Inquiry, scant mention was made of it in response to the interim final rule. At least one commenter insisted that charities be deducted. Others sought further clarification on the scope of the definition of ''charity'' under the rule.

An important point needs to be made here regarding the differences between the private and federal compensation efforts arising out of the attacks of September 11. Many commenters confused this Victim Compensation Fund, which was created by Congress and is financed by taxpayer revenue, with the private charities (*e.g.,* American Red Cross). For example, some were upset with the Special Master because their private charitable donations were not being divided equally. Others were angry at the Special Master for not disseminating private charitable donations in a more timely fashion. It should be reiterated that the Special Master administering this Fund is not in charge of, nor does he maintain any control over, the private charitable organizations or the money they have collected.

Many comments raised additional collateral source issues. These comments consisted of proposals that, if adopted, would either increase or decrease the amount of offsets. Those wanting decreased offsets argued that pension funds, 401(k) plans, and IRAs essentially are ''savings plans'' and, therefore, should not be offset. Others contended that collateral offsets should affect only the amount of economic loss, rather than economic and non-economic losses combined. At least one commenter urged that money paid into Social Security on behalf of a victim (over his or her lifetime) be subtracted from any offset. One commenter asked that collateral offsets not be considered over $500,000.

Similarly, some commenters argued that pensions and other forms of retirement are, in fact, compensation (or incentives) for either accepting higher risk (in the case of emergency workers) or lower salaries (in the case of government employees). Others proposed that the regulations include a floor whereby every claimant, notwithstanding the amount of collateral-source offsets, is entitled to receive a considerable amount of compensation. These commenters expressed concern that—after collateral-source offsets—they could end up receiving nothing under the Fund.

The public's questions and comments make it clear that the determination of the appropriate collateral source offset will in many situations involve an individualized case-by-case review. It also appears from questions and from reports in the media that some individuals may be over-valuing the collateral source compensation and therefore assuming a much greater offset than would likely be applicable and that there is a great deal of uncertainty regarding the types of compensation that would be subject to the offset. Indeed, many commenters over-valued their particular collateral source compensation by failing to reduce future periodic payments or benefits to present value, a calculation that in many circumstances has a substantial effect on offset amounts. It is both necessary and appropriate therefore to provide more detailed guidance to the victims and their families so that they can make educated choices regarding participation in the program. The following clarifications regarding the interpretation and application of the collateral source compensation provisions of the Act should allow potential claimants to make more informed choices.

The Act defines collateral sources to mean all such sources, including life insurance, pension funds, death benefit programs, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001. The Act and the rule require the Special Master to reduce the total amount of compensation by the amount of the collateral source compensation the claimant (or, in the case of a Personal Representative, the victim's beneficiaries) has received or is entitled to receive as a result of the terrorist-related aircraft crashes. In administering the Fund, consistent with the purpose and terms of the Act, the Special Master will exercise discretion in valuing the appropriate deductions for collateral offsets, including by determining: (1) Whether the particular offsets fall within the definition of collateral sources; (2) whether beneficiaries of the Fund are ''entitled'' to receive compensation from those collateral sources; (3) whether the collateral source compensation is certain or can be computed with sufficient certainty to enable its deduction while ensuring that the beneficiaries receive the total compensation that is appropriate; and (4) the appropriate amount of the compensation that should be deducted, taking into account the time value of money and contributions made before death by the victim in the nature of investment or savings.

1. Definition of Collateral Source Compensation Offset

While it is not possible to define in advance every possible collateral source deduction, a few general illustrations should provide guidance: First, the Special Master has discretion to exclude from consideration life insurance proceeds that are distributed to persons other than the beneficiaries of this Fund; second, the Special Master has discretion to adjust the amount of offsets to exclude premiums or assets that were accumulated by the victim through self-contributions paid into a life insurance program to build up a tax-deferred cash value; third, the Special Master may reduce the amount of the offset for a pension to take account of self-contributions to that plan over the decedent's lifetime.

In addition, the final rule provides that tax benefits received from the federal government as a result of the enactment of the Victims of Terrorism Tax Relief Act of 2001 (Pub. L. 107–

134) will *not* be treated as collateral source compensation. The Victims of Terrorism Tax Relief Act of 2001 provides income and estate tax relief to the families of victims of terrorism. The law waives the income tax liability of a victim who died in one of the attacks for both the year of the attack and the previous year, and ensures that a minimum benefit of $10,000 is provided to the family of each victim. In addition, the law shields the first $8.5 million of a victim's estate from the federal estate tax. For example, prior to the new law, citizens or residents of the United States who died in the September 11, 2001 terrorist attacks, were able to utilize the maximum state death tax credit allowed for federal estate tax purposes, and had made no prior taxable gifts would have had federal estate tax liabilities as follows: a decedent with a federal taxable estate valued at $2,000,000 would have had a federal estate tax liability of approximately $460,650; a decedent with a federal taxable estate valued at $4,000,000 would have had a federal estate tax liability of approximately $1,339,850; and a decedent with a federal taxable estate valued at $8,000,000 would have had a federal estate tax liability of approximately $3,047,050. As a result of the new law, no estate tax would be due in each case. The Victims of Terrorism Tax Relief Act of 2001 therefore provides very substantial tax relief to many victims, and that relief will *not* be treated as collateral source compensation for purposes of determining awards from the Fund. Nevertheless, substantial income tax rebates could bear on financial need, and therefore could conceivably be considered by the Special Master in the context of a hearing.

2. Guidelines for Determining Offset Where Benefit Is Uncertain

Some survivors may be eligible for benefits or payments from certain programs that provide periodic payments subject to adjustment or termination depending on potential future events that cannot be predicted. Examples include Social Security survivor benefits paid to the spouse of a victim. Such benefits are paid only under certain conditions and only for certain periods of time. Further, the benefits are paid periodically over a period of years.

Where the benefits to be paid due to death of the victim are uncertain, unpredictable, or contingent on unknown future events, the amount of the compensation to which the survivor is entitled can be impossible to compute with reasonable certainty. In those instances, the Special Master has discretion not to require a *full* deduction where the amount of the collateral source compensation cannot be determined with reasonable certainty. Thus, for example, the Special Master has determined that workers' compensation benefits that are payable only if the spouse does not re-marry will only be offset to the extent they have already been paid. Likewise, Social Security and similar benefits payable to a surviving spouse only if the spouse does not re-marry or does not earn income above a certain threshold will be offset only to the extent they have already been paid. By contrast, survivor benefits from the Social Security Administration and from the military to children of victims—who generally are entitled by law to periodic payments until they reach the age of 17 or 18—can be reasonably computed and will be offset.

3. Computation of Collateral Source Offset

In light of numerous questions regarding the valuation of collateral source compensation, it is important to clarify that in computing the offset for any collateral source that is to be paid over a period of time, the Special Master will only offset the present value of that collateral source compensation. This has the effect of decreasing offsets and, thus, increasing the amount of awards. As an example, in the case of Social Security children's benefits, the Special Master would determine the monthly benefit to the child, multiply that benefit by the number of months remaining until the child reaches age 17 (taking into account possible limits such as maximum family benefits available), include—if consistent with Social Security guidelines—a factor for inflation, and then discount the total to present value to determine the amount of the offset.

4. Clarification Regarding Charitable Contributions

The interim final rule provides that charitable donations distributed to beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by ''private charitable entities'' are *not* collateral source compensation. § 104.47(b)(2). The interim final rule further provides that the Special Master may determine that funds provided through a private charitable entity constitute, in substance, a payment described in the definition of collateral sources, and therefore *should* be used to offset the award.

Some commenters have expressed concern that the interim final rule's definition could require that privately funded charities would be treated as collateral sources if a governmental entity created or manages the charity. In order to avoid this confusion, the provision is amended to provide that money received from ''privately funded charitable entities'' do *not* constitute collateral source compensation, subject to the same exception described above.

5. Availability of Information Regarding Collateral-Source Offsets

Through this preamble, the Special Master announces his intention to permit applicants to meet with the Special Master or his representative consultants in order to advise such applicants whether particular types of collateral source compensation will fall within the definition of ''collateral source compensation,'' and how such types of collateral sources will be valued. This service is an attempt to deal with an issue raised during the comment period; namely, that potential claimants should not be required to waive their right to sue without having some indication of how particular types of collateral offsets will be treated. The final rule attempts to deal with this problem by striking a careful balance.

The Act does not permit the Special Master to provide claimants any precise estimate of their award prior the claimant opting into the Fund. Indeed, the Special Master and his staff will carefully review the information submitted in any claim before reaching any conclusions regarding an award. Nevertheless, by permitting applicants to inquire as to how the offsets will be calculated for differing types of collateral sources, this provision of the final rule should assist applicants to make a considered election concerning whether to participate in the Fund or not. To be clear, this consultation will focus on broad categories of benefits and will *not* provide applicants with a precise estimate of their eventual award. The determination of an appropriate award requires a deliberative review of a victim's file, including the types of detailed financial records that the application requires. The Special Master cannot, and will not, give a precise computation of an award before a claim is filed. This provision helps to assure claimants a better understanding of their award without requiring the Special Master to engage in individual computation not permitted by the Act.

Finally, some commenters expressed concern that their collateral-source deductions could eliminate their awards altogether. The Act *requires* that

collateral source compensation be deducted from all final awards. The Act, therefore, does not permit us to create a mandatory legal rule requiring minimum payouts for all eligible claimants *after* collateral source deductions. Nevertheless, the Special Master is permitted to consider the individual circumstances of each claimant, including the needs of the victim's family. The Special Master has announced his expectation that, when the total needs of deceased victims' families are considered, it will be very rare that a claimant will receive less than $250,000, except in unusual situations where a claimant has already received very substantial compensation from collateral sources.

D. Eligibility.

The Act requires the Special Master to determine whether a claimant is an ''eligible individual.'' ''Eligibility,'' in turn, is defined by the Act to include: (1) Individuals (other than the terrorists) aboard American Airlines flights 11 and 77 and United Airlines flights 93 and 175; (2) individuals who were ''present at'' the World Trade Center, the Pentagon, or the site of the aircraft crash at Shanksville, Pennsylvania at the time or in the immediate aftermath of the crashes; or (3) personal representatives of deceased individuals who would otherwise be eligible. Moreover, to be eligible for an award, an individual must have suffered physical harm or death as a result of one of the terrorist-related air crashes. The rule addresses eligibility by defining the terms ''present at,'' ''immediate aftermath,'' ''physical harm,'' and ''personal representative.''

Many commenters submitted comments regarding eligibility issues. However, although the rule defined several terms important to eligibility requirements, the majority of comments concerning this topic discussed the scope of the terms ''physical harm'' and ''personal representative.''

1. Physical Harm

To be eligible for compensation under the Fund, victims who did not lose their lives in the terrorist attacks of September 11 must demonstrate that they suffered physical harm. ''Physical harm'' is defined in the interim final rule as ''a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained or within 24 hours of rescue.'' Additionally, such injury must have: (i) Required hospitalization as an in-patient for at least 24 hours; *or* (ii) caused, either temporarily or permanently, partial or total physical disability, incapacity or disfigurement.

The Act does not extend eligibility to those who suffered emotional distress without physical injury. A few commenters therefore urged that the Act be rewritten to include such harm, or that regulations be drafted to interpret emotional distress as a physical injury. At least one commenter stated that those suffering from post-traumatic stress disorder should be eligible under the Fund. Another lauded the program for its restrictions on eligibility based on physical injury.

Several commenters stated that the rule's definition of ''physical harm'' strikes an appropriate balance between compensating victims and preventing fraud or abuse. A few, however, indicated they were severely injured in the immediate aftermath of the terrorist attacks, yet would not be eligible for the Fund because they were not ''treated by a medical professional within 24 hours of the injury having been sustained.'' These commenters urged that the rule be adjusted to allow a longer period of time for treatment by a medical professional. At least one commenter indicated that—despite being seriously injured—he spent more than 24 hours trying to locate his family members and friends who worked in the World Trade Center. Another commenter described how many individuals with serious physical injuries either were reluctant to seek immediate treatment or were persuaded not to seek treatment in the 24 hours following the attacks in order to allow physicians to care for those suffering potentially life-threatening injuries.

The final rule expands the time period in which victims must have obtained medical treatment from 24 hours to 72 hours for those victims who were unable to realize immediately the extent of their injuries or for whom appropriate medical care was not available on September 11. The Special Master has discretion to extend the time period even further for rescue personnel or possibly others who otherwise meet this requirement but did not seek or were not able to seek medical treatment within 72 hours. Of course, the Special Master will continue to require evidence that victims suffered physical injury at the time of, or in the immediate aftermath of, the aircraft crashes, as defined in § 104.2 of this rule.

2. Personal Representative

The Act provides that in the case of an individual who is deceased but who otherwise meets the other criteria for eligibility, a claim may be filed by the personal representative of the decedent. In many or most cases the identity of the personal representative will not be in dispute. Where disputes exist, however, at least two issues arise: (1) What are the rules for determining who is the personal representative; and (2) who should apply the rules and resolve the dispute?

As to the first issue, the regulations rely upon state law. With respect to the second issue, the regulations provide that the Special Master is not obligated to arbitrate, litigate, or otherwise resolve disputes as to the identity of the personal representative. The regulations do provide, however, that the disputing parties may agree in writing on a personal representative to act on their behalf—who may seek and accept payment from the Fund—while those disputing parties work to settle their dispute. Further, in appropriate cases, the Special Master may determine an award, but place the payment in escrow until the dispute regarding the personal representative is ultimately resolved.

While several commenters agreed that state law should govern personal representative issues, others did not. Most commenters who were dissatisfied with the rule's reliance upon state law in this area expressed concern that state law determinations would preclude recovery by particular individuals who lost loved ones in the terrorist attacks. Others, however, expressed concerns regarding possible uncertainty and the lack of uniformity among different states' laws. Consequently, several commenters contended that the rule should provide eligibility requirements that displace state law.

One of the topics receiving the most comments was the eligibility of domestic partners. Many comments submitted on behalf of members of Amnesty International urged that there be ''equal access to benefits under the Fund for all victims, regardless of sexual orientation or marital status.'' Members of this organization, and several other individuals, stated that eligibility should be extended to surviving partners of gays and lesbians. Others urged that partners in common law marriages be eligible. Another group of commenters suggested that eligibility should be construed more broadly to include all partners ''in long standing stable relationships * * *.'' In contrast, scores of comments were submitted by those who feel ''funds should be limited to spouses and other family members * * * and should not extend to domestic partners, including surviving partners of gays and lesbians.''

In addition to fiancees who may be part of a domestic partnership, many other fiancees (and those commenting

on their behalf) similarly expressed frustration they are not (or may not be) eligible under the Fund. Some noted that their state of domicile does not place fiancees in the line of intestate succession. One asked, rhetorically, ''Why am I eligible to recover money from certain private charities, but yet am ineligible under the Fund?'' On a related note, more than one commenter indicated that ex-spouses should be eligible.

The final rule continues to rely upon state law for the determination of the personal representative. Reliance on state law is necessary in part because those who file for recovery under the Fund waive their rights to recover through litigation, in which state law would determine the identity of the appropriate representatives of the decedent, or the decedent's estate, to bring suit. Thus, if the identity of personal representatives for purposes of this Fund were determined by federal regulation, there could be many situations in which the representative as defined by state law would choose litigation while the personal representative as defined by federal regulation would seek to recover from the Fund. While many have voiced criticisms of some of the potentially applicable state laws, those criticisms are more properly directed toward state officials. It is important to note, however, that state intestacy laws are relevant only in the absence of a valid will. Thus, to the extent that some or all of the award would pass by will, the will may determine the identity of some or all of the beneficiaries.

3. Other Eligibility Issues

Many commenters stated they are angry that men and women in the United States armed forces who have died (or may die) fighting terrorism in Afghanistan are not eligible under the Fund. One commenter noted that ''military victims bleed and die like everyone else.'' One commenter argued that more than one claim per family should be allowed under the Act. At least one commenter suggested that the term ''dependent'' be construed more broadly to include all children, including sons and daughters who have reached the age of majority. Another commenter stated that siblings who lived in the same household of the decedent should be compensated. A few commenters urged that all parents and siblings be compensated, even when state law does not provide for it. Last, one commenter noted that those who are found ineligible to recover from the Fund should not have to waive their rights to sue in a court of law.

Congress explicitly provided that only those who suffered physical harm as a result of the air crashes and the personal representatives of those who were killed as a result of the air crashes are eligible claimants. Congress did not, however, address who could ultimately receive compensation. Indeed, the 120-day statutory deadline for adjudicating claims on the Fund could in many instances preclude the Special Master from fairly determining how best to disburse awards among family members. Because state laws routinely serve that type of function, it makes the most sense that they generally provide the bases for distribution. Thus, issues regarding whether siblings and adult offspring of victims can receive part of the award will generally be determined by reference to state (or relevant foreign) law.

E. Distribution of Awards

The interim final rule allows the Special Master to issue awards in a lump sum to eligible claimants. One commenter implied that the rule was not clear on how funds will be distributed once a lump payment is made to a personal representative. She stated her concern that certain distributees under state law may be left out. One organization stated its concern that absent a regulation creating the option of structured awards, the tax-free status of awards may be compromised. Finally, at least one commenter indicated that the option to create a trust is necessary to prevent beneficiaries from squandering lump sums.

The interim final rule provided that the Special Master has discretion to provide claimants with information regarding annuities or other financial planning devices or to offer structured awards with periodic payments. The Special Master is encouraged to provide information to claimants regarding the availability of annuities and other financial planning devices and services. The Special Master strongly recommends that personal representatives or beneficiaries consider annuities and structured settlements.

It has come to the Department's attention that the classification of awards as ''pain and suffering'' awards or as ''wrongful death'' awards will affect the distribution of the awards under the laws of some states. Some, including the judges of New York's Surrogate's Courts, have explained that it would be difficult to determine the appropriate distribution without some guidance from the Special Master regarding the nature of the awards. Therefore, the Special Master has discretion, where appropriate, to specify the amount of the final award that is attributable to economic loss and the amount that is attributable to non-economic loss and other relevant information necessary in order to provide guidance to personal representatives and state courts in determining the proper distribution of awards or in reviewing the distribution plan.

F. Procedural Rules

Certain commenters proposed substantive changes to the interim final rule. A few commenters, however, raised concerns with the procedural framework it envisioned. Most of these commenters criticized the use of presumed awards. Specifically, they contended that presumptive awards should be eliminated altogether, and that all awards made under Fund should be decided primarily on evidence presented at a mandatory hearing. These commenters contended there should exist no rebuttable presumption whatsoever or, in the alternative, surmised that the ''extraordinary circumstances'' burden was too high to have any practical effect on increasing awards. In order to effectuate these proposed changes, a few commenters proposed that hearings not be limited to two hours. Rather, in their opinion, there should exist an unlimited time period at the hearings to discuss each case and present oral testimony or other evidence. One commenter stated that the rule needs to be clear as to whether or not there is risk of receiving less than the presumed award when someone opts for a hearing under Track B.

The final rule leaves intact the ''presumed award'' approach, under which claimants may choose to receive the presumed award and seek review if appropriate, or instead proceed directly to an individualized hearing. With regard to the suggestion that the Special Master jettison the presumed awards altogether in favor of a purely individualized, case-by-case adjudication, we do not believe that such a ''black box'' approach would serve the best interests of the claimants. While the regulations are designed to provide claimants an opportunity to present their individual circumstances, claimants should not waive their rights to litigation without some indication of what they might recover under the Fund.

At the same time, it is important that the Special Master have an opportunity to consider circumstances that are not accounted for in the presumed award charts. The term ''extraordinary

circumstances'' is not intended to signal that there is an unsustainable burden to justify departure from the presumed award. Instead, it reflects the Special Master's sense that the presumed award methodology should be fair and appropriate for a substantial majority of claims. A number of factors could support a determination to depart from the presumed award methodology. For victims who had extremely high incomes (beyond the 98th percentile of individuals in the United States), the Special Master may consider any relevant individual circumstances, including whether the financial needs of those victims' families are being met.

In addition, the final rule explains that there will be no firm time limit for hearings.

Application of Various Laws and Executive Orders to This Rulemaking

Administrative Procedure Act, 5 U.S.C. 553

This rule provides for compensation to eligible individuals who were physically injured and to the personal representatives of those who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001. On December 21, 2001, the Department published its interim final rule and provided a thirty-day period for public comments.

The Department finds ''good cause'' for exempting this rule from the provision of the Administrative Procedure Act providing for a delayed effective date. 5 U.S.C. 553(d). Delaying the opportunity for eligible claimants to avail themselves of the final rule's changes to the regulations would be contrary to the public interest. The interim final rule is already in effect, and it is in the public interest to minimize the amount of time during which nonfinal rules are in effect. In addition, potential claimants may prefer to have their claims resolved under the final rule, and it is in the public interest to allow them to file and, if eligible, receive awards as soon as possible.

Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has designated this final rule as a ''major rule'' as that term is defined by the Congressional Review Act (''CRA''), 5 U.S.C. 801 *et. seq.* Pursuant to section 808(2) of the CRA, the Department finds that ''good cause'' exists for making this rule effective upon publication because delay would be contrary to the public interest favoring prompt disbursement of benefits.

Paperwork Reduction Act of 1995

The Department of Justice (DOJ), Civil Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by March 6. The proposed information collection is published to obtain comments from the public and affected agencies. Two associated information collections, the Registration/Eligibility Form and Application for Emergency Benefits from the Victim Compensation Fund (OMB 1105–0073, SM–001) and the Victim Compensation Fund Objection Form (OMB 1105–0077, SM–002) have already received OMB approval. The Death Compensation Form for the September 11 Victim Compensation Fund (SM–003) and the Personal Injury Compensation Form for the September 11 Victim Compensation Fund (SM–004) are currently under OMB review. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, D.C. 20530.

During the first 60 days of this same review period, a regular review of this information collection will be undertaken. All comments and suggestions, or questions regarding additional information, including obtaining a copy of the proposed information collection instrument with instructions, should be directed to Office of the Special Master, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530. We request written comments and suggestions from the public and affected agencies concerning the proposed emergency collection of information.

Your comments should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) Type of Information Collection: New Collection

(2) Title of the Form/Collection: Death Compensation Form for the September 11 Victim Compensation Fund and Personal Injury Compensation Form for the September 11 Victim Compensation Fund.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: SM–003 (Death Compensation Form) and SM–004 (Injury Compensation Form), Office of the Special Master, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: The primary affected public will be individuals who were physically injured and the Personal Representatives of those killed as a result of the terrorist-related aircraft crashes of September 11, 2001. Abstract: Physically injured victims as a result of the terrorist-related attacks of September 11, 2001 will use the Injury Compensation Form and Personal Representatives of those killed as a result of September 11 will use the Death Compensation Form. Both forms will be used to provide information needed to determine eligibility for the program and to calculate compensation awards.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 5,000 claimants with an average of 15 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 75,000 hours.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Suite 1600, Washington, DC 20004.

Privacy Act of 1974

The Department of Justice, Civil Division (CIV) has established a new Privacy Act system of records entitled ''September 11th Victim Compensation Fund of 2001 File System,'' JUSTICE/CIV–008. By law, regulations addressing certain administrative matters for the September 11th Victim Compensation Fund of 2001 were to be issued within

the 90-day period established by Congress. In compliance with that time period, the Privacy Act notice was published on December 21, 2001 at 66 FR 65991, with no routine uses, and was effective on the date published. It is likely that amendments to this notice, including routine uses, will be published at a later date, with the opportunity to comment. In the interim, disclosures necessary to process claims are being made, and will be made, only with the prior written consent of claimants or as otherwise authorized under 5 U.S.C. 552a(b).

Regulatory Flexibility Act

These regulations set forth procedures by which the Federal government will award compensation benefits to eligible victims of the September 11, 2001 terrorist attacks. Under 5 U.S.C. 601(6), the term ''small entity'' does not include the Federal government, the party charged with incurring the costs attendant to the implementation and administration of the Victims Compensation Fund. To the extent that small entities, including small government entities, will be economically affected by the promulgation of these regulations, such effects will likely be minimal. Further, the number of entities that will be affected will, in all probability, fall short of a ''substantial number'' of small entities. In fact, the Department believes that the promulgation of these rules will play a considerable role in reducing the amount of complex, private litigation, wherein a substantial number of small (and large) entities would undoubtedly be significantly impacted.

Accordingly, the Department has reviewed this rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because it provides compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a ''personal representative'' for those who were killed as a result of those crashes. This rule provides compensation to individuals, not to 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 $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 12866—Regulatory Planning and Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. However, the Department of Justice has worked cooperatively with state and local officials in the affected communities in the preparation of this rule. Also, the Department individually notified national associations representing elected officials of the initial Notice of Inquiry and the subsequent interim final rule, and the Department will be taking similar action in connection with the final rule.

List of Subjects in 28 CFR Part 104

Disaster assistance, Disability benefits, Terrorism.

Accordingly, for the reasons set forth in the preamble, the interim rule amending Part 104 of chapter I of Title 28 of the Code of Federal Regulations that was published on December 21, 2001 at 66 FR 66274 is adopted as a final rule with the following changes:

PART 104—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

1. The authority citation for part 104 continues to read as follows:

Authority: Title IV of Pub. L. 107–42, 115 Stat. 230, 49 U.S.C. 40101 note.

2. Section 104.2 is amended by revising paragraph (c)(1) to read as follows:

§ 104.2 Eligibility definitions and requirements.

* * * * *

(c) * * *

(1) The term *physical harm* shall mean a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained, or within 24 hours of rescue, or within 72 hours of injury or rescue for those victims who were unable to realize immediately the extent of their injuries or for whom treatment by a medical professional was not available on September 11, or within such time period as the Special Master may determine for rescue personnel who did not or could not obtain treatment by a medical professional within 72 hours; and

* * * * *

3. Section 104.3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 104.3 Other definitions.

(a) *Beneficiary.* The term *beneficiary* shall mean a person to whom the Personal Representative shall distribute all or part of the award under § 104.52 of this Part.

(b) *Dependents.* The Special Master shall identify as dependents those persons so identified by the victim on his or her federal tax return for the year 2000 (or those persons who legally could have been identified by the victim on his or her federal tax return for the year 2000) unless:

(1) The claimant demonstrates that a minor child of the victim was born or adopted on or after January 1, 2001;

(2) Another person became a dependent in accordance with then-applicable law on or after January 1, 2001; or

(3) The victim was not required by law to file a federal income tax return for the year 2000.

* * * * *

4. Section 104.6 is revised to read as follows:

§ 104.6 Amendments to this part.

Claimants are entitled to have their claims processed in accordance with the provisions of this Part that were in effect at the time that their claims were submitted under § 104.21(d). All claims will be processed in accordance with the current provisions of this Part, unless the claimant has notified the Special Master that he or she has elected to have the claim resolved under the regulations that were in effect at the time that the claim was submitted under § 104.21(d).

5. Section 104.21(d) is revised to read as follows:

§ 104.21 Filing for compensation.

* * * * *

(d) *Submission of a claim.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for civil actions to recover collateral source obligations and civil actions against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. A claim shall be deemed submitted for purposes of section 405(c)(3)(B) of the Act when the claim is deemed filed pursuant to § 104.21, regardless of whether any time limits are stayed or tolled.

* * * * *

6. Section 104.33 is amended by revising paragraphs (c) and (g), to read as follows:

§ 104.33 Hearing.

* * * * *

(c) *Location and duration of hearings.* The hearings shall, to the extent practicable, be scheduled at times and in locations convenient to the claimant or his or her representative. The hearings shall be limited in length to a time period determined by the Special Master or his designee.

* * * * *

(g) *Determination.* The Special Master shall notify the claimant in writing of the final amount of the award, but need not create or provide any written record of the deliberations that resulted in that determination. There shall be no further review or appeal of the Special Master's determination. In notifying the claimant of the final amount of the award, the Special Master may designate the portions or percentages of the final award that are attributable to economic loss and non-economic loss, respectively, and may provide such other information as appropriate to provide adequate guidance for a court of competent jurisdiction and a personal representative.

7. In Section 104.43, paragraph (a) is amended by:

a. revising the second and third sentences; and

b. adding at the end thereof two new sentences, to read as follows:

§ 104.43 Determination of presumed economic loss for decedents.

* * * * *

(a) * * * The Decedent's salary/income in 1998–2000 (or for other years the Special Master deems relevant) shall be evaluated in a manner that the Special Master deems appropriate. The Special Master may, if he deems appropriate, take an average of income figures for 1998–2000, and may also consider income for other periods that he deems appropriate, including published pay scales for victims who were government or military employees. * * * For victims who were members of the armed services or government employees such as firefighters or police officers, the Special Master may consider all forms of compensation (or pay) to which the victim was entitled. For example, military service members' and uniformed service members' compensation includes all of the various components of compensation, including, but not limited to, basic pay (BPY), basic allowance for housing (BAH), basic allowance for subsistence (BAS), federal income tax advantage (TAD), overtime bonuses, differential pay, and longevity pay.

8. Section 104.44, is amended by revising the first sentence to read as follows:

§ 104.44 Determination of presumed noneconomic losses for decedents.

The presumed non-economic losses for decedents shall be $250,000 plus an additional $100,000 for the spouse and each dependent of the deceased victim. * * *

9. Section 104.47 is amended by:

a. revising paragraphs (a) and (b)(2); and

b. adding paragraph (b)(3), to read as follows:

§ 104.47 Collateral sources.

(a) *Payments that constitute collateral source compensation.* The amount of compensation shall be reduced by all collateral source compensation, including life insurance, pension funds, death benefits programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001. In determining the appropriate collateral source offset for future benefit payments, the Special Master may employ an appropriate methodology for determining the present value of such future benefits. In determining the appropriate value of offsets for pension funds, life insurance and similar collateral sources, the Special Master may, as appropriate, reduce the amount of offsets to take account of self-contributions made or premiums paid by the victim during his or her lifetime. In determining the appropriate collateral source offset for future benefit payments that are contingent upon one or more future event(s), the Special Master may reduce such offsets to account for the possibility that the future contingencies may or may not occur. In cases where the recipients of collateral source compensation are not beneficiaries of the awards from the Fund, the Special Master shall have discretion to exclude such compensation from the collateral source offset where necessary to prevent beneficiaries from having their awards reduced by collateral source compensation that they will not receive.

(b) * * *

(2) Charitable donations distributed to the beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by privately funded charitable entities; provided however, that the Special Master may determine that funds provided to victims or their families through a privately funded charitable entity constitute, in substance, a payment described in paragraph (a) of this section.

(3) Tax benefits received from the Federal government as a result of the enactment of the Victims of Terrorism Tax Relief Act.

10. Section 104.52 is amended by revising the third sentence to read as follows:

§ 104.52 Distribution of award to decedent's beneficiaries.

(a) * * * Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master concludes that the Personal Representative's plan for distribution does not appropriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the Personal Representative to distribute all or part of the award to such spouse, children, or other relatives.

11. Section 104.61(a) is amended by revising the first sentence to read as follows:

§ 104.61 Limitation on civil actions.

(a) *General.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except that this limitation does not apply to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. * * *

* * * * *

Dated: March 7, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–5923 Filed 3–12–02; 8:45 am]

BILLING CODE 4410–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–7157–1]

Withdrawal of the Federal Designated Use for Shields Gulch in Idaho

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In July 1997, EPA promulgated new use designations for five water bodies in the State of Idaho, including the designation of cold water biota for Shields Gulch. On March 14, 2000 the U.S. District Court for the District of Idaho vacated and remanded that portion of the EPA rule designating Shields Gulch for cold water biota uses to the EPA for further consideration. To conform with the U.S. District Court order, EPA is withdrawing the cold water biota designated use for Shields Gulch.

DATES: This rule is effective March 13, 2002.

ADDRESSES: The administrative record for the Federal use designations for surface waters of Idaho is available for public inspection at EPA Region 10, Office of Water, 1200 Sixth Avenue, Seattle, Washington 98101 during normal business hours of 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Robert Van Brunt at EPA Headquarters, Office of Water (4305), 1200 Pennsylvania Ave NW., Washington, DC 20460 (tel: 202–260–2630, fax 202–260–9830) or e-mail *vanbrunt.robert@epa.gov* or Lisa Macchio at EPA Region 10, Office of Water, 1200 Sixth Avenue, Seattle, Washington 98101 (tel: 206–553–1834, fax 206–553–0165) or e-mail *macchio.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

Potentially Affected Entities

Citizens concerned with water quality in Idaho may be interested in this rulemaking. Entities discharging pollutants to Shields Gulch, its tributaries, and waters they flow into could be affected by this rulemaking since water quality standards are used in determining NPDES permit limits. Currently, we are not aware of any entities discharging pollutants to Shields Gulch, however, potentially affected categories and entities could include:

Category	Examples of potentially affected entities
Industry	Industries discharging pollutants to Shields Gulch, its tributaries, and waters they flow into.
Federal, State, Tribal or local governments	Publicly-owned treatment works discharging pollutants to Shields Gulch, its tributaries, and waters they flow into.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be potentially affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult Lisa Macchio, listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Background

On July 31, 1997, pursuant to section 303(c) of the Clean Water Act (CWA), EPA promulgated cold water biota as a designated beneficial use for several water body segments, including Shields Gulch (PB 148S)—below mining impact. In designating beneficial uses, EPA relied on the rebuttable presumption implicit in the CWA and EPA's regulations at 40 CFR part 131, that in the absence of data to the contrary, ''fishable'' uses are attainable. EPA concluded that the presumption that fishable uses were attainable had not been rebutted for the water body segments in question.

On March 19, 1999, the Idaho Mining Association challenged EPA's promulgation in the U.S. District Court of Idaho. On March 14, 2000, the Court, while upholding the legality of the rebuttable presumption approach under the CWA, found that EPA was arbitrary and capricious in determining that the presumption of a fishable use had not been rebutted for Shields Gulch. Therefore, the Court ordered that portion of the EPA rule designating Shields Gulch for cold water biota uses vacated and remanded to the EPA for further consideration. To conform with the Court's order, EPA is withdrawing the cold water biota designated use for Shields Gulch. The State has revised its water quality standards since EPA's July 31, 1997, promulgation and now applies the cold water biota use to Shields Gulch as a matter of State law. Therefore, withdrawing the Federal use designation will not result in a change in the level of environmental protection for Shields Gulch.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this is a strictly legal issue of the impact of the District Court decision on the July 31, 1997, Federal designated use for Shields Gulch. Thus, notice and public procedure are impracticable. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

EPA has also determined that good cause exists under section 553(d) of the Administrative Procedure Act to waive the requirement for a 30-day period before the rule becomes effective because this rule relieves a restriction. Therefore, the rule will be effective March 13, 2002.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a

significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule does 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 (65 FR 67249, November 6, 2000).

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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.

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Section 7 of the Endangered Species Act (16 U.S.C. 1656 *et seq.*), requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, to ensure that their actions are unlikely to jeopardize the continued existence of listed species or adversely affect designated critical habitat of such species. EPA has determined that this action has no effect on listed species or critical habitat because there are no listed species in Shields Gulch.

The Congressional Review Act (5 U.S.C 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 13, 2002. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 131

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: March 7, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

§ 131.33 [Amended]

2. Section 131.33 is amended by revising paragraph (b) to read as follows:

§ 131.33 Idaho

* * * * *

(b) *Use designations for surface waters.* In addition to the State adopted use designations, the following water body segments in Idaho are designated for cold water biota: Canyon Creek (PB 121)—below mining impact; South Fork Coeur d'Alene River (PB 140S)—Daisy Gulch to mouth; Blackfoot River (USB 360)—Equalizing Dam to mouth, except for any portion in Indian country; Soda Creek (BB 310)—source to mouth.

* * * * *

[FR Doc. 02–6064 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 180

[OPP–30118; FRL–6774–3]

RIN 2070–AB78

Pesticide Tolerance Processing Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule increases fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). The revision reflects a 4.94%, 3.81%, and 4.77% increase in locality pay for civilian Federal General Schedule employees working in the Washington, DC and Baltimore, MD metropolitan area in 2000, 2001, and 2002, respectively. Fees have not been adjusted since 1999 in anticipation of the tolerance fee revision rule proposed by EPA, which has not occured.

DATES: This rule is effective April 12, 2002.

FOR FURTHER INFORMATION CONTACT: *For general information concerning this rule contact*: Ed Setren, Resources Management Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (703) 305–5927; fax: (703) 305–5060; e-mail address: setren.edward@epa.gov.

For technical information concerning tolerance petitions and individual fees contact: Sonya Brooks, Resources Management Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (703) 308–6423; fax: (703) 305–5060; e-mail address: brooks.sonya@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Rule Apply to Me?

This rule may directly affect any person who might petition the Agency for new tolerances, hold a pesticide registration with existing tolerances, or anyone who is interested in obtaining or retaining a tolerance in the absence of a registration. This group can include pesticide manufacturers or formulators, companies that manufacture chemicals used in formulating pesticides, importers of food, grower groups, or any person who seeks a tolerance. The vast majority of potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	SIC codes	Examples of potentially affected entities
Chemical industry	325320 115112	0286 0287	Pesticide chemical manufacturers Formulators, chemical manufacturers of inert ingredients

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed above could also be regulated. If available, the four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this rule applies to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in the rule (see Unit IV). If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information or Copies of this Document or Other Documents?

1. *Electronically*. You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/homepage/fedrgstr/.

2. *In person or by phone*. If you have any questions or need additional information about this action, you may contact the technical person identified under **FOR FURTHER INFORMATION CONTACT**. In addition, the official record for this rule, including the public version, has been established under docket control number OPP–30118. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

III. What Action is the Agency Taking in this Rule?

With this rule, the Agency is increasing the fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). The pay raise in 2000, 2001, and 2002 for Federal General Schedule (GS) employees working in the Washington, DC/Baltimore, MD metropolitan pay area is 4.94%, 3.81%, and 4.77%, respectively. This increase in the fees charged for processing tolerance petitions reflects these recent pay raises.

IV. Why is the Agency Taking this Action?

EPA is charged with the administration of section 408 of FFDCA. Section 408 authorizes the Agency to establish tolerance levels and exemptions from the requirements for tolerances for raw agricultural commodities. Section 408(o) requires the Agency to collect fees that will, in the aggregate, be sufficient to cover the costs of processing petitions for pesticide products. EPA is publishing this action pursuant to 40 CFR 180.33(o).

The current fee schedule for tolerance petitions published in the **Federal Register** of May 26, 1999 (64 FR 28384) (FRL–6056–6), codified at 40 CFR 180.33, and became effective on June 26, 1999. At that time the fees were increased 3.68% in accordance with a provision in the regulation that provides for automatic annual adjustments to the fees based on annual percentage changes in Federal salaries (40 CFR 180.33(o)).

The Federal Employees Pay Comparability Act of 1990 (FEPCA) initiated locality-based comparability pay, known as ''locality pay.'' The intent of the legislation is to make Federal pay more responsive to local labor market conditions by adjusting General Schedule salaries on the basis of a comparison with non-Federal rates on a geographic, locality basis. The processing and review of tolerance petitions is conducted by EPA employees working in the Washington, DC/Baltimore, MD pay area.

The pay raise in 2000, 2001, and 2002 for Federal General Schedule employees working in the Washington, DC/Baltimore, MD metropolitan pay area is 4.94%, 3.81%, and 4.77%, respectively; therefore, the tolerance petition fees are being increased by 4.94%, 3.81%, and 4.77%, respectively. The entire revised fee schedule is presented in § 180.33 of the regulatory text for the reader's convenience. (All fees have been rounded to the nearest $25.00.)

V. Why is EPA Issuing this Action as a Final Rule?

EPA is publishing this action as a final rule pursuant to 40 CFR 180.33(o), which reads in part:

> (o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale [. . .]. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the *Federal Register* as a final rule to become effective 30 days or more after publication, as specified in the rule.

VI. What Regulatory Assessment Requirements Apply to this Action?

This final rule amends the fees charged for processing tolerance petitions under FFDCA to reflect automatic adjustments based on the GS pay scale and is issued as a final rule pursuant to 40 CFR 180.33(o). Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB), nor is this final rule subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045,

entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since the Agency is authorized to make automatic adjustments based on the GS pay scale by issuing a final rule under 40 CFR 180.33(o), and is not required to issue a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this final rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VII. Must EPA Submit this Action to Congress and the General Accounting Office?

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

List of Subjects in 40 CFR Part 180

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

Dated: March 5, 2002.

Stephen L. Johnson,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. Section 180.33 is revised to read as follows:

§ 180.33 Fees.

(a) Each petition or request for the establishment of a new tolerance or a tolerance higher than already established, shall be accompanied by a fee of $77,625, plus $1,950 for each raw agricultural commodity more than nine on which the establishment of a tolerance is requested, except as provided in paragraphs (b), (d), and (h) of this section.

(b) Each petition or request for the establishment of a tolerance at a lower numerical level or levels than a tolerance already established for the same pesticide chemical, or for the establishment of a tolerance on additional raw agricultural commodities at the same numerical level as a tolerance already established for the same pesticide chemical, shall be accompanied by a fee of $17,750 plus $1,175 for each raw agricultural commodity on which a tolerance is requested.

(c) Each petition or request for an exemption from the requirement of a tolerance or repeal of an exemption shall be accompanied by a fee of $14,325.

(d) Each petition or request for a temporary tolerance or a temporary exemption from the requirement of a tolerance shall be accompanied by a fee of $31,000 except as provided in paragraph (e) of this section. A petition or request to renew or extend such temporary tolerance or temporary exemption shall be accompanied by a fee of $4,400.

(e) A petition or request for a temporary tolerance for a pesticide chemical which has a tolerance for other uses at the same numerical level or a higher numerical level shall be accompanied by a fee of $15,425, plus $1,175 for each raw agricultural commodity on which the temporary tolerance is sought.

(f) Each petition or request for repeal of a tolerance shall be accompanied by a fee of $9,700. Such fee is not required when, in connection with the change sought under this paragraph, a petition or request is filed for the establishment of new tolerances to take the place of those sought to be repealed and a fee is paid as required by paragraph (a) of this section.

(g) If a petition or a request is not accepted for processing because it is technically incomplete, the fee, less $1,950 for handling and initial review, shall be returned. If a petition is withdrawn by the petitioner after initial processing, but before significant Agency scientific review has begun, the fee, less $1,950 for handling and initial review, shall be returned. If an unacceptable or withdrawn petition is resubmitted, it shall be accompanied by the fee that would be required if it were being submitted for the first time.

(h) Each petition or request for a crop group tolerance, regardless of the number of raw agricultural commodities involved, shall be accompanied by a fee equal to the fee required by the

analogous category for a single tolerance that is not a crop group tolerance, i.e., paragraphs (a) through (f) of this section, without a charge for each commodity where that would otherwise apply.

(i) Objections under section 408(d)(5) of the Act shall be accompanied by a filing fee of $3,875.

(j)(1) In the event of a referral of a petition or proposal under this section to an advisory committee, the costs shall be borne by the person who requests the referral of the data to the advisory committee.

(2) Costs of the advisory committee shall include compensation for experts as provided in § 180.11(c) and the expenses of the secretariat, including the costs of duplicating petitions and other related material referred to the committee.

(3) An advance deposit shall be made in the amount of $38,750 to cover the costs of the advisory committee. Further advance deposits of $38,750 each shall be made upon request of the Administrator when necessary to prevent arrears in the payment of such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(k) The person who files a petition for judicial review of an order under section 408(d)(5) or (e) of the Act shall pay the costs of preparing the record on which the order is based unless the person has no financial interest in the petition for judicial review.

(l) No fee under this section will be imposed on the Interregional Research Project Number 4 (IR-4 Program).

(m) The Administrator may waive or refund part or all of any fee imposed by this section if the Administrator determines in his or her sole discretion that such a waiver or refund will promote the public interest or that payment of the fee would work an unreasonable hardship on the person on whom the fee is imposed. A request for waiver or refund of a fee shall be submitted in writing to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division (7505C), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A fee of $1,950 shall accompany every request for a waiver or refund, except that the fee under this sentence shall not be imposed on any person who has no financial interest in any action requested by such person under paragraphs (a) through (k) of this section. The fee for requesting a waiver or refund shall be refunded if the request is granted.

(n) All deposits and fees required by the regulations in this part shall be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency. All deposits and fees shall be forwarded to the Environmental Protection Agency, Headquarters Accounting Operations Branch, Office of Pesticide Programs (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. The payments should be specifically labeled ''Tolerance Petition Fees'' and should be accompanied only by a copy of the letter or petition requesting the tolerance. The actual letter or petition, along with supporting data, shall be forwarded within 30 days of payment to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division (7505C), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A petition will not be accepted for processing until the required fees have been submitted. A petition for which a waiver of fees has been requested will not be accepted for processing until the fee has been waived or, if the waiver has been denied, the proper fee is submitted after notice of denial. A request for waiver or refund will not be accepted after scientific review has begun on a petition.

(o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale. In addition, processing costs and fees will periodically be reviewed and changes will be made to the schedule as necessary. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the **Federal Register** as a final rule to become effective 30 days or more after publication, as specified in the rule. When changes are made based on periodic reviews, the changes will be subject to public comment.

[FR Doc. 02–5868 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH–FRL–7157–2]

RIN 2050–AE94

Hazardous Waste Management System; Definition of Solid Waste; Toxicity Characteristic

AGENCY: Environmental Protection Agency.

ACTION: Final Rule; Response to court order vacating regulatory provisions.

SUMMARY: This action responds to two court vacaturs of regulations under the Resource Conservation and Recovery Act (RCRA), first, by deleting regulatory language that classified mineral processing characteristic sludges and by-products being reclaimed as solid wastes under RCRA's hazardous waste management regulations, and secondly, by codifying the decision that the Toxicity Characteristic Leaching Procedure (TCLP) may not be used for determining whether manufactured gas plant (MGP) waste is hazardous under RCRA. The Environmental Protection Agency (EPA) initially took action on these matters as part of the Phase IV Land Disposal Restrictions (LDR) on May 26, 1998. Today's revisions carry out vacaturs ordered by the United States Court of Appeals for the District of Columbia Circuit in *Association of Battery Recyclers* v. *EPA (ABR).* In addition, we are announcing that we plan to propose a separate rule to revise the definition of solid waste.

EFFECTIVE DATE: This rule is effective on March 13, 2002.

ADDRESSES: Supporting materials to this final rule are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–2001–TCVF–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The docket index and some supporting materials are available electronically. See the beginning of the Supplementary Information section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 920–9810 or TDD (703) 412–3323. For information on definition of solid waste aspects of the rule, contact Ms. Ingrid Rosencrantz, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460. [e-mail address and telephone number: *rosencrantz.ingrid@epa.gov* (703–308–8285).] For information on the manufactured gas plant wastes and the TCLP, contact Mr. Greg Helms, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW.,

Washington, D.C., 20460. [E-mail address and telephone number: *helms.greg@epa.gov* (703–308–8845).]

SUPPLEMENTARY INFORMATION: Whenever the terms ''we'' or ''Agency'' are used throughout this document, they refer to the Environmental Protection Agency (EPA).

The docket index for the rule is available in electronic format on the Internet at: <*http://www.epa.gov/epaoswer/hazwaste/recycle/battery.htm*>.

We will keep the official record for this action in paper form. The official record is the paper record maintained at the RCRA Information Center, also referred to as the Docket, at the address provided in the **ADDRESSES** section at the beginning of this document.

I. Why Are We Taking This Action?

EPA is taking today's action in response to vacaturs ordered by the United States Court of Appeals for the District of Columbia Circuit in *Association of Battery Recyclers,* v. *EPA* 208 F.3d 1047 (2000). After EPA promulgated the final Phase IV LDR rule on May 26, 1998 (63 *FR* 28556), the Association of Battery Recyclers, the National Mining Association and other trade groups challenged this rule. On April 21, 2000, the D.C. Circuit issued a decision that vacated two parts of the Phase IV LDR rule. The court vacated the portion of the rule that asserted jurisdiction and imposed conditions over mineral processing characteristic by-products and sludges being stored prior to being recycled in beneficiation or primary mineral processing operations. The court also vacated the portion of the rule providing for use of the TCLP for determining whether MGP waste exhibits the characteristic of toxicity. *Association of Battery Recyclers* v. *EPA,* 208 F.3d 1047 (2000).

Regarding the mineral processing secondary materials, the Phase IV LDR rule revised a 1985 rule that defined the circumstances under which EPA classified secondary mineral processing materials undergoing reclamation as solid wastes under Subtitle C of RCRA. The 1998 Phase IV LDR rule amended the 1985 rule and relaxed jurisdiction over spent materials reclaimed within the mineral processing industry, provided certain conditions were met. The Phase IV LDR rule also asserted jurisdiction over some previously-unregulated secondary materials (characteristic by-products and sludges) reclaimed within the mineral processing industry. The rule classified these by-products and sludges as wastes if they were stored without meeting the same conditions. EPA codified the conditions under which the materials would be regulated as solid wastes at 40 CFR 261.4(a)(17) and inserted references to these conditions into the regulation asserting authority over reclamation in 40 CFR 261.2(c)(3). Today, in response to the D.C. Circuit Court's decision, EPA is codifying the vacatur by deleting a parenthetical statement in the second sentence of 40 CFR 261.2(c)(3) and making conforming changes to 40 CFR 261.4(a)(17). In § 261.4(a)(17), EPA is replacing the term ''secondary materials'' (which includes sludges and by-products, as well as spent materials) with the more narrow term ''spent materials.'' These changes inform the public that mineral processing characteristic sludges and by-products being reclaimed are not solid wastes, and mineral processing characteristic spent materials remain eligible for the conditional exclusion when being reclaimed.

To further the goal of encouraging legitimate recycling while protecting human health and the environment, EPA has decided to undertake a separate future rulemaking to propose additional revisions to its current recycling regulations. We believe that removing the specter of RCRA control where it is not necessary can spur increased reuse and recycling of hazardous waste, and will lead to better resource conservation and improved materials management overall. For materials undergoing reclamation, in the proposed rule we expect to request comment on how interested parties would distinguish materials that are discarded from materials that remain in use in a continuous industrial process and anticipate proposing a definition of ''continuous industrial process.'' In addition, EPA has been working with a group of stakeholders concerned with recycling in the metal finishing industry and we are committed to proposing, either as part of that action or as a separate rule, removal of regulatory barriers in order to increase recycling of sludges from metal finishing operations.

Although EPA has not established a formal comment period, we anticipate moving quickly to propose this rule; interested parties are welcome to submit suggestions now for this future proposal, directing them to Ms. Ingrid Rosencrantz at the address given in the **FOR FURTHER INFORMATION CONTACT** section.

The court's decision in *ABR* also addressed another provision of the Phase IV LDR Rule providing for use of the Toxicity Characteristic Leaching Procedure (TCLP) to determine whether mineral processing waste, and manufactured gas plant [1] (MGP) wastes, are RCRA hazardous wastes under 40 CFR 261.24 (63 *FR* 28597–98; May 26, 1998).

In its ruling in *ABR,* the court found that EPA produced sufficient evidence that the TCLP bears a ''rational relationship'' to plausible mineral processing waste management practices, and upheld the use of the TCLP to evaluate mineral processing wastes. Regarding MGP waste, the court found that EPA produced insufficient evidence that co-disposal of MGP waste from remediation sites with municipal solid waste (MSW) has happened or is likely to happen. The court concluded that ''* * * the EPA has not justified its application of the TCLP to MGP waste'' and consequently ''* * * vacate[d] the Phase IV rule insofar as it provides for the use of the TCLP to determine whether MGP waste exhibits the characteristic of toxicity.'' *ABR* v. *EPA,* 208 F.3d at 1064. EPA is taking final action today to codify this vacatur by promulgating language exempting MGP wastes from the Toxicity Characteristic regulation.

II. Why Do We Have Good Cause for Promulgating an Immediately Effective Final Rule Without Prior Notice and Opportunity for Public Comment?

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public comment procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for removal of these provisions without prior proposal and opportunity for comment. As a matter of law, the order issued by the United States Court of Appeals for the District of Columbia Circuit on April 21, 2000, vacated the provisions of the final Phase IV LDR rules described above, making them non-binding and unenforceable. It is, therefore, unnecessary to provide notice and an opportunity for comment on this action, which merely carries out the

[1] Manufactured gas plants are facilities that produced gas from coal or oil for lighting, cooking, and heating during the 1800s until the mid 1900s. No active MGP facilities currently exist, although a range of gas production residues remain at the sites of former MGP facilities. Therefore, the only wastes generated at these sites will be from site remediation. MGP wastes are typically tars, sludges, lampblack, light oils, spent oxide wastes, and other hydrocarbons, and soils and debris contaminated with these materials. See 63 FR 28574, May 26, 1998, and EPA 542–R–00–005, *A Resource for MGP Site Characterization and Remediation* for more information on MGP sites and wastes.

court's order. For the same reasons, EPA finds that it has good cause to make the revisions immediately effective under 5 U.S.C. 553(d) and section 3010(b) of RCRA. 42 U.S.C. 6930(b). Further, the rule imposes no new requirements, so members of the regulated community do not need time to come into compliance.

III. To Whom Does the Final Rule Withdrawal of Provisions Apply?

This final rule applies to the owners and operators of facilities that generate or reclaim characteristically hazardous by-products or sludges within the mineral processing industry and to generators of manufactured gas plant wastes. We plan to further consider other revisions to the definition of solid waste (40 CFR 261.2) and will propose these revisions, as appropriate, in the future.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget (OMB). Because the EPA has made a ''good cause'' finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 6, 2000). This action does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

This action does not involve the application of new technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272) do not apply. This action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this action, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). 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. This 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.*). The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of March 13, 2002. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 261

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

Dated: March 7, 2002.

Christine T. Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows.

PART 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, 6924(y), and 6938.

2. Section 261.2 is amended by revising paragraph (c)(3) to read as follows:

§ 261.2 Definition of solid waste.

* * * * *

(c) * * *

(3) *Reclaimed.* Materials noted with a ''*'' in column 3 of Table 1 are solid wastes when reclaimed (except as provided under § 261.4(a)(17)). Materials noted with a ''—''in column 3 of Table 1 are not solid wastes when reclaimed.

* * * * *

3. Section 261.4 is amended by revising paragraph (a)(17) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(17) Spent materials (as defined in § 261.1) (other than hazardous wastes listed in subpart D of this part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

(i) The spent material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(ii) The spent material is not accumulated speculatively;

(iii) Except as provided in paragraph (a)(17)(iv) of this section, the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 40 CFR 260.10), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed and operated to prevent significant releases to the environment of these materials.

(iv) The Regional Administrator or State Director may make a site-specific determination, after public review and

comment, that only solid mineral processing spent material may be placed on pads rather than tanks containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The decision-maker must affirm that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The decision-maker must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: The volume and physical and chemical properties of the secondary material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads must meet the following minimum standards: Be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material, capable of withstanding physical stresses associated with placement and removal, have run on/runoff controls, be operated in a manner which controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under this paragraph, the Regional Administrator or State Director must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

(v) The owner or operator provides notice to the Regional Administrator or State Director providing the following information: The types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of paragraph (a)(7) of this section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

* * * * *

4. Section 261.24 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 261.24 Toxicity characteristic.

(a) A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, test Method 1311 in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication SW–846, as incorporated by reference in § 260.11 of this chapter, the extract from a representative sample of the waste contains any of the contaminants listed in table 1 at the concentration equal to or greater than the respective value given in that table.

* * *

* * * * *

[FR Doc. 02–6063 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45, 98–77, 90–571, 92–237, 99–200, and 95–116; FCC 02–43]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts certain modifications to the existing federal universal service contribution system. Based on examination of the record, the Commission concludes that these modifications are warranted because they will streamline and improve the current system without undue disruption while the Commission considers other, more substantial reforms.

DATES: Effective April 12, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, and 95–116, FCC 02–43 released on February 26, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In the Report and Order, we adopt certain modifications to the existing federal universal service contribution system. Based on examination of the record, we conclude that these modifications are warranted because they will streamline and improve the current system.

II. Report and Order

2. In the Notice of Proposed Rulemaking initiating this proceeding, *see* 66 FR 28718 (May 24, 2001), we recognized the need to reassess periodically the current contribution methodology to ensure that it remains consistent with the goals of the Act as the telecommunications marketplace evolves. Although we are seeking more focused comment on specific proposals to reform the Commission's universal service contribution methodology, we conclude that certain modifications to the current revenue-based contribution assessment methodology should be adopted now to ensure that the goals of the Act are maintained in the short term. Specifically, the measures we adopt in the Order will ensure that universal service funding remains specific and predictable while we consider whether to implement more substantial changes to the contribution methodology. In addition, these modifications will ensure that the recovery of universal service contributions is more understandable for consumers. These measures also will further reduce the regulatory costs of complying with universal service obligations and will ensure that the assessment of contributions remains equitable and nondiscriminatory.

3. First, we revise the Commission's rules to exclude universal service contributions from a contributor's assessable gross-billed interstate telecommunications revenues. This modification addresses ''circularity'' in the current methodology that may cause contributors to mark-up line items. Second, we amend the rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries. Third, we increase from eight to 12 percent the amount of domestic interstate revenues a contributor may have and still qualify for the limited international revenues

exception to our universal service contribution requirements.

A. Eliminating Circularity

4. We adopt our proposal to exclude universal service contributions from a contributor's assessable gross-billed interstate telecommunications revenues, so-called ''circularity.'' This measure will eliminate one cause for contributors to recover amounts in excess of the contribution factor.

5. We clarify how the exclusion of contributor contributions from the contribution base will operate in practice. Contributors will continue to file the Form 499–Q with their gross-billed interstate telecommunications revenues from the prior quarter. A contributor's reported gross-billed interstate telecommunications revenues from the prior quarter serve as the basis for its contributions in the next quarter. The Universal Service Administrative Company (USAC) will subtract from a contributor's contribution base in the upcoming quarter those amounts contributed to universal service in the prior quarter. Contributions will be credited in the quarter in which they are received by USAC. We direct USAC to begin excluding carrier contributions from the contribution base in the third quarter of 2002.

B. Consolidated Form 499 Filing for Certain Contributors

6. We modify our reporting requirements to enable contributors meeting certain criteria to file the Form 499 Worksheet on a consolidated basis. The criteria we adopt for permitting consolidated filings are designed to ensure that a contributor actually functions as a single entity, and to obtain essential revenue and contact information from such a contributor. The ability to file a consolidated Worksheet may substantially decrease the administrative burdens on some contributors. For example, it may ameliorate the need of some contributors to artificially divide their whole company revenues into separate revenue amounts for their subsidiaries solely for Worksheet reporting purposes. We anticipate that many wireless contributors will qualify and choose to file the Worksheet on a consolidated basis. Furthermore, this revision may dramatically decrease the number of Worksheets filed with USAC, thereby reducing the administrative burden on the Commission's data collection agent and fund administrators. Most importantly, permitting contributors to have the option of filing on a consolidated basis will have no negative impact on the integrity of the information contained in the Worksheet.

7. Under the modified reporting requirements we adopt here, consolidated filing will be permitted only if the filing entity certifies that all of the following conditions are met:

(1) A single entity oversees the management of the affiliated systems;

(2) A single entity sends bills to customers and these bills identify a single entity (or trade name) as the service provider, rather than identifying the individual legal entities;

(3) All revenues are posted to a single general ledger;

(4) To the extent that separate revenue and expense accounts exist, they are derived from one consolidated set of books and the consolidated filing must cover all revenues contained in the consolidated books;

(5) Customers have a single point of contact;

(6) The consolidated filer acknowledges that process served on the consolidated filer would represent process served on any or all of the affiliated legal entities;

(7) The consolidated filer agrees to document and resolve all slamming complaints that might be served on either the filing entity or any of the affiliated legal entities;

(8) The consolidated filer obtains a separate FRN from those assigned to its affiliated legal entities;

(9) The consolidated filer acknowledges that its obligations with regard to universal service, Telecommunications Relay Services, Local Number Portability, North American Numbering Plan Administrator, and regulatory fees will be based on the data provided in consolidated Worksheet filings, that it bears the responsibility to satisfy those obligations, and that all legal entities covered by the filing are jointly and severally liable for such obligations; and

(10) The consolidated filer acknowledges that it: (A) Was not insolvent on the date it undertook to make payments on a consolidated basis or on the date of actual payments to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees, and did not become insolvent as a result of such undertaking or payments; (B) was not left with unreasonably small capital as a result of such undertaking or payments; and (C) was not left unable to pay debts as they matured as a result of such undertaking or payments.

8. Each year, entities choosing to file on a consolidated basis must file a statement certifying that they meet all of the above conditions. Such certification also must include: (1) A list of the legal names of all legal entities that are covered by the filing; (2) the Form 499 identification numbers of all legal entities that are covered by the filing; (3) the consolidated filer's FCC Registration Number (FRN); and (4) for wireless carriers, a list of all radio licenses (call signs) issued to each legal entity covered by the filing. Consolidated filers should file this certification with the Commission's Data Collection Agent. Furthermore, a contributor choosing to file on a consolidated basis should recognize that any penalties associated with failure to pay or with underpayment of any of its obligations will be assessed on the total revenue reported on the consolidated basis, rather than on a separate legal entity basis. We direct USAC to begin accepting such consolidated Worksheets in the second quarter of 2002.

9. We also amend § 54.702 by removing § 54.702(f) of our rules. Under § 54.702(f) of our rules, USAC is required to periodically compare information from ''Telecommunications Relay Services Fund Worksheets'' with information submitted on ''Universal Service Worksheets.'' In 1999, however, the Commission established the FCC Form 499 Telecommunications Reporting Worksheet, which consolidated reporting requirements for the universal service mechanisms, the Telecommunications Relay Services Fund, the cost recovery mechanism for administration of the North American Numbering Plan, and the cost recovery mechanism for administration of long-term number portability. As a result, § 54.702(f) was made obsolete, but inadvertently was not removed at that time. Accordingly, we remove it now.

C. Limited International Revenues Exception

10. We conclude that the limited international revenues exception should be increased from eight to 12 percent. Consistent with section 254(d) of the Act, we conclude that raising the threshold to 12 percent will ensure that a contributor's universal service contribution does not exceed the amount of its interstate end-user telecommunications revenues by providing a margin of safety to account for any possible increases to the contribution factor over time. When the limited international revenues exception was implemented in November 1999, the universal service contribution factor was 5.8995 percent, and the Commission anticipated that the universal service contribution factor would not exceed eight percent in the

near future. The Commission recently established a universal service contribution factor of 6.808 percent. As a result of many factors, including possible decreases in assessable revenues and increases in universal service funding requirements over time, modest increases to the contribution factor may occur in the foreseeable future. If the universal service contribution factor increases to eight percent, a contributor may become obligated to contribute to the universal service mechanisms an amount that exceeds the amount of its interstate end-user telecommunications revenues. With the elimination of ''circularity'' and anticipated implementation of interstate access support for non-price cap carriers, Commission staff projects that the contribution factor may exceed 8 percent in 2002. This projection is predicated on the removal of prior period universal service contributions from the contribution base, the continuation of the current assessment system based on revenues, anticipated growth in the universal service mechanisms, and continued modest growth in assessable interstate end-user telecommunications revenues. Large-scale migration to services that are not easy to categorize by jurisdiction or marketplace disruptions, such as a prolonged recession, may result in additional increases to the contribution factor over time. We therefore conclude that increasing the threshold to qualify for the international revenues exception to 12 percent will ensure that contributors are not required to contribute more to universal service than they derive from interstate end-user telecommunications revenues. We direct USAC to begin applying the higher threshold to qualify for the international revenues exception in the second quarter of 2002.

11. Our adoption of a 12 percent threshold to qualify for the limited international revenues exception should not be taken as an indication that we expect the contribution factor to rise to that level in the near future. To the contrary, we choose 12 percent because it will provide for a more than adequate margin of safety if the current contribution factor increases over time.

III. Procedural Issues

A. Final Regulatory Flexibility Act Analysis

1. Need for, and Objectives of, the Report and Order

12. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *2001 Notice*, (66 FR 28718, May 24, 2001). The Commission sought written public comment on the proposals in the *2001 Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

13. In the Order, we adopt modifications to our current universal service contribution methodology, which will further refine and streamline the assessment of universal service contributions. First, we exclude universal service contributions from contributors' assessable gross-billed interstate telecommunications revenues. This modification addresses ''circularity'' in our current methodology that may cause contributors to mark-up line items. Second, we amend our rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries. This modification will allow certain carriers to reduce the burdens associated with complying with the reporting requirements of the universal service fund. Third, we increase from eight to 12 percent the amount of domestic interstate revenues a contributor may have and still qualify for the limited international revenue exception to our universal service contribution requirements. Examination of the record in this proceeding demonstrates the need for these modifications, which address specific concerns raised by commenters to the *2001 Notice*.

2. Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

14. The Commission received comments related to the needs of small local telephone companies. In particular, the Small Business Administration's Office of Advocacy suggested that the Commission should retain the current contribution methodology to avoid raising the administrative costs on small businesses associated with compliance. While we retain the current methodology, we note that the Commission, concurrent with the issuance of the Order, adopted a Further Notice (published elsewhere in this issue) that seeks comment on proposals to fundamentally reform the contribution methodology. The proposals detailed in the Further Notice of Proposed Rulemaking may result in a program with significantly reduced administrative burdens.

15. In the Order, however, the Commission adopts certain modifications to the existing methodology. In particular, the Commission adopted a proposal suggested by many wireless carriers to allow certain contributors to file on a consolidated basis, which should alleviate some of the administrative burden associated with complying with the universal service fund. Additionally, the Commission's reform of the limited international revenue exception should help continue to ensure that contributors are not required to contribute more to universal service than they derive from interstate end-user telecommunications revenues. The Commission has through these modifications minimized potential burdens created by its contribution methodology.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

16. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA.

17. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

18. We have included small incumbent carriers in this RFA analysis. As noted, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent carriers are not dominant in their field of operation because any such dominance is not

''national'' in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

19. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,822 interstate carriers. These carriers include, *inter alia,* incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

20. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in the Order.

21. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in the Order.

22. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually on the Form 499–A. According to our most recent data, there are 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in the Order.

23. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends Report,* 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small cellular service carriers that may be affected by the proposed rules, if adopted.

24. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

25. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order* (62 FR 16004, April 3, 1997), we adopted criteria for defining small and very small

businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

26. *Private and Common Carrier Paging.* In the Paging *220 MHz Third Report and Order,* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends Report,* 427 carriers reported that they were engaged in the provision of paging and messaging services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 427 small paging carriers that may be affected by the decisions and rules adopted in the Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

27. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

28. *Narrowband PCS.* To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order* (65 FR 35875, June 6, 2000). A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

29. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

30. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we

estimate that almost all of them qualify as small under the SBA definition.

31. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

32. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

33. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMRs, 38 are small or very small entities.

4. Description of Reporting, Recordkeeping, and Other Compliance Requirements

34. Pursuant to the Order, the only new or modified reporting requirement is that we amend our rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries. The Commission based its decision in part on the fact that the reduction in administrative costs for these carriers would be significant. The Commission will seek OMB approval for this new or modified reporting requirement when it submits the modified Form 499–Q for approval.

5. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternative Considered

35. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

36. The Commission has taken numerous steps to minimize significant economic impacts on small entities of modifying the universal service contribution methodology adopted in the Order. By eliminating circularity that exists under the current contribution methodology, we reduce one cause for contributors to recover amounts in excess of the current contribution factor and will help address consumer concerns regarding the disparate recovery of universal service contributions through line items. Further, by amending our rules to permit contributors to submit revenue data on a consolidated basis on behalf of commonly-owned subsidiaries, we substantially decrease the administrative burdens of some contributors. We anticipate that many wireless contributors, for example, will choose to file on a consolidated basis. Finally, by increasing the international revenue exception from 8 percent to 12 percent, we ensure that a contributor's universal service obligation does not exceed the amount of its interstate end-user telecommunications revenues.

6. Report to Congress

37. The Commission will send a copy of the Order, including the FRFA analysis, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including the FRFA analysis, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA analysis (or summaries thereof) also will be published in the **Federal Register**.

7. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

38. None.

8. Paperwork Reduction Act Analysis

39. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose no new or modified reporting and recordkeeping requirement on the public, although it may eliminate certain reporting requirements for some entities.

IV. Ordering Clauses

40. Pursuant to the authority contained in sections 4(i), 4(j), 254, and 303(r) of the Communications Act of 1934, as amended, the Report and Order is adopted.

41. Part 54 of the Commission's rules, 47 CFR part 54, is amended, effective April 12, 2002.

42. The Commission's Consumer Information Bureau, Reference Information Center shall send a copy of the Report and Order to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citations continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

§ 54.702 [Amended]

2. Section 54.702 is amended by removing paragraph (f) and by

redesignating paragraphs (g) through (n) as paragraphs (f) through (m).

3. Section 54.706 is amended by revising paragraphs (b) and (c) to read as follows:

§ 54.706 Contributions.

* * * * *

(b) Except as provided in paragraph (c) of this section, every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and every payphone provider that is an aggregator shall contribute to the federal universal service support mechanisms on the basis of its interstate and international end-user telecommunications revenues, net of prior period actual contributions.

(c) Any entity required to contribute to the federal universal service support mechanisms whose interstate end-user telecommunications revenues comprise less than 12 percent of its combined interstate and international end-user telecommunications revenues shall contribute to the federal universal service support mechanisms for high cost areas, low-income consumers, schools and libraries, and rural health care providers based only on such entity's interstate end-user telecommunications revenues, net of prior period actual contributions. For purposes of this paragraph, an ''entity'' shall refer to the entity that is subject to the universal service reporting requirements in 47 CFR 54.711 and shall include all of that entity's affiliated providers of telecommunications services.

* * * * *

4. Section 54.709 is amended by revising paragraphs (a) introductory text, (a)(1), and (a)(2) to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) Contributions to the universal service support mechanisms shall be based on contributors' end-user telecommunications revenues and a contribution factor determined quarterly by the Commission.

(1) For funding the federal universal service support mechanisms, the subject revenues will be contributors' interstate and international revenues derived from domestic end users for telecommunications or telecommunications services, net of prior period actual contributions.

(2) The quarterly universal service contribution factor shall be determined by the Commission based on the ratio of total projected quarterly expenses of the universal service support mechanisms to the total end-user interstate and international telecommunications revenues, net of prior period actual contributions. The Commission shall approve the Administrator's quarterly projected costs of the universal service support mechanisms, taking into account demand for support and administrative expenses. The total subject revenues shall be compiled by the Administrator based on information contained in the Telecommunications Reporting Worksheets described in § 54.711(a).

* * * * *

[FR Doc. 02–6028 Filed 3–12–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN: 1018–AH75

Conferring Designated Port Status on Anchorage, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service confers designated port status on Anchorage, Alaska, pursuant to section 9(f) of the Endangered Species Act of 1973. Designated port status will allow the direct importation and exportation of wildlife through this growing international port. A public hearing has been held on this designation.

DATES: This rule is effective March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Special Agent Julie Scully, (703) 358–1949, or Special Agent Stanley Pruszenski, Assistant Regional Director for Law Enforcement, U.S. Fish and Wildlife Service, Anchorage, Alaska, (907) 786–3311.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act requires that all fish and wildlife, with only limited exceptions, be imported and exported through designated ports. Designated ports facilitate U.S. efforts to monitor wildlife trade and enforce wildlife protection laws and regulations by funneling wildlife shipments through a limited number of locations. The Secretary of the Interior, with approval of the Secretary of the Treasury, designates ports for wildlife trade by regulation after holding a public hearing and collecting and considering public comments. The Service presently has 13 designated ports of entry for the importation and exportation of wildlife: Los Angeles, California; San Francisco, California; Miami, Florida; Honolulu, Hawaii; Chicago, Illinois; New Orleans, Louisiana; New York, New York; Seattle, Washington; Dallas/Fort Worth, Texas; Portland, Oregon; Baltimore, Maryland; Boston, Massachusetts; and Atlanta, Georgia. The Service maintains a staff of wildlife inspectors at each designated port to inspect and clear wildlife shipments. Regulatory exceptions allow certain types of wildlife shipments to enter or leave the country through ports that are not designated. Under certain conditions, importers and exporters can obtain a permit from the Service authorizing their use of non-designated ports. The importer or exporter will accrue additional fees associated with the inspection and permit authorizing use of a non-designated port.

Summary of Comments and Information Received

Section 9(f) of the Endangered Species Act of 1973, 16 U.S.C. 1538 (f)(1), requires that the public be given an opportunity to comment at a hearing before the Secretary of the Interior confers designated port status on any port. The Service published a proposed rule in the **Federal Register** of August 20, 2001 (66 FR 43554), to make Anchorage, Alaska, a designated port under section 9 (f) and to announce a public hearing.

Accordingly, the Service held a public hearing on September 17, 2001, beginning at 6 p.m., at the Fish and Wildlife Service Alaska Regional Office, Anchorage, Alaska. The Service received oral comments from two persons in the import and export arena: A manager from the Federal Express Corporation and the director of the Alaska Export Assistance Center, U.S. Department of Commerce.

One commenter stated that his company has supported the Service's effort to designate the Port of Anchorage for a long time. The second commenter said that the opportunity to use Anchorage as a designated port for wildlife trade promised continued expansion of Alaska's business potential and would facilitate increased exports from the State.

Service Response

The Service appreciates the oral comments received at the public hearing in support of the designation of

Anchorage as a designated port. No written comments were submitted to the Service in response to the proposed rule.

Need for Final Rulemaking

The proximity of Anchorage to the Asian continent has prompted the State of Alaska, the City of Anchorage, and private groups such as international express carriers, the Alaskan tourism industry, and the outdoor recreational industry to target foreign trade markets as a way to bring increased economic growth to Anchorage. Stevens International Airport is expanding and a 100,000-square-foot warehouse is being constructed to accommodate both the growth in airline passengers and the 20 million tons of air freight that already pass through Anchorage each year. This volume is one of the highest for any airport in the United States, and future increases of 11.1 percent per year are projected. International cargo off-loaded in Anchorage has been estimated at 341 million pounds for the year 2000.

Two large international express carriers have regional hubs in Anchorage. Since 1995, both carriers have experienced an annual increase in the volume of international shipments of between 18 to 22 percent. Parallel growth has occurred in the number of wildlife shipments. Since the Service charges higher fees for inspecting and clearing shipments at Anchorage and other non-designated ports, wildlife importers using these facilities have asked that over 70 percent of their shipments be cleared at designated ports of entry in the lower 48 States. Making Anchorage a designated port will facilitate clearance of these shipments and reduce costs for all importers and exporters bringing wildlife through this city.

Increases in international visitors to Alaska have also affected the number of wildlife shipments requiring clearance. The number of U.S. and foreign hunters requesting clearance of wildlife trophies in Anchorage has increased by nearly 300 percent in the last 5 years. Since 1995, the number of foreign hunters exporting Alaskan big game trophies has jumped by 73 percent, adding substantially to the total number of wildlife shipments cleared in Anchorage.

The Service's data for fiscal year 2000 show that the port of Anchorage handled a total of 3,555 wildlife shipments with a declared value of $9.3 million. Anchorage has the highest number of declared wildlife shipments per wildlife inspector of any port in the Nation. The Service projects that the number of wildlife shipments will triple over the next 3 to 5 years following the establishment of Anchorage as a designated port. This projection is based on trends associated with the designation of the ports of Dallas-Fort Worth, Portland, and Atlanta.

Existing and projected increases in air and express cargo along with substantial growth in the number of airline passengers, international visitors, and hunters seeking clearance of wildlife imports and exports justify the designation of the port of Anchorage. This change will improve service to international mail carriers, small businesses, and the public while maintaining effective regulation of U.S. wildlife trade.

In accordance with 5 U.S.C. 553(d)(1), we are making this rule effective upon publication because it recognizes an exemption to the restriction in 50 CFR 14.11.

Required Determinations

This final rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

The purpose of this rule is to confer designated port status on Anchorage, Alaska. This conferral will have very little or no adverse effect on the economic sector, productivity, jobs or the environment, or other units of government. It is intended to decrease the administrative and financial burden on wildlife importers and exporters by allowing them to use the port of Anchorage for all varieties of wildlife shipments. This rule provides a small benefit to those businesses that deal in wildlife trade by allowing the inspection of shipments in Anchorage, and will result in a savings of approximately $65 per shipment for the importer or exporter.

The funds necessary to confer designated port status on Anchorage have been specifically allocated by the United States Congress as part of the FY 2001 budget.

b. This rule will not create inconsistencies with other agencies' actions. The Service is responsible for regulating the import and export of wildlife, and their parts and products. Therefore, this proposed policy has no effect on other agencies' responsibilities and will not create inconsistencies with other agencies' actions.

c. This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. It will, however, affect user fees. User fees will be decreased or cancelled depending on the importer or exporter's status as a licensee. 50 CFR 14.91 specifies that persons engaged in business as importers or exporters of wildlife are required to be licensed by the Service. Engage in business is defined as devoting time, attention, labor, or profit to an activity for gain or profit. As stated in 50 CFR 14.94, the inspection fees during normal working hours at non-designated ports (Anchorage) for licensees and non-licensees are $55 plus a two-hour minimum at $20/hr. A $25 designated port exception permit is also required to use the port of Anchorage. The inspection fee associated with designated ports during normal working hours is $55 for licensees and no charge for non-licensees. As a consequence, licensees will save approximately $65 per shipment by having inspection capability in Anchorage for all wildlife shipments.

d. This rule will not raise novel legal or policy issues. This rule will not raise novel legal or policy issues because it is based upon specific language in the Endangered Species Act and the Code of Federal Regulations which has been applied numerous times to various ports around the country.

The Department of the Interior (Department) has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Service anticipates that the addition of the port of Anchorage to the list of Service-designated ports for the importation and exportation of wildlife will have no adverse effect upon individual industries and cause no demographic changes in populations. In addition, the Service anticipates that this rule will not increase direct costs for small entities and will have no effect upon information collection and record keeping requirements. In light of this analysis, the Service has determined that the rule will not have a significant economic effect on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The Service has determined that this rule will not affect energy supplies, distribution, and use as described in Executive Order 13211. Therefore, this action is not a significant energy action

and no Statement of Energy Effects is required.

This final rule has no private property takings implications as defined in Executive Order 12630. The only effect of this rule will be to make it easier for businesses to import and export wildlife directly through Anchorage, Alaska.

This action does not contain any federalism impacts as described in Executive Order 13132.

This final rule does not contain any information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

These changes in the regulations in part 14 are regulatory and enforcement actions covered by a categorical exclusion from National Environmental Policy Act procedures under 516 Department Manual, Chapter 2, Appendix 1.10.

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

A determination has been made under Section 7 of the Endangered Species Act that this revision of Part 14 will not affect federally listed species.

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not ''significantly or uniquely'' affect small governments.

This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. The port of Anchorage currently clears imports when the shipper requests clearance in Anchorage, as opposed to continuing under U.S. Customs bond to a designated port. The economic impact of authorizing Anchorage as a designated port can be approximated by multiplying the average number of shipments by the average difference in fees associated with designated and non-designated ports. The estimated annual benefit to importers and exporters will be roughly $250,000. This benefit will accrue primarily to small businesses involved in the wildlife trade.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

In accordance with the presidential memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. Individual tribal members are subject to the same regulatory requirements as other individuals who engage in the import and export of wildlife.

Author

The originator of this final rule is Special Agent Julie Scully, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and record keeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Service amends part 14, subchapter B, of title 50 of the Code of Federal Regulations as set forth below.

PART 14—[AMENDED]

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

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

2. Revise § 14.12 to read as follows:

§ 14.12 Designated ports.

The following ports of entry are designated for the importation and exportation of wildlife and are referred to hereafter as ''designated ports:''

(a) Los Angeles, California.
(b) San Francisco, California.
(c) Miami, Florida.
(d) Honolulu, Hawaii.
(e) Chicago, Illinois.
(f) New Orleans, Louisiana.
(g) New York, New York.
(h) Seattle, Washington.
(i) Dallas/Fort Worth, Texas.
(j) Portland, Oregon.
(k) Baltimore, Maryland.
(l) Boston, Massachusetts.
(m) Atlanta, Georgia.
(n) Anchorage, Alaska.

Dated: February 13, 2002.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–5860 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 030702D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season amount of the Pacific cod total allowable catch (TAC) apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 9, 2002, until 1200 hrs, A.l.t., September 1, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area is 13,387 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season amount of the Pacific cod TAC apportioned to

vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA will be reached. In accordance with § 679.20(a)(11)(iii), Pacific cod bycatch taken between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment. Therefore, the Regional Administrator is establishing a directed fishing allowance of 13,387 mt. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2002 A season Pacific cod TAC specified for the inshore component in the Central Regulatory Area constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2001 A season Pacific cod TAC specified for the inshore component in the Central Regulatory Area constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 8, 2002.

Bruce Morehead,

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

[FR Doc. 02–6018 Filed 3–8–02; 1:24 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 49
Wednesday, March 13, 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.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 32

RIN Number 0990–AA05

Administrative Wage Garnishment

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS) proposes to amend its regulations on claims collection to implement the administrative wage garnishment provisions (AWG) of the Debt Collection Improvement Act of 1996 (DCIA). The proposed rule will allow HHS to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order.

DATES: Submit comments on or before May 13, 2002.

ADDRESSES: Send all comments concerning this proposed rule to: Timothy M. White, Associate General Counsel, Office of the General Counsel, Business and Administrative Law Division, Cohen Building, Room 5362, 330 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Timothy M. White, 202–619–0150; or Katherine M. Drews, 202–619–0150.

SUPPLEMENTARY INFORMATION:

Background

This proposed regulation implements the administrative wage garnishment provisions in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321–358, codified at 31 U.S.C 3720D. Under the administrative wage garnishment provisions of the DCIA, Federal agencies may garnish administratively up to 15 percent of the wages of a debtor to satisfy a delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, Federal agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees. Section 31001 (o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting a delinquent non-tax debt may garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Financial Management Service (FMS), a bureau of the Department of the Treasury (Treasury), is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA. FMS published its final rule at 63 FR 25136, May 6, 1998, (Treasury Final Rule) and published a technical amendment at 64 FR 22901, April 28, 1999. The Treasury Final Rule, as amended, is published in § 285.11 of title 31 of the Code of Federal Regulations. Pursuant to 31 CFR 285.11 (f), Federal agencies must either prescribe regulations for the conduct of AWG hearings consistent with the procedural requirements set forth in the Treasury Final Rule or adopt § 285.11 without change by reference.

Basic Provisions

In accordance with the requirements of the DCIA and the implementing regulations at 31 CFR 285.11, the rule establishes the rules and procedures for providing a debtor with written notice at least 30 days before the Department initiates garnishment proceedings, an opportunity to inspect and copy Department records relating to the debt, an opportunity to enter into a repayment agreement, and an opportunity to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule. The rule also establishes the employer's responsibilities for carrying out a wage garnishment order issued by the Department.

Rules and Procedures

Except for minor editorial changes to make the provisions agency-specific, the proposed rule is substantially identical to the Treasury Final Rule. In accordance with the substantive and procedural requirements of the DCIA and the Treasury Final Rule, this proposed rule would establish for HHS the following rules and procedures:

1. Providing a debtor with written notice at least 30 days before the Department initiates garnishment proceedings informing the debtor of the nature and amount of the debt, the intention of the Department to collect the debt through deductions from the debtor's disposable pay, and the debtor's rights regarding the proposed action.
2. Providing the debtor with an opportunity to inspect and copy Department records relating to the debt, to enter into a repayment agreement with the Department, and to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule.
3. Conducting a hearing prior to the issuance of a withholding order, if the debtor's request for a hearing is timely received by HHS. When a debtor's request for a hearing is not received within the time period specified, HHS will not delay issuance of a withholding order prior to conducting the hearing.
4. Sending to the employer of a delinquent debtor a wage garnishment order directing the employer to withhold up to 15% of the debtor's disposable pay and remit those amounts to the Federal Government.
5. Requiring the debtor's employer to certify certain payment information about the debtor.

Economic Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980; Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (the Order) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We have determined that the proposed rule is consistent with the principles set forth in the Order, and we find that the proposed rule would not have an effect

on the economy that exceeds $100 million in any one year. In addition, this rule is not a major rule as defined at 5 U.S.C. 804(2). In accordance with the provisions of the Order, this regulation was reviewed by the Office of Management and Budget.

It is hereby certified under the RFA that this proposed regulation, including the certification referenced in this notice of proposed rulemaking (see § 32.7), will not have a significant economic impact on a substantial number of small entities. This proposed rule applies only to individuals, as well as employers of such individuals, with delinquent debts owed to the United States. Although a substantial number of small entities will be subject to this proposed regulation and to the certification requirement in this proposed rule, the requirements will not have a significant economic impact on these entities. Employers of delinquent debtors must certify certain information about the debtor such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer is served withholding orders on several employees over the course of a year, the cost imposed on the employer to complete the certifications would not have a significant economic impact on that entity. Employers are not required to vary their normal pay cycles in order to comply with a withholding order issued pursuant to this proposed rule.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. As noted above, we find that the proposed rule would not have an effect on the economy of this magnitude.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this proposed rule would not have substantial direct effect on the States, on the relationship between the National Government and States, or on the distribution of power and responsibilities among the various levels of government. As there are no Federalism implications, a Federalism impact statement is not required.

For purposes of the Paperwork Reduction Act, 44 U.S.C. chapter 35, this proposed rule will impose no new reporting or record-keeping requirements on employers. As noted above, although an employer of a delinquent debtor must certify certain information about the debtor, the employer's payroll records already contain this information, and, even if an employer receives withholding orders on several employers, the burden of completing the certification would not be significant. Furthermore, we believe that these reporting requirements fall within the ''administrative action'' exemption in § 1320.4(a)(2) of the Paperwork Reduction Act.

List of Subjects in 45 CFR Part 32

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Hearings and appeal procedures, Salaries, Wages.

For the reasons set forth in the preamble, HHS proposes to amend 45 CFR Subtitle A as follows:

Add part 32 to read as follows:

PART 32—ADMINISTRATIVE WAGE GARNISHMENT

Sec.
32.1 Purpose and scope.
32.2 Definitions.
32.3 General rule.
32.4 Notice.
32.5 Hearing.
32.6 Withholding order.
32.7 Certification by employer.
32.8 Amounts withheld.
32.9 Financial hardship.
32.10 Refunds.
32.11 Ending garnishment.
32.12 Right of action.

Authority: 31 U.S.C. 3720D, 5 U.S.C. 552, 553, E.O. 12866, 12988, 13808.

§ 32.1 Purpose and scope.

(a) *Purpose.* This part prescribes the standards and procedures for the Department to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent non-tax debts owed to the United States.

(b) *Authority.* These standards and procedures are authorized under the wage garnishment provisions of the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3720D, and the Department of the Treasury Administrative Wage Garnishment Regulations at 31 CFR 285.11.

(c) *Scope.* (1) This part applies to all Departmental Operating Divisions and Regional Offices that administer a program that gives rise to a delinquent non-tax debt owed to the United States and to all officers or employees of the Department authorized to collect such debt.

(2) This part shall apply notwithstanding any provision of State law.

(3) Nothing in this part precludes the compromise of a debt or the suspension or termination of collection action in accordance with part 30 of this title, or other applicable law or regulation.

(4) The receipt of payments pursuant to this part does not preclude the Department from pursuing other debt collection remedies, including the offset of Federal payments to satisfy delinquent non-tax debt owed to the United States. The Department may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment.

(5) This part does not apply to the collection of delinquent non-tax debts owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

(6) Nothing in this part requires the Department to duplicate notices or administrative proceedings required by contract or other laws or regulations.

§ 32.2 Definitions.

In this part, unless the context otherwise requires:

Business day means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday, in which case the next business day following the holiday will be considered the last day of the period.

Certificate of service means a certificate signed by an employee of the Department indicating the nature of the document to which it pertains, the date of mailing of the document, and to whom it is being sent.

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal legal holiday, in which case the next business day will be considered the last day of the period.

Debt or *claim* means an amount of money, funds, or property that has been determined by the Secretary to be owed to the United States by an individual, including debt administered by a third party as an agent of the Federal Government. A debt or claim includes, but is not limited to: amounts owed on account of loans made, insured or

guaranteed by the Federal Government, including any deficiency or difference between the price obtained by the Federal Government upon selling the property and the amount owed to the Federal Government; overpayments to program beneficiaries; any amount the Federal Government is authorized by statute to collect for the benefit of any person; the unpaid share of any non-Federal partner in a program involving a Federal payment, including a matching or cost-sharing payment of the non-Federal partner; any fine, civil penalty or assessment; and other amounts or money or property owed to the Federal Government.

Debtor means an individual who owes a delinquent non-tax debt to the United States.

Delinquent debt means any non-tax debt that has not been paid by the date specified in the Department's initial written demand for payment, or applicable payment agreement or instrument, unless other satisfactory payment arrangements have been made. For purposes of this part, ''delinquent'' and ''overdue'' have the same meaning.

Department means the United States Department of Health and Human Services, including each of its Operating Divisions and regional offices.

Disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this part, ''amounts required by law to be withheld'' include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

Employer means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government as defined by 31 CFR 285.11 (c).

Garnishment means the process of withholding amounts from an employee's disposable pay and paying those amounts to a creditor in satisfaction of a withholding order.

Hearing means a review of the documentary evidence concerning the existence or amount of a debt, or the terms of a repayment schedule, provided such repayment schedule is established other than by a written agreement entered into pursuant to this part. If the hearing official determines that the issues in dispute cannot be resolved solely by review of the written record, such as when the validity of the debt turns on the issue of credibility or veracity, an oral hearing may be provided.

Hearing official means any qualified individual, as determined by the Secretary, including a Departmental Appeals Board administrative law judge.

Secretary means the Secretary of Health and Human Services, or the Secretary's designee within the Department.

Withholding order for purposes of this part means ''Wage Garnishment Order (SF–329B).'' Also for purposes of this part, the terms ''wage garnishment order'' and ''garnishment order'' have the same meaning as ''withholding order.''

§ 32.3 General rule.

(a) Except as provided in (b), whenever a delinquent debt is owed by an individual, the Secretary, or another federal agency collecting a debt on the Department behalf (See 45 CFR part 30), may initiate proceedings administratively to garnish the wages of the delinquent debtor.

(b) The Secretary may not garnish the wages of a debtor who the Secretary knows has been involuntarily separated from employment until the debtor has been re-employed continuously for at least 12 months. The debtor has the burden of informing the Secretary of the circumstances surrounding an involuntary separation from employment.

§ 32.4 Notice.

(a) *Notice requirements.* At least 30 days before the initiation of garnishment proceedings, the Secretary shall mail, by first class mail, to the debtor's last known address a written notice informing the debtor of:

(1) The nature and amount of the debt;

(2) The intention of the Secretary to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties, and administrative costs are paid in full;

(3) The debtor's right—

(i) To inspect and copy Department records related to the debt;

(ii) To enter into a written repayment agreement with the Department under terms agreeable to the Department;

(iii) To a hearing, in accordance with § 32.5, concerning the existence or the amount of the debt or the terms of the proposed repayment schedule under the garnishment order, except that the debtor is not entitled to a hearing concerning the proposed repayment schedule if the terms were established by written agreement pursuant to paragraph (a)(3)(ii) of this section; and

(4) The time frames within which the debtor may exercise his or her rights.

(b) The Secretary will keep a copy of the dated notice. The notice may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

§ 32.5 Hearing.

(a) *In general.* Upon timely written request of the debtor, the Secretary shall provide a hearing, which at the Department's option may be oral or written, concerning the existence or amount of the debt, or the terms of a repayment schedule established other than by written agreement under § 32.4(a)(3)(ii).

(b) *Request for hearing.* (1) The request for a hearing must be signed by the debtor, state each issue being disputed, and identify and explain with reasonable specificity all facts and evidence that the debtor believes supports the debtor's position. Supporting documentation identified by the debtor should be attached to the request.

(2) *Effect of timely request.* Subject to paragraph (j) of this section, if the debtor's written request is received on or before the 15th business day following the mailing of the written notice required under this part, a withholding order shall not be issued under § 32.6 until the debtor has been provided the requested hearing and a decision in accordance with paragraphs (g) and (h) of this section has been rendered.

(3) *Failure to timely request a hearing.* If the debtor's written request is received after the 15th business day following the mailing of the written notice required under this part, the Secretary shall provide a hearing to the debtor. However, the Secretary shall not delay the issuance of a withholding order unless the Secretary determines that the delay in submitting such request was caused by factors beyond the control of the debtor, or the Secretary receives information that the Secretary determines justifies a delay or cancellation of the withholding order.

(c) *Oral hearing.* (1) For purposes of this section, a debtor shall be provided a reasonable opportunity for an oral hearing when the hearing official determines that the issues in dispute cannot be resolved by review of the documentary evidence, such as when the validity of the claim turns on the issue of credibility or veracity.

(2) If the hearing official determines an oral hearing is appropriate, the

hearing official will establish the date, time and location of the hearing. At the debtor's option, the oral hearing may be conducted in person or by telephone conference. The hearing official will notify the debtor of the date, time, and in the case of an in-person hearing, the location of the hearing. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(d) *Paper hearing.* (1) If the hearing official determines an oral hearing is not required by this section, the hearing official shall afford the debtor a paper hearing, that is, the issues in dispute will be decided based upon a review of the written record.

(2) The hearing official shall notify the debtor of the deadline for the submission of additional evidence if necessary for a review of the record.

(e) *Burden of proof.* (1) The Secretary has the initial burden of proving the existence or amount of the debt.

(2) Thereafter, if the debtor disputes the existence or amount of the debt, the debtor must present by a preponderance of the evidence that no debt exists or that the amount is incorrect. When challenging the terms of a repayment schedule, the debtor must establish by a preponderance of the evidence that the terms of the repayment schedule are unlawful, would cause financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law.

(f) *Record.* The hearing official shall maintain a summary record of any hearing provided under this part. A hearing is not required to be a formal evidentiary-type hearing, but witnesses who testify in an oral hearing must do so under oath or affirmation.

(g) *Date of decision.* (1) The hearing official shall issue a written decision, as soon as practicable, but no later than sixty (60) days after the date on which the request for the hearing was received by the Department.

(2) If the hearing official is unable to provide the debtor with a hearing and render a decision within 60 days after the receipt of the request for such hearing:

(i) A withholding order may not be issued until the hearing is held and a decision is rendered; or

(ii) A withholding order previously issued to the debtor's employer must be suspended beginning on the 61st day after the receipt of the hearing request and continuing until a hearing is held and a decision is rendered.

(h) *Content of decision.* The written decision shall include:

(1) A summary of the facts presented;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The terms of any repayment schedule, if applicable.

(i) *Final agency action.* The hearing official's decision will be the final agency action for the purposes of judicial review under the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

(j) *Failure to appear.* In the absence of good cause shown, a debtor who fails to appear at a hearing will be deemed as not having timely filed a request for a hearing.

§ 32.6 Withholding order.

(a) Unless the Secretary receives information that the Secretary determines justifies a delay or cancellation of a withholding order, the Secretary shall send, by first class mail, an SF–329A ''Letter to Employer & Important Notice to Employer,'' an SF–329B ''Wage Garnishment Order,'' an SF–329C ''Wage Garnishment Worksheet,'' and an SF–329D ''Employer Certification,'' to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing, i.e., within 15 business days after mailing the notice required under this part, or, if the timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the Secretary to proceed with garnishment.

(b) The Secretary shall keep a copy of the dated letter to the employer and a copy of the wage garnishment order. The certificate of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

§ 32.7 Certification by employer.

The employer must complete and return the SF–329D, ''Employer Certification'' to the Department within 20 days of receipt.

§ 32.8 Amounts withheld.

(a) After receipt of a withholding order issued under this part, the employer shall deduct from all disposable pay paid to the debtor during each pay period the amount of garnishment described in paragraph (b) of this section. The employer may use the SF–329C ''Wage Garnishment Worksheet'' to calculate the amount to be deducted from the debtor's disposable pay.

(b) Subject to paragraphs (c) and (d) of this section, the amount of garnishment shall be the lesser of:

(1) The amount indicated on the garnishment order up to 15% of the debtor's disposable pay; or

(2) The amount set forth in 15 U.S.C. 1673(a)(2) (Maximum allowable garnishment). The amount set forth at 15 U.S.C. 1673(a)(2) is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the minimum wage. *See* 29 CFR 870.10.

(c)(1) Except as provided in paragraph (c)(2) of this section, when a debtor's pay is subject to multiple withholding orders, unless otherwise provided by Federal law, withholding orders issued pursuant to this part shall have priority over other withholding orders that are served later in time.

(2) Notwithstanding the foregoing, withholding orders for family support shall have priority over withholding orders issued under this part.

(3) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this part, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to a withholding order issued under this part shall be the lesser of:

(i) The amount calculated under paragraph (b) of this section, or

(ii) An amount equal to 25% of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.

(d) If the debtor owes more than one debt to the Department, the Secretary may issue multiple withholding orders provided that the total amount garnished from the debtor's pay for such orders does not exceed the amount set forth in paragraph (b) of this section.

(e) An amount greater than that set forth in paragraphs (b) or (c) of this section may be withheld upon the written consent of the debtor.

(f) The employer shall promptly pay to the Department all amounts withheld in accordance with the withholding order issued pursuant to this part.

(g) The employer is not required to vary its normal pay and disbursement cycles in order to comply with the withholding order.

(h) Any assignment or allotment by an employee shall be void to the extent it interferes with or prohibits execution of the withholding order issued under this part, except for any assignment or allotment made pursuant to a family support judgment or order.

(i) The employer shall withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the Secretary to discontinue wage withholding.

(j) The withholding order, SF–329B ''Wage Garnishment Order,'' sent to the

employer under § 32.6, requires the employer to commence wage withholding on the first pay day after the employer receives the order. However, if the first pay day is within 10 days after receipt of the order, the employer may begin deductions on the second pay day.

(k) An employer may not discharge, refuse to employ, or take disciplinary action against an debtor a result of the issuance of a withholding order under this part.

§ 32.9 Financial hardship.

(a) A debtor whose wages are subject to a withholding order may, at any time, request a review by the Department of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in financial hardship.

(b) A debtor requesting such a review under paragraph (a) of this section shall submit the basis for claiming that the current amount of garnishment results in a financial hardship to the debtor, along with supporting documentation. The Secretary shall consider any information submitted in accordance with this part.

(c) If a financial hardship is found, the Secretary shall downwardly adjust, by an amount and for a period of time established by the Secretary, the amount garnished to reflect the debtor's financial condition. The Secretary will notify the employer of any adjustments to the amount to be withheld.

§ 32.10 Refunds.

(a) If the hearing official, pursuant to a hearing under this part, determines that a debt is not legally due and owing to the United States, the Secretary shall promptly refund any amount collected by means of administrative wage garnishment.

(b) Unless required by Federal law or contract, refunds under this part shall not bear interest.

§ 32.11 Ending garnishment.

(a) Once the Department has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs assessed pursuant to and in accordance with part 30 of this title, the Secretary shall send the debtor's employer notification to discontinue wage withholding.

(b) At least annually, the Secretary shall review its debtors' accounts to ensure that garnishment has been terminated for accounts that have been paid in full.

§ 32.12 Right of action.

(a) The employer of a debtor subject to wage withholding pursuant to this part shall pay to the Department as directed in a withholding order issued under this part.

(b) The Secretary may bring suit against an employer for any amount that the employer fails to withhold from wages owed and payable to a debtor in accordance with §§ 32.6 and 32.8, plus attorney's fees, costs, and if applicable, punitive damages.

(c) A suit under this section may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, ''termination of collection action'' occurs when the Secretary has terminated collection action in accordance with part 30 of this title, or other applicable law or regulation.

(d) Notwithstanding paragraph (c) of this section, termination of the collection action will be deemed to occur if for a period of one (1) year the Department does not receive any payments from a debtor whose wages were subject to a garnishment order issued under this part.

Dated: November 7, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–5924 Filed 3–12–02; 8:45 am]

BILLING CODE 4150–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, 95–116, and 98–170; FCC 02–43]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers.

DATES: Comments are due on or before April 12, 2002. Reply comments are due on or before April 29, 2002. Written comments by the public on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due on or before April 12, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 13, 2002.

ADDRESSES: All filings must be sent to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbherman@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to *JeanetteThornto@omb.eop.gov.* Parties should also send three paper copies of their filings to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5–B540, Washington, DC 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CYB402, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400. For further information concerning the information collection contained in this Further Notice of Proposed Rulemaking contact Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbherman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking and Report and Order in CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, 95–116, and 98–170, FCC 02–43, released on February 26, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference

Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

This Further Notice of Proposed Rulemaking (Further Notice) contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

The Further Notice contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) contained in this Further Notice, as required by the PRA, Public Law 104–13. Public and agency comments on the proposed and/or modified information collections discussed in this Further Notice are due on or before April 12, 2002. Written comments must be submitted by the OMB on the proposed and/or modified information collections on or before May 13, 2002.

Comments should address: (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 estimates; (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.

OMB Control Number: None.

Title: Contribution Methodology—FNPRM.

Form No.: FCC Forms 499–A, 499–Q, and 499–M.

Type of Review: Proposed New Collection.

Respondents: Business or other for-profit.

Title	Number of respondents	Est. time per response	Total annual burden
1. Assessment on a Connection and Capacity Basis ..... *Total Annual Burden:* 69,250 *Cost to Respondents:* $0.	5,500	[1] 9.5	69,250
2. Assessment on a Modified Revenue Basis ..... *Total Annual Burden:* 81,250 *Cost to Respondents:* $0.	5,500	[2] 9.5	81,250

[1] 9.5 hours for 3,500 respondents that file the annual filing and 1.5 hours for 2,000 respondents that file the monthly filing, if adopted.
[2] 9.5 hours for 3,500 respondents that file the annual filing and 6 hours for 2,000 respondents that file the quarterly filing, if adopted.

Needs and Uses: The Commission has issued a Further Notice which seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. The Commission seeks comment on specific proposals to require carriers to contribute based on the number and capacity of connections to a public network, or to contribute based on modifications to the existing mechanism, such as on a projected revenues basis. Additionally, the Commission seeks comment on limiting the manner in which carriers recover contribution costs from their customers. If carriers choose to recover universal service contributions from their customers through line items, the Commission seeks comment on requiring carriers to do so through a uniform universal service line item that corresponds to the contribution assessment on the carrier. The Universal Service Administrative Company (Administrator) would use information filed on connections and capacity or revenues to determine the universal service contribution factor. Section 254 of the Act requires carriers providing interstate telecommunications services to contribute to universal service. Currently, respondents file their gross-billed end-user telecommunications revenues on a quarterly basis in FCC Form 499–Q, and on an annual basis in FCC Form 499A.

Synopsis of Further Notice

I. Introduction

1. In 1997, the Commission adopted a system under which telecommunications providers contribute to universal service based on their end-user revenues. Since that time, the telecommunications marketplace has changed rapidly and technologies have evolved, with major developments including increased competition, migration to new products and services, and bundling of traditionally distinct services. These trends could erode the contribution base over time. In light of these trends, the Commission began a proceeding to revisit its universal service contribution methodology in May 2001. Commenters have submitted a range of innovative ideas and proposals for reforming the current system, while others assert that the status quo should be maintained. We now seek to further develop the record on some of these proposals.

2. In the Further Notice, we seek more focused comment on whether to assess contributions based on the number and capacity of connections provided to a public network, as proposed by some commenters. We seek comment on whether a connection-based assessment approach would ensure the long-term stability, fairness, and efficiency of the universal service contribution system in a dynamic telecommunications marketplace. We also invite commenters to supplement the record developed in response to the *2001 Notice,* (66 FR 28718, May 24, 2001), with any new arguments or data regarding proposals to retain or modify the existing revenue-based system. In addition, we seek additional comment in the Further Notice on reforming the contribution recovery process to make it more fair and understandable for consumers.

3. Whereas this proceeding concerns the Commission's methodology for assessment and recovery of universal service contributions generally, we seek comment in a companion proceeding on a different but related issue: In an evolving telecommunications marketplace, should facilities-based broadband Internet access providers be required to contribute to support universal service and, if so, on what legal basis? That proceeding explores this question by seeking comment on what universal service contribution obligations providers of facilities-based broadband Internet access should have as the telecommunications market evolves, and how such obligations can be administered in an equitable and non-discriminatory manner.

Commenters should be mindful of the relationship between this proceeding and the *Broadband NPRM,* (67 FR 9232, February 28, 2002), proceeding and, where appropriate, should address interrelated issues raised by the proposals.

II. Overview

4. Prior to passage of the Telecommunications Act of 1996, the Commission and the states oversaw a variety of explicit and implicit subsidy programs designed to reduce the cost of telecommunications services for consumers living in high-cost areas and for eligible low-income consumers. Universal service for high-cost areas helped to ensure that consumers in those areas paid rates for services comparable to those paid by consumers in low-cost areas, and the low-income program helped to make services more affordable for low-income consumers. Ensuring the affordability and availability of telecommunications services benefited consumers, and continues to do so, by increasing subscribership levels and, consequently, the value of the Nation's communications network.

5. In section 254 of the Telecommunications Act of 1996, Congress further codified the Commission's historic commitment to ensuring the affordability and availability of telecommunications services for all Americans. Specifically, section 254(d) provides that federal support mechanisms should be specific, predictable, and sufficient to preserve and advance universal service, and that telecommunications providers should contribute on an equitable and nondiscriminatory basis. The Commission implemented the current contribution system in 1997. This system has two distinct but related components: The assessment of contributions on telecommunications providers; and the recovery of contribution payments by providers from their customers. Contributors are assessed on the basis of their interstate and international end-user telecommunications revenues, based on a percentage or ''contribution factor'' that is calculated every quarter. The Commission recognized in 1997 that contributors likely would recover their contributions to universal service from their end users, although they are not required to do so. Contributors are permitted to do so in any equitable and non-discriminatory manner. Many contributors elect to recover their contributions from their customers through a line-item fee, while others do not have a specific line item to recover the costs and instead recover them through their rates. In considering possible reforms to the universal service contribution system, we may determine that it is appropriate to modify the assessment and/or the recovery components.

6. Over the last few years, important changes have occurred in the interstate telecommunications marketplace. Interstate revenues grew consistently between 1984 and 1997, when the current contribution system was adopted, and such growth was expected to continue. Recently, however, interstate revenues have declined for interexchange carriers, which are now responsible for contributing approximately 63 percent of federal universal service funding. Various factors may be responsible for this decline, including migration of customers to new products and services, local exchange carrier entry into the long distance market, and related price competition. If the current methodology is not modified or replaced, this trend could erode the contribution base over time, requiring increases in the contribution factor to maintain current levels of universal service support.

7. We also have observed broader fluctuations in the contribution base. The Common Carrier Bureau recently reported that annual end-user switched interstate telecommunications revenues declined in 2000, the first time since such data has been compiled. We also observed a decline in assessable revenues in the first half of 2001. One analyst projected that United States long distance revenues would decline 12 percent in 2001.

8. Competition in the interexchange market continues to increase. For example, Regional Bell Operating Companies (RBOCs) increasingly are providing interstate long distance service. To date, the Commission has granted RBOCs approval to offer in-region interLATA service in nine states: Arkansas, Connecticut, Massachusetts, Missouri, New York, Pennsylvania, Kansas, Oklahoma, and Texas. One analyst recently reported that Verizon and SBC already have captured 25 percent of the long distance markets in New York and Texas, respectively. Verizon recently reported that it is the fourth-largest residential long distance provider in the nation based on subscriber market share.

9. Because the current contribution system is based on historical revenues, some contend that it creates competitive advantages for contributors with increasing interstate telecommunications revenues, while disadvantaging those with declining revenues. Under the current system, contributors are assessed on revenues that they earned six months earlier. As a result, contributors with increasing revenues recover contributions from a larger revenue base than the one on which they are assessed, and can pass through to their customers lower fees than competitors with declining revenues, who must recover their contributions from a declining revenue base. New entrants also may be able to undercut the prices offered by established service providers who already contribute to universal service, because they do not contribute for the first six months that they provide service due to their lack of historical revenues for that period.

10. In addition, the growth of Commercial Mobile Radio Service (CMRS) appears to be causing a significant migration of interstate telecommunications revenues from wireline to mobile wireless providers. Since the current assessment system was adopted in 1997, mobile telephony subscribership has increased from 55.3 million to 109.5 million subscribers, and average customer minutes of use have increased from 117 minutes per month to 255 minutes per month. Consistent with these trends, mobile service is becoming a substitute for traditional wireline services such as payphones and second lines to the home, and there is a small but growing number of customers who have substituted mobile wireless for their primary residential lines. In addition, many customers are using their mobile service rather than interexchange service to make long distance calls: According to one report, 16 percent of customers surveyed now make most of their long distance calls using mobile services. In some areas, such ''technology substitution'' has begun to erode revenue from interexchange services, which is currently the primary contribution source for universal service funding.

11. Since 1997, marketplace developments also have blurred the distinctions between interstate/intrastate and telecommunications/non-telecommunications revenues on which the current contribution system is based. For example, carriers increasingly are bundling services together in creative ways, such as by offering flat-rate packages that include both local- and long-distance services. Virtually all of the major mobile telecommunications service providers now offer a type of Digital-One-Rate (DOR) pricing plan that allows customers to purchase a bucket of minutes on a nationwide, or nearly

nationwide, network without incurring roaming or long distance charges. A number of carriers, including AT&T Wireless, Verizon Wireless, and Cingular Wireless, also have begun offering regional DOR calling plans. At the end of 2000, approximately 20 million mobile wireless telephone customers subscribed to calling plans that do not charge extra for long distance. The availability of such plans compounds the inherent difficulty of identifying interstate revenues in a mobile environment.

12. Likewise, more and more carriers now offer bundled packages of telecommunications services and customer premises equipment (CPE) or information services. The accelerating development of new technologies like ''voice over Internet'' increases the strain on regulatory distinctions such as interstate/intrastate and telecommunications/non-telecommunications, and may reduce the overall amount of assessable revenues reported under the current system. Additional legal, technological, and market developments that we cannot foresee also could significantly impact the universal service contribution base.

13. In light of these and other changes in the telecommunications marketplace, we have recognized the need to review the current system for assessing universal service contributions. Fifty-nine parties filed comments in response to the *2001 Notice.* Our examination of the record reveals a consensus that reforms are necessary, although different industry segments differ on what reforms should be undertaken. Some commenters support retention of the current revenue-based assessment system. Other commenters support modifying the current system, for example, by assessing contributions on projected or current revenues rather than historical revenues. Still other commenters support replacing the current revenue-based assessment system with one that focuses on connections.

14. Our primary goal in considering possible reforms of the current assessment system is to ensure the stability and sufficiency of the universal service fund as the marketplace continues to evolve. We also seek to identify the best means of ensuring that contributors continue to be assessed in an equitable and nondiscriminatory manner. In addition, we seek to provide certainty to market participants, and minimize the regulatory costs of complying with universal service obligations. Achievement of these goals, in turn, should benefit consumers by helping to ensure that the contribution recovery process is fair, reasonable, and readily understood by consumers.

15. In this Further Notice, we seek comment on whether to base contributions not on a contributor's revenues, but on the number and capacity of the connections it provides to a public network. Under this proposal, contributions for residential, single-line business, and mobile wireless connections would be assessed on a flat, monthly basis. Contributions for multi-line business connections would be calculated to recover the remaining universal service funding needs, based on the capacity of the connections provided. In addition, we seek comment on a variant of a connection-based assessment methodology that would maintain the relative contribution burdens on different industry segments. We also invite commenters to supplement the record developed in response to the *2001 Notice* with any new arguments or data regarding whether to retain or modify the existing system.

16. A connection-based assessment may address the difficulty of applying regulatory distinctions inherent in the existing system to new services and technologies. By harmonizing the contribution system with the telecommunications marketplace, a connection-based assessment approach may help to ensure the stability and sufficiency of the universal service contribution base over time. Such an approach also may provide contributors with greater certainty, reduce administrative costs, and avoid marketplace distortions, ultimately benefiting consumers. Moreover, by eliminating some of the complexity involved with contribution recovery fees and making only one provider responsible for contributing based on a single connection, a connection-based assessment also may make the recovery process more understandable for consumers. Furthermore, by reducing costs associated with the recovery of contributions, a connection-based assessment also may reduce the total amount that consumers pay in contribution recovery fees.

17. Our experience over the last few years also has led us to reevaluate carrier recovery practices. Carriers currently have the flexibility to recover their contribution obligations in any manner that is equitable and nondiscriminatory. Some elect to recover their contributions from their customers through line-item charges, while others elect to collect their contribution requirement through their rates. Although the contribution factor is uniform for all contributors, universal service line items to consumers may vary widely among contributors, and often significantly exceed the amount of the contribution factor. For example, in the second quarter of 2001, after the Commission established a contribution factor of 6.882 percent, one interexchange carrier raised its residential universal service line item to 12 percent. That carrier's residential line item was subsequently reduced to 9.9 percent. Another interexchange carrier increased its residential line item to 11.5 percent on January 1, 2002, even though the contribution factor recently decreased from 6.918 in the fourth quarter to 6.808 percent in the first quarter.

18. Some carriers also employ different recovery methods for different customer groups, imposing universal service line-item charges on certain categories of presubscribed customers, but recovering an undisclosed amount from other customers through per-minute service rates. For example, some carriers do not recover universal service contributions from certain categories of customers, such as dial-around customers. In addition, universal service line-item percentages for residential customers often are higher than those for business customers. Other carriers charge customers large, up-front universal service fees that are unrelated to their revenues from a customer. Such practices may be inexplicable to the casual observer, and may shift a disproportionate share of the cost of contributions onto certain customer classes.

19. In this Further Notice, therefore, we seek comment on how to modify our rules to ensure that carriers that elect to recover their universal service obligations from their customers do so in a manner that is reasonable, fair, and understandable. In particular, we seek comment on whether to require carriers that elect to recover through separate universal service line-item charges on any customer bill to apply a uniform line item on all customer bills. To further develop the record in the *Truth-in-Billing* proceeding, we also seek comment on whether to require carriers to describe such line-item charges on customer bills as the ''Federal Universal Service Fee.'' We seek comment on whether these proposals would help to prevent consumers from being charged excessive universal service fees, to make the recovery process more understandable for consumers, and to ensure that carriers do not recover more from certain customers or classes of customers than from others. We also seek comment on whether the proposed

reforms would place significant administrative or financial burdens on contributing carriers and on the potential benefits and costs for consumers.

III. Procedural Issues

A. Ex Parte Presentations

20. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Initial Regulatory Flexibility Act Analysis

21. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice provided below in section III.C. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for and Objectives of the Proposed Rules

22. Over the last few years, important changes have occurred in the interstate telecommunications marketplace. Recently, interstate revenues have declined for certain interexchange carriers, who are now responsible for contributing approximately 63 percent of federal universal service funding. We observed a decline in assessable revenues in the first half of 2001. One analyst projects that United States long distance revenues will decline 12 percent in 2001. Various factors may be responsible for this decline, including migration of customers to new products and services, local exchange carrier entry into the long distance market, and related price competition. This trend could erode the contribution base over time, requiring increases in the contribution factor.

23. Additionally, since 1997, marketplace developments also have blurred the distinctions between interstate/intrastate and telecommunications/non-telecommunications revenues on which the current contribution system is based. Carriers increasingly are bundling services together in creative ways, for example by offering flat-rate packages that include both local and long distance services. Virtually all of the major mobile telecommunications service providers now offer a type of Digital-One-Rate (DOR) pricing plan that allows customers to purchase a bucket of minutes on a nationwide, or nearly nationwide, network without incurring roaming or long distance charges. A number of carriers, including AT&T Wireless, Verizon Wireless, and Cingular Wireless, also have begun offering regional DOR calling plans. At the end of 2000, approximately 20 million mobile telephone customers subscribed to calling plans that offer free nationwide long distance. The availability of such plans compounds the inherent difficulty of identifying interstate revenues in a mobile environment. Traditional wireline providers also are increasingly offering bundled rates for packages of local and long distance services.

24. Likewise, more and more carriers now offer bundled packages of telecommunications services and customer premises equipment (CPE) or information services. The accelerating development of new technologies like ''voice over Internet'' increases the strain on regulatory distinctions such as interstate/intrastate and telecommunications/non-telecommunications, and may reduce the overall amount of assessable revenues reported under the current system. Additional legal, technological, and market developments that we cannot foresee now also could significantly impact the universal service contribution base.

25. In light of these and other changes in the telecommunications marketplace, the Commission has recognized the need to review the current system for assessing universal service contributions. Our examination of the record reveals a consensus that reforms are necessary, although different industry segments differ on what reforms should be undertaken. Our primary goal is to ensure the stability and sufficiency of the universal service fund as the marketplace continues to evolve. We also seek to identify the best means of ensuring that contributors continue to be assessed in an equitable and nondiscriminatory manner, and recover their contributions in ways that are fair and understandable for consumers. In addition, we seek to provide certainty to market participants, and minimize the regulatory costs of complying with universal service obligations.

2. Legal Basis

26. The legal basis as proposed for this Further Notice is contained in sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 4(j), 201–205, 254, 403.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

27. The Commission's contributor reporting requirements apply to a wide range of entities, including all telecommunications carriers and other providers of interstate telecommunications services that offer telecommunications services for a fee. Thus, we expect that the proposal in this proceeding could have a significant economic impact on a substantial number of small entities. Of the estimated 5,000 filers of the Telecommunications Reporting Worksheet, FCC Form 499, we do not know how many are small entities, but we offer below a detailed estimate of the number of small entities within each of several major carrier-type categories.

28. To estimate the number of small entities that could be affected by these proposed rules, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

29. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

30. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

31. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,822 interstate carriers. These carriers include, *inter alia,* incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

32. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

33. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

34. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually on the Form 499–A. According to our most recent data, there are 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in this Order.

35. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends Report,* 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small cellular service carriers that may be affected by the proposed rules, if adopted.

36. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. If

this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

37. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order,* (62 FR 16004, April 3, 1997), we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: One of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

38. *Private and Common Carrier Paging.* In the Paging *200 MHz Third Report and Order,* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends Report,* 427 carriers reported that they were engaged in the provision of paging and messaging services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 427 small paging carriers that may be affected by the decisions and rules adopted in this Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

39. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

40. *Narrowband PCS.* To date, two auctions of narrowband PCs licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order,* (65 FR 35875, June 6, 2000). A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

41. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify

as small entities under the SBA's definition.

42. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. We will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

43. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

44. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

45. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

46. Should the Commission decide that fundamental reform of the existing contribution methodology is needed, the associated rule changes potentially could modify the reporting and recordkeeping requirements of telecommunications service providers regulated under the Communications Act. As discussed previously, we potentially could require telecommunications service providers to file additional and/or different monthly or quarterly reports. Any such reporting requirements potentially could require the use of professional skills, including legal and accounting expertise. Without more data, we cannot accurately estimate the cost of compliance by small telecommunications service providers. In this Further Notice, we therefore seek comment on the frequency with which carriers should submit reports to USAC, the types of burdens carriers will face in periodically submitting reports to USAC, and whether the costs of such reporting are outweighed by the potential benefits of the possible reforms. Entities, especially small businesses, are encouraged to quantify the costs and benefits of the reporting requirement proposals.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

47. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

48. As discussed previously, this Further Notice seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. We seek more focused comment on whether to assess contributions based on the number and capacity of connections provided to a public network, as proposed by some commenters. A connection-based assessment approach may address the difficulty of applying regulatory distinctions inherent in the existing system to new services and technologies. By harmonizing the contribution system with the telecommunications marketplace, a connection-based assessment approach may help to ensure the stability and sufficiency of the universal service contribution base over time. We also invite commenters to supplement the record developed in response to the *2001 Notice* with any new arguments or data regarding whether to retain or modify the existing revenue-based system. For example, some commenters suggest that we retain or modify slightly the existing system. In addition, we seek additional comment in the Further Notice on reforming the contribution recovery process to make it more fair and understandable for consumers.

49. Wherever possible, the Further Notice seeks comment on how to reduce the administrative burden and cost of compliance for small telecommunications service providers. We seek comment, for example, on the appropriate frequency and content of reporting under a connection-based methodology. We particularly seek comment from contributors that are ''small business concerns'' under the Small Business Act.

50. Contributors currently report their gross-billed interstate end-user telecommunications revenues on a quarterly basis on the Form 499-Q. We seek comment on requiring contributors to report the number and capacity of their connections on a monthly basis. Under this proposal, each month contributors would receive a fill-in-the-blank bill from USAC and would remit their contribution based on the number and capacity of their end-user connections in service as of the end of the prior month. Therefore, the proposed new Form 499–M would serve both as a contributor's monthly bill and its reporting obligation. Although contributors would have to report more frequently under this proposal than under the current system, their overall reporting burdens may be significantly reduced because they would only be required to report the number and capacity of the connections they provide, rather than their interstate telecommunications revenues. In

addition, a contributor's reporting obligation and its bill would become one in the same. We also seek comment on whether requiring only one entity to contribute for a connection would ease some of the administrative burdens associated with compliance. Last, we also seek comment on an alternative that might assist small entities: how to craft a de minimis exemption should the Commission choose to adopt a connection-based system.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

51. None.

A. Comment Filing Procedures

52. Pursuant to § 1.415 and § 1.419 of the Commission's rules, interested parties may file comments April 12, 2002, and reply comments April 29, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

53. Comments filed through the ECFS can be sent as an electronic file via the Internet to <*http://www.fcc.gov/e-file/ecfs.html*>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

54. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

55. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Accounting Policy Division, 445 12th Street, SW., Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 96–45, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CYB402, Washington, DC 20554.

56. Written comments by the public on the proposed and/or modified information collections are due on or before April 12, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 13, 2002. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbherman@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to *JeanetteThornto@omb.eop.gov.*

IV. Ordering Clauses

57. Pursuant to the authority contained in sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, this Further Notice of Proposed Rulemaking is adopted.

58. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–6029 Filed 3–12–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020215032–2032–01; I.D. 110701D]

RIN 0648–AP59

Fisheries of the Northeastern United States; Proposed 2002 Specifications for the Atlantic Bluefish Fishery

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

ACTION: Proposed 2002 specifications for the Atlantic bluefish fishery; request for comments.

SUMMARY: NMFS proposes 2002 specifications for the Atlantic bluefish fishery, including total allowable landings (TAL), state-by-state commercial quotas, and recreational harvest limits and possession limits for Atlantic bluefish off the East Coast of the United States. The intent of the specifications is to conserve and manage the bluefish resource and provide for sustainable fisheries.

DATES: Public comments must be received no later than 5 p.m., Eastern Standard Time, on March 28, 2002.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment (EA), Preliminary Regulatory Economic Evaluation (PREE), Initial Regulatory Flexibility Analysis (IRFA), and Essential Fish Habitat Assessment (EFHA) are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The EA, PREE, IRFA, and EFHA are accessible via the Internet at *http:/www.nero.gov/ro/doc/nr. htm.*

Comments on the proposed specifications should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Please mark the envelope, ''Comments--2002 Bluefish Specifications.'' Comments also may be sent via facsimile (fax) to 978–281–

9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Myles A. Raizin, Fishery Policy Analyst, (978) 281–9273, e-mail at Myles.A.Raizin@noaa.gov, fax at (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations implementing the Atlantic Bluefish Fishery Management Plan (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at § 648.160. The FMP requires that the Council recommend, on an annual basis, a TAL, which is composed of a commercial quota and a recreational harvest limit. The FMP also requires that: (1) the TAL for any given year be set based on the fishing mortality rate (F) resulting from the stock rebuilding schedule contained in the FMP, or the estimated F in the most recent fishing year, whichever is lower; and (2) a total of 17 percent of the TAL be allocated to the commercial fishery, as a quota, with the remaining 83 percent allocated as a recreational harvest limit, with the stipulation that if 17 percent of the TAL is less than 10.50 million lb (4.8 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.50 million lb (4.8 million kg) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed TAL.

The Council's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to ensure that they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications in the **Federal Register**. After considering public comment, NMFS will publish final specifications in the **Federal Register**.

Proposed 2002 Specifications

Proposed TAL

On August 9, 2001, the Council adopted specifications for the 2002 Atlantic bluefish fishery. NMFS has reviewed documents submitted by the Council in support of its recommendation for the 2002 specifications and has found that the Council has complied with the FMP objectives and other applicable law. Therefore, NMFS is proposing to implement the Council's recommended specifications. For the 2002 fishery, the stock rebuilding program in the FMP would restrict F to 0.41. However, the 2000 fishery produced an F of only 0.326. So, in accordance with the FMP, the TAL proposed for 2002 was set to achieve F=0.326. The resulting Total Allowable Catch (TAC) recommended by the Council and proposed by NMFS is 29.1 million lb (13.2 million kg). The TAL is calculated by deducting discards, estimated at 2.2 million lb (0.99 million kg) for 2002, from the TAC. Therefore, the proposed TAL for 2002 is 26.866 million lb (12.19 million kg).

Proposed Commercial Quota and Recreational Harvest Limit

If the TAL for the 2002 fishery were allocated based on the percentages specified in the FMP, the commercial quota would be 4.567 million lb (2.07 million kg) with a recreational harvest limit of 22.299 million lb (10.12 million kg). However, actual recreational landings from the last several years were much lower than this allocation, ranging between 8.30 and 14.3 million lb (3.76 and 6.49 million kg). There is no reason to expect that recreational landings in 2002 will exceed this range from prior years. Thus, the recreational fishery is not projected to land a 22.299 million-lb (10.12 million kg) harvest limit in 2002. As such, the FMP and the implementing regulations authorize the specification of a commercial quota of up to 10.5 million lb (4.76 million kg) for 2002. NMFS proposes to transfer 5.933 million lb from the initial 2002 recreational allocation of 22.299 million lb (10.12 million kg), resulting in 16.365 million lb (7.42 million kg) for the proposed 2002 recreational harvest limit and a proposed 2002 commercial quota of 10.5 million lb (4.76 million kg). The proposed 2002 commercial quota would be an increase from the 2001 quota (9.58 million lb (4.35 million kg)) implemented by NMFS and the states under the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for Atlantic Bluefish. A recreational possession limit of 15 fish/person and a 2–percent TAL research set-aside are also proposed. The FMP allows the Council to set a bag limit of between 5 and 20 fish that would allow the recreational fishery to harvest an amount of fish that does not exceed the proposed harvest limit. From the implementation of the FMP in 1989, until 2001, the bag limit remained at 10 fish. In 2001, the Council determined that a 15–fish bag limit would increase recreational harvest by only 5 percent when compared to the 10–fish bag limit. Since the recreational harvest is estimated to remain low relative to the recreational harvest limit, the Council has concluded that continuing the 15–fish bag limit is appropriate to protect the bluefish stock. Some or all of the research set-aside amount will be allocated if research proposals to utilize it are approved. A Request for Proposals was published to solicit proposals for 2002, based on research priorities identified by the Council (66 FR 38636, July 25, 2001, and 66 FR 45668, August 29, 2001). The deadline for submission was September 14, 2001, and proposals are currently under review. If all of the bluefish research set-aside is allocated, the commercial quota would be 10.290 million lb (4.67 million kg) and the recreational harvest limit would be 16.038 million lb (7.28 million kg). The quota set-asides, the commercial quota, and the recreational harvest limit will be adjusted in the final rule establishing the annual specifications for the bluefish fishery, if necessary, to reflect set-aside allocations to projects forwarded to the NOAA Grants Office for award. If the awards are not made for any reason, NMFS will publish a notification in the **Federal Register** to restore the unused set-aside amount to the annual commercial and recreational allocations.

Proposed State Commercial Allocations

Proposed state commercial allocations for the recommended 2002 commercial quotas are shown in the table below, based on the percentages specified in the FMP and subtracting the proposed 2–percent research set-aside.

State	% of quota	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)
				With 2 % Research Set -Aside	With 2 % Research Set -Aside
ME	0.6685	70,193	31,839	68,789	31,202

State	% of quota	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)
NH	0.4145	43,523	19,741	42,652	19,347
MA	6.7167	705,254	319,898	691,148	313,500
RI	6.8081	714,851	324,251	700,553	700,553
CT	1.2663	132,962	60,310	130,302	59,104
NY	10.3851	1,090,436	494,613	1,068,627	484,721
NJ	14.8162	1,555,701	705,654	1,524,587	691,541
DE	1.8782	197,211	89,453	193,267	87,664
MD	3.0018	315,189	142,967	308,885	140,108
VA	11.8795	1,247,348	565,787	1,222,401	554,472
NC	32.0608	3,366,384	1,526,966	3,299,056	1,496,427
SC	0.0352	3,696	1,676	3,622	1,643
GA	0.0095	998	452	978	443
FL	10.0597	1,056,269	479,115	1,035,143	469,533
Total	100.0000	10,500,000	4,762,720	10,290,000	4,667,465

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows

The analysis considered three alternatives. Analysis of the Preferred Alternative examined the impacts on industry that would result from a TAL of 26.87 million lb (12.19 million kg), with 10.50 million lb (4.76 million kg) allocated to the commercial sector of the fishery, which represents the maximum allowed under the FMP, and 16.37 million lb (7.42 million kg) allocated to the recreational sector with a 15–fish possession limit. Analysis of Alternative 2 considered a TAL of 26.87 million lb (12.19 million kg) with a commercial allocation of 4.57 million lb (2.07 million kg); 22.30 million lb (10.11 million kg) recreational; and a 15–fish recreational possession limit. Analysis of Alternative 3 considered a TAL of 26.87 million lb (12.19 million kg);9.58 million lb (4.35 million kg) commercial, which represents the commercial status quo ; 17.28 million lb (7.84 million kg) recreational; and a 15–fish possession limit.

There is very little information available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. However, given the level of the recreational harvest limit for 2002 and recreational landings in recent years it is not anticipated that this management measure will affect the demand for party/charter boat trips. Given that the recreational harvest limit is over 61% higher than the 2000 landings, the possession limit is expected to increase angler satisfaction and is not expected to result in landings in excess of the recreational harvest limit.

The analysis assumed that in the absence of cost data, gross revenue was a sufficient proxy for profitability. Furthermore, the analysis identified all participants as small entities; therefore, there are no negative effects on those small businesses from disproportionate competitiveness with large entities. Results of their analysis indicate that based on 2000 landings, on a coastwide basis, the Preferred Alternative would yield a 1.10–percent increase in revenue to the commercial sector, Alternative 2 would yield a 60.79 percent decrease, and Alternative 3 would yield an 8.45 percent decrease.

The Council, in analyzing the impacts of the three alternatives on fishermen in individual states, concluded that the increase in revenues under the Preferred Alternative and Alternative 3 would occur in all states except New York and North Carolina. Under Alternative 2, all states would show decreases in revenue. The Council's analysis was based on the FMP requirement that an overage of the quota for an individual state in 2001 be subtracted from the quota for that state in the following year. At the time the Council prepared their analysis, both New York and North Carolina had exceeded their quota, and the Council based their analysis on the premise that quotas would be reduced in these states for the 2002 fishery. The Council assumed that preexisting overages in 2001 could force reductions in available quota to the states of New York and North Carolina in 2002 at the rates of 71.86 percent and 10.76 percent, respectively.

The Council further indicated that under the Preferred Alternative and Alternative 3, the significantly negative economic impacts to the states of New York and North Carolina could easily be mitigated by a transfer of commercial quota from another state, as allowed under the FMP, making the impacts negligible. This was accomplished under the FMP for the 2001 fishery, thus, making their initial analysis regarding the impacts of 2001 overages on the 2002 fishery moot.

In sum, in the absence of perfect information regarding transfers for the 2001 fishery, the Council offered 2 scenarios-- one with transfers, in which they concluded there would be negligible economic impacts, and one without transfers, in which they concluded that significantly negative economic impacts would occur due to the requirement to reduce 2002 quotas to account for 2001 overages. However, the Council did not take into account that fishermen in the states of North Carolina and New York have recorded landings in 2001 that far exceed the proposed 2002 quotas for those States. This presents a quandary since it is uncertain as to whether transfers will take place in 2002 and if they do, to what extent those transfers will affect total 2002 landings. A comparison of actual 2001 state landings and the proposed 2002 state quotas and a discussion of their impacts is found below.

New information gathered by NMFS has made it possible to more accurately predict economic impacts of the proposed 2002 specifications to New York and North Carolina by comparing actual 2001 landings to proposed 2002 state allocations of the bluefish TAL. The Council did not have complete 2001 landings data at the time it prepared its PREE.

The Preferred Alternative of 10.50 million lb of bluefish TAL would

allocate 1,090,436 lb (494,613 kg) of bluefish to New York and 3,366,384 lb (1,526,966 kg) to North Carolina. Actual 2001 landings amounted to 1,186,843 lb (538,495 kg) for New York and 3,584,627 lb (1,626,418 kg) for North Carolina. All other states landed less in 2001 than their proposed 2002 allocation of the total bluefish TAL, and, therefore, would not be impacted.

Under the assumption that 2002 allocations for New York and North Carolina represent harvest constraints to those fisheries, there would be an 8–percent reduction in bluefish revenues in New York and a 6–percent reduction in North Carolina associated with the Preferred Alternative when compared to 2001 landings, 16 and 14–percent reductions associated with Alternative 3, and 60–and 59–percent reductions associated with Alternative 2. Under Alternative 2, even with transfers of quota, New Jersey, New York, North Carolina, and Massachusetts would show a significant decrease in revenues for a substantial number of vessels according to the PREE. Implicit in this analysis is the assumption that when a state's quota is reached and the fishery is closed, the state will not be able to take advantage of a transfer provision under the FMP that allows states that have a surplus quota to transfer a portion or all of that quota to a state that has or will reach its quota. The transfer provision was implemented by Amendment 1 to the FMP as a tool to mitigate the adverse economic effects of prematurely closing a fishery when surplus quota exists.

The Council, in its analysis, was correct in assuming that it is highly unlikely that reductions in revenues would occur since allocations to the states can be adjusted inseason through transfers. Based on historical evidence, under the 2000 and 2001 bluefish fisheries, and, prior to 2000, under the Interstate Management Plan for Atlantic Bluefish, states have been cooperative in transferring commercial bluefish quota when needed by states running a deficit. In fact, to harvest more than their allotted quota, New York and North Carolina received 200,000 and 1,134,000 lb (90,744 and 514,599 kg) of quota in 2001, respectively, from states that had surpluses. Given that commercial coastwide landings have averaged 7.685 million lb (3.487 million kg) for the years 1998 through 2001, and the 2002 proposed TAL is 10.500 million lb (4.768 million kg), the Council had a strong basis to assume that transfers will again take place in 2002, thus reducing impacts to vessels in New York and North Carolina or other states that may require additional quota to avoid a closure.

For all three alternatives, the Council notes that there is very little information available to estimate how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. However, since the 2002 harvest limits are 61, 120, and 70 percent greater than 2000 recreational harvest, it can be assumed that there would be no negative impacts on party/charterboats from the 2002 specifications.

Estimate of the Number of Small Entities

An active participant in the commercial sector was defined as being any vessel that reported having landed one or more lb of bluefish in the Dealer data during calendar year 2000. These data cover activity by unique vessels. Of the active vessels reported in 2000, 829 vessels landed bluefish from Maine to North Carolina. The Dealer data do not cover vessel activity in the South Atlantic. The Dealer data indicate that 126 federally permitted vessels landed bluefish in North Carolina in 2000. However, the North Carolina landings data for bluefish may be incomplete in this data system. Trip Ticket Report data indicate that 1,088 vessels landed bluefish in North Carolina in 2000 (Lees Sabo, North Carolina Division of Marine Fisheries, pers. comm., 2001). Some of these vessels may be included in the 126 vessels identified as landing bluefish in the Dealer data. As such, double counting is possible. In addition, 136 vessels landed bluefish in Florida's east coast in 1999. Bluefish landings in South Carolina and Georgia are negligible compared to the total bluefish landing along the Atlantic coast in 2000. As such, it was assumed there was no vessel activity for those two states. In addition, it was estimated that in recent years approximately 2,063 party/charter vessels may have been active and/or caught bluefish.

Alternatives which Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

The Council and NMFS included a provision in the FMP that would minimize economic impacts to vessels in states that faced closure by allowing a transfer of quota within the coastwide allocation. However, under certain circumstances where state surplus quotas are not available, there are no alternatives to mitigate significant economic impact. It is more likely that this scenario would occur under Alternative 2 where the coastwide and state quotas are less than half the proposed quotas. The Preferred Alternative provides a commercial coastwide quota that would not put constraints on total landings based on previous years' total landings, thus allowing for transfers to take place. Also, the Preferred Alternative provides a recreational harvest limit that exceeds previous years' recreational harvest.

Thus, the Preferred Alternative offers the best opportunity for minimizing any negative impact on small entities.

This action is not controversial. This proposed rule does not contain any collection-of-information, reporting, or recordkeeping requirements. It will not duplicate, overlap, or conflict with any other Federal rules.

Dated: March 7, 2002.

Rebecca Lent

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–6070 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 49
Wednesday, March 13, 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.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 32

RIN Number 0990–AA05

Administrative Wage Garnishment

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS) proposes to amend its regulations on claims collection to implement the administrative wage garnishment provisions (AWG) of the Debt Collection Improvement Act of 1996 (DCIA). The proposed rule will allow HHS to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order.

DATES: Submit comments on or before May 13, 2002.

ADDRESSES: Send all comments concerning this proposed rule to: Timothy M. White, Associate General Counsel, Office of the General Counsel, Business and Administrative Law Division, Cohen Building, Room 5362, 330 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Timothy M. White, 202–619–0150; or Katherine M. Drews, 202–619–0150.

SUPPLEMENTARY INFORMATION:

Background

This proposed regulation implements the administrative wage garnishment provisions in section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321–358, codified at 31 U.S.C 3720D. Under the administrative wage garnishment provisions of the DCIA, Federal agencies may garnish administratively up to 15 percent of the wages of a debtor to satisfy a delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, Federal agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees. Section 31001 (o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting a delinquent non-tax debt may garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Financial Management Service (FMS), a bureau of the Department of the Treasury (Treasury), is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA. FMS published its final rule at 63 FR 25136, May 6, 1998, (Treasury Final Rule) and published a technical amendment at 64 FR 22901, April 28, 1999. The Treasury Final Rule, as amended, is published in § 285.11 of title 31 of the Code of Federal Regulations. Pursuant to 31 CFR 285.11 (f), Federal agencies must either prescribe regulations for the conduct of AWG hearings consistent with the procedural requirements set forth in the Treasury Final Rule or adopt § 285.11 without change by reference.

Basic Provisions

In accordance with the requirements of the DCIA and the implementing regulations at 31 CFR 285.11, the rule establishes the rules and procedures for providing a debtor with written notice at least 30 days before the Department initiates garnishment proceedings, an opportunity to inspect and copy Department records relating to the debt, an opportunity to enter into a repayment agreement, and an opportunity to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule. The rule also establishes the employer's responsibilities for carrying out a wage garnishment order issued by the Department.

Rules and Procedures

Except for minor editorial changes to make the provisions agency-specific, the proposed rule is substantially identical to the Treasury Final Rule. In accordance with the substantive and procedural requirements of the DCIA and the Treasury Final Rule, this proposed rule would establish for HHS the following rules and procedures:

1. Providing a debtor with written notice at least 30 days before the Department initiates garnishment proceedings informing the debtor of the nature and amount of the debt, the intention of the Department to collect the debt through deductions from the debtor's disposable pay, and the debtor's rights regarding the proposed action.
2. Providing the debtor with an opportunity to inspect and copy Department records relating to the debt, to enter into a repayment agreement with the Department, and to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule.
3. Conducting a hearing prior to the issuance of a withholding order, if the debtor's request for a hearing is timely received by HHS. When a debtor's request for a hearing is not received within the time period specified, HHS will not delay issuance of a withholding order prior to conducting the hearing.
4. Sending to the employer of a delinquent debtor a wage garnishment order directing the employer to withhold up to 15% of the debtor's disposable pay and remit those amounts to the Federal Government.
5. Requiring the debtor's employer to certify certain payment information about the debtor.

Economic Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980; Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (the Order) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We have determined that the proposed rule is consistent with the principles set forth in the Order, and we find that the proposed rule would not have an effect

on the economy that exceeds $100 million in any one year. In addition, this rule is not a major rule as defined at 5 U.S.C. 804(2). In accordance with the provisions of the Order, this regulation was reviewed by the Office of Management and Budget.

It is hereby certified under the RFA that this proposed regulation, including the certification referenced in this notice of proposed rulemaking (see § 32.7), will not have a significant economic impact on a substantial number of small entities. This proposed rule applies only to individuals, as well as employers of such individuals, with delinquent debts owed to the United States. Although a substantial number of small entities will be subject to this proposed regulation and to the certification requirement in this proposed rule, the requirements will not have a significant economic impact on these entities. Employers of delinquent debtors must certify certain information about the debtor such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer is served withholding orders on several employees over the course of a year, the cost imposed on the employer to complete the certifications would not have a significant economic impact on that entity. Employers are not required to vary their normal pay cycles in order to comply with a withholding order issued pursuant to this proposed rule.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. As noted above, we find that the proposed rule would not have an effect on the economy of this magnitude.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this proposed rule would not have substantial direct effect on the States, on the relationship between the National Government and States, or on the distribution of power and responsibilities among the various levels of government. As there are no Federalism implications, a Federalism impact statement is not required.

For purposes of the Paperwork Reduction Act, 44 U.S.C. chapter 35, this proposed rule will impose no new reporting or record-keeping requirements on employers. As noted above, although an employer of a delinquent debtor must certify certain information about the debtor, the employer's payroll records already contain this information, and, even if an employer receives withholding orders on several employers, the burden of completing the certification would not be significant. Furthermore, we believe that these reporting requirements fall within the ''administrative action'' exemption in § 1320.4(a)(2) of the Paperwork Reduction Act.

List of Subjects in 45 CFR Part 32

Administrative practice and procedure, Claims, Debts, Garnishment of wages, Hearings and appeal procedures, Salaries, Wages.

For the reasons set forth in the preamble, HHS proposes to amend 45 CFR Subtitle A as follows:

Add part 32 to read as follows:

PART 32—ADMINISTRATIVE WAGE GARNISHMENT

Sec.
32.1 Purpose and scope.
32.2 Definitions.
32.3 General rule.
32.4 Notice.
32.5 Hearing.
32.6 Withholding order.
32.7 Certification by employer.
32.8 Amounts withheld.
32.9 Financial hardship.
32.10 Refunds.
32.11 Ending garnishment.
32.12 Right of action.

Authority: 31 U.S.C. 3720D, 5 U.S.C. 552, 553, E.O. 12866, 12988, 13808.

§ 32.1 Purpose and scope.

(a) *Purpose.* This part prescribes the standards and procedures for the Department to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent non-tax debts owed to the United States.

(b) *Authority.* These standards and procedures are authorized under the wage garnishment provisions of the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3720D, and the Department of the Treasury Administrative Wage Garnishment Regulations at 31 CFR 285.11.

(c) *Scope.* (1) This part applies to all Departmental Operating Divisions and Regional Offices that administer a program that gives rise to a delinquent non-tax debt owed to the United States and to all officers or employees of the Department authorized to collect such debt.

(2) This part shall apply notwithstanding any provision of State law.

(3) Nothing in this part precludes the compromise of a debt or the suspension or termination of collection action in accordance with part 30 of this title, or other applicable law or regulation.

(4) The receipt of payments pursuant to this part does not preclude the Department from pursuing other debt collection remedies, including the offset of Federal payments to satisfy delinquent non-tax debt owed to the United States. The Department may pursue such debt collection remedies separately or in conjunction with administrative wage garnishment.

(5) This part does not apply to the collection of delinquent non-tax debts owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

(6) Nothing in this part requires the Department to duplicate notices or administrative proceedings required by contract or other laws or regulations.

§ 32.2 Definitions.

In this part, unless the context otherwise requires:

Business day means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday, in which case the next business day following the holiday will be considered the last day of the period.

Certificate of service means a certificate signed by an employee of the Department indicating the nature of the document to which it pertains, the date of mailing of the document, and to whom it is being sent.

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal legal holiday, in which case the next business day will be considered the last day of the period.

Debt or *claim* means an amount of money, funds, or property that has been determined by the Secretary to be owed to the United States by an individual, including debt administered by a third party as an agent of the Federal Government. A debt or claim includes, but is not limited to: amounts owed on account of loans made, insured or

guaranteed by the Federal Government, including any deficiency or difference between the price obtained by the Federal Government upon selling the property and the amount owed to the Federal Government; overpayments to program beneficiaries; any amount the Federal Government is authorized by statute to collect for the benefit of any person; the unpaid share of any non-Federal partner in a program involving a Federal payment, including a matching or cost-sharing payment of the non-Federal partner; any fine, civil penalty or assessment; and other amounts or money or property owed to the Federal Government.

Debtor means an individual who owes a delinquent non-tax debt to the United States.

Delinquent debt means any non-tax debt that has not been paid by the date specified in the Department's initial written demand for payment, or applicable payment agreement or instrument, unless other satisfactory payment arrangements have been made. For purposes of this part, ''delinquent'' and ''overdue'' have the same meaning.

Department means the United States Department of Health and Human Services, including each of its Operating Divisions and regional offices.

Disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this part, ''amounts required by law to be withheld'' include amounts for deductions such as social security taxes and withholding taxes, but do not include any amount withheld pursuant to a court order.

Employer means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments, but does not include an agency of the Federal Government as defined by 31 CFR 285.11 (c).

Garnishment means the process of withholding amounts from an employee's disposable pay and paying those amounts to a creditor in satisfaction of a withholding order.

Hearing means a review of the documentary evidence concerning the existence or amount of a debt, or the terms of a repayment schedule, provided such repayment schedule is established other than by a written agreement entered into pursuant to this part. If the hearing official determines that the issues in dispute cannot be resolved solely by review of the written record, such as when the validity of the debt turns on the issue of credibility or veracity, an oral hearing may be provided.

Hearing official means any qualified individual, as determined by the Secretary, including a Departmental Appeals Board administrative law judge.

Secretary means the Secretary of Health and Human Services, or the Secretary's designee within the Department.

Withholding order for purposes of this part means ''Wage Garnishment Order (SF–329B).'' Also for purposes of this part, the terms ''wage garnishment order'' and ''garnishment order'' have the same meaning as ''withholding order.''

§ 32.3 General rule.

(a) Except as provided in (b), whenever a delinquent debt is owed by an individual, the Secretary, or another federal agency collecting a debt on the Department behalf (See 45 CFR part 30), may initiate proceedings administratively to garnish the wages of the delinquent debtor.

(b) The Secretary may not garnish the wages of a debtor who the Secretary knows has been involuntarily separated from employment until the debtor has been re-employed continuously for at least 12 months. The debtor has the burden of informing the Secretary of the circumstances surrounding an involuntary separation from employment.

§ 32.4 Notice.

(a) *Notice requirements.* At least 30 days before the initiation of garnishment proceedings, the Secretary shall mail, by first class mail, to the debtor's last known address a written notice informing the debtor of:

(1) The nature and amount of the debt;

(2) The intention of the Secretary to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties, and administrative costs are paid in full;

(3) The debtor's right—

(i) To inspect and copy Department records related to the debt;

(ii) To enter into a written repayment agreement with the Department under terms agreeable to the Department;

(iii) To a hearing, in accordance with § 32.5, concerning the existence or the amount of the debt or the terms of the proposed repayment schedule under the garnishment order, except that the debtor is not entitled to a hearing concerning the proposed repayment schedule if the terms were established by written agreement pursuant to paragraph (a)(3)(ii) of this section; and

(4) The time frames within which the debtor may exercise his or her rights.

(b) The Secretary will keep a copy of the dated notice. The notice may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

§ 32.5 Hearing.

(a) *In general.* Upon timely written request of the debtor, the Secretary shall provide a hearing, which at the Department's option may be oral or written, concerning the existence or amount of the debt, or the terms of a repayment schedule established other than by written agreement under § 32.4(a)(3)(ii).

(b) *Request for hearing.* (1) The request for a hearing must be signed by the debtor, state each issue being disputed, and identify and explain with reasonable specificity all facts and evidence that the debtor believes supports the debtor's position. Supporting documentation identified by the debtor should be attached to the request.

(2) *Effect of timely request.* Subject to paragraph (j) of this section, if the debtor's written request is received on or before the 15th business day following the mailing of the written notice required under this part, a withholding order shall not be issued under § 32.6 until the debtor has been provided the requested hearing and a decision in accordance with paragraphs (g) and (h) of this section has been rendered.

(3) *Failure to timely request a hearing.* If the debtor's written request is received after the 15th business day following the mailing of the written notice required under this part, the Secretary shall provide a hearing to the debtor. However, the Secretary shall not delay the issuance of a withholding order unless the Secretary determines that the delay in submitting such request was caused by factors beyond the control of the debtor, or the Secretary receives information that the Secretary determines justifies a delay or cancellation of the withholding order.

(c) *Oral hearing.* (1) For purposes of this section, a debtor shall be provided a reasonable opportunity for an oral hearing when the hearing official determines that the issues in dispute cannot be resolved by review of the documentary evidence, such as when the validity of the claim turns on the issue of credibility or veracity.

(2) If the hearing official determines an oral hearing is appropriate, the

hearing official will establish the date, time and location of the hearing. At the debtor's option, the oral hearing may be conducted in person or by telephone conference. The hearing official will notify the debtor of the date, time, and in the case of an in-person hearing, the location of the hearing. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(d) *Paper hearing.* (1) If the hearing official determines an oral hearing is not required by this section, the hearing official shall afford the debtor a paper hearing, that is, the issues in dispute will be decided based upon a review of the written record.

(2) The hearing official shall notify the debtor of the deadline for the submission of additional evidence if necessary for a review of the record.

(e) *Burden of proof.* (1) The Secretary has the initial burden of proving the existence or amount of the debt.

(2) Thereafter, if the debtor disputes the existence or amount of the debt, the debtor must present by a preponderance of the evidence that no debt exists or that the amount is incorrect. When challenging the terms of a repayment schedule, the debtor must establish by a preponderance of the evidence that the terms of the repayment schedule are unlawful, would cause financial hardship to the debtor, or that collection of the debt may not be pursued due to operation of law.

(f) *Record.* The hearing official shall maintain a summary record of any hearing provided under this part. A hearing is not required to be a formal evidentiary-type hearing, but witnesses who testify in an oral hearing must do so under oath or affirmation.

(g) *Date of decision.* (1) The hearing official shall issue a written decision, as soon as practicable, but no later than sixty (60) days after the date on which the request for the hearing was received by the Department.

(2) If the hearing official is unable to provide the debtor with a hearing and render a decision within 60 days after the receipt of the request for such hearing:

(i) A withholding order may not be issued until the hearing is held and a decision is rendered; or

(ii) A withholding order previously issued to the debtor's employer must be suspended beginning on the 61st day after the receipt of the hearing request and continuing until a hearing is held and a decision is rendered.

(h) *Content of decision.* The written decision shall include:

(1) A summary of the facts presented;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The terms of any repayment schedule, if applicable.

(i) *Final agency action.* The hearing official's decision will be the final agency action for the purposes of judicial review under the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

(j) *Failure to appear.* In the absence of good cause shown, a debtor who fails to appear at a hearing will be deemed as not having timely filed a request for a hearing.

§ 32.6 Withholding order.

(a) Unless the Secretary receives information that the Secretary determines justifies a delay or cancellation of a withholding order, the Secretary shall send, by first class mail, an SF–329A ''Letter to Employer & Important Notice to Employer,'' an SF–329B ''Wage Garnishment Order,'' an SF–329C ''Wage Garnishment Worksheet,'' and an SF–329D ''Employer Certification,'' to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing, i.e., within 15 business days after mailing the notice required under this part, or, if the timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the Secretary to proceed with garnishment.

(b) The Secretary shall keep a copy of the dated letter to the employer and a copy of the wage garnishment order. The certificate of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

§ 32.7 Certification by employer.

The employer must complete and return the SF–329D, ''Employer Certification'' to the Department within 20 days of receipt.

§ 32.8 Amounts withheld.

(a) After receipt of a withholding order issued under this part, the employer shall deduct from all disposable pay paid to the debtor during each pay period the amount of garnishment described in paragraph (b) of this section. The employer may use the SF–329C ''Wage Garnishment Worksheet'' to calculate the amount to be deducted from the debtor's disposable pay.

(b) Subject to paragraphs (c) and (d) of this section, the amount of garnishment shall be the lesser of:

(1) The amount indicated on the garnishment order up to 15% of the debtor's disposable pay; or

(2) The amount set forth in 15 U.S.C. 1673(a)(2) (Maximum allowable garnishment). The amount set forth at 15 U.S.C. 1673(a)(2) is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the minimum wage. *See* 29 CFR 870.10.

(c)(1) Except as provided in paragraph (c)(2) of this section, when a debtor's pay is subject to multiple withholding orders, unless otherwise provided by Federal law, withholding orders issued pursuant to this part shall have priority over other withholding orders that are served later in time.

(2) Notwithstanding the foregoing, withholding orders for family support shall have priority over withholding orders issued under this part.

(3) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this part, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to a withholding order issued under this part shall be the lesser of:

(i) The amount calculated under paragraph (b) of this section, or

(ii) An amount equal to 25% of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.

(d) If the debtor owes more than one debt to the Department, the Secretary may issue multiple withholding orders provided that the total amount garnished from the debtor's pay for such orders does not exceed the amount set forth in paragraph (b) of this section.

(e) An amount greater than that set forth in paragraphs (b) or (c) of this section may be withheld upon the written consent of the debtor.

(f) The employer shall promptly pay to the Department all amounts withheld in accordance with the withholding order issued pursuant to this part.

(g) The employer is not required to vary its normal pay and disbursement cycles in order to comply with the withholding order.

(h) Any assignment or allotment by an employee shall be void to the extent it interferes with or prohibits execution of the withholding order issued under this part, except for any assignment or allotment made pursuant to a family support judgment or order.

(i) The employer shall withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the Secretary to discontinue wage withholding.

(j) The withholding order, SF–329B ''Wage Garnishment Order,'' sent to the

employer under § 32.6, requires the employer to commence wage withholding on the first pay day after the employer receives the order. However, if the first pay day is within 10 days after receipt of the order, the employer may begin deductions on the second pay day.

(k) An employer may not discharge, refuse to employ, or take disciplinary action against an debtor a result of the issuance of a withholding order under this part.

§ 32.9 Financial hardship.

(a) A debtor whose wages are subject to a withholding order may, at any time, request a review by the Department of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in financial hardship.

(b) A debtor requesting such a review under paragraph (a) of this section shall submit the basis for claiming that the current amount of garnishment results in a financial hardship to the debtor, along with supporting documentation. The Secretary shall consider any information submitted in accordance with this part.

(c) If a financial hardship is found, the Secretary shall downwardly adjust, by an amount and for a period of time established by the Secretary, the amount garnished to reflect the debtor's financial condition. The Secretary will notify the employer of any adjustments to the amount to be withheld.

§ 32.10 Refunds.

(a) If the hearing official, pursuant to a hearing under this part, determines that a debt is not legally due and owing to the United States, the Secretary shall promptly refund any amount collected by means of administrative wage garnishment.

(b) Unless required by Federal law or contract, refunds under this part shall not bear interest.

§ 32.11 Ending garnishment.

(a) Once the Department has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs assessed pursuant to and in accordance with part 30 of this title, the Secretary shall send the debtor's employer notification to discontinue wage withholding.

(b) At least annually, the Secretary shall review its debtors' accounts to ensure that garnishment has been terminated for accounts that have been paid in full.

§ 32.12 Right of action.

(a) The employer of a debtor subject to wage withholding pursuant to this part shall pay to the Department as directed in a withholding order issued under this part.

(b) The Secretary may bring suit against an employer for any amount that the employer fails to withhold from wages owed and payable to a debtor in accordance with §§ 32.6 and 32.8, plus attorney's fees, costs, and if applicable, punitive damages.

(c) A suit under this section may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, ''termination of collection action'' occurs when the Secretary has terminated collection action in accordance with part 30 of this title, or other applicable law or regulation.

(d) Notwithstanding paragraph (c) of this section, termination of the collection action will be deemed to occur if for a period of one (1) year the Department does not receive any payments from a debtor whose wages were subject to a garnishment order issued under this part.

Dated: November 7, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–5924 Filed 3–12–02; 8:45 am]

BILLING CODE 4150–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, 95–116, and 98–170; FCC 02–43]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers.

DATES: Comments are due on or before April 12, 2002. Reply comments are due on or before April 29, 2002. Written comments by the public on the proposed and/or modified information collections discussed in this Notice of Proposed Rulemaking are due on or before April 12, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 13, 2002.

ADDRESSES: All filings must be sent to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbherman@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to *JeanetteThornto@omb.eop.gov.* Parties should also send three paper copies of their filings to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5–B540, Washington, DC 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CYB402, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Paul Garnett, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400. For further information concerning the information collection contained in this Further Notice of Proposed Rulemaking contact Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbherman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking and Report and Order in CC Docket Nos. 96–45, 98–171, 90–571, 92–237, 99–200, 95–116, and 98–170, FCC 02–43, released on February 26, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference

Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

This Further Notice of Proposed Rulemaking (Further Notice) contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

The Further Notice contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) contained in this Further Notice, as required by the PRA, Public Law 104–13. Public and agency comments on the proposed and/or modified information collections discussed in this Further Notice are due on or before April 12, 2002. Written comments must be submitted by the OMB on the proposed and/or modified information collections on or before May 13, 2002.

Comments should address: (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 estimates; (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.

OMB Control Number: None.

Title: Contribution Methodology—FNPRM.

Form No.: FCC Forms 499–A, 499–Q, and 499–M.

Type of Review: Proposed New Collection.

Respondents: Business or other for-profit.

Title	Number of respondents	Est. time per response	Total annual burden
1. Assessment on a Connection and Capacity Basis ..... *Total Annual Burden:* 69,250 *Cost to Respondents:* $0.	5,500	[1] 9.5	69,250
2. Assessment on a Modified Revenue Basis ..... *Total Annual Burden:* 81,250 *Cost to Respondents:* $0.	5,500	[2] 9.5	81,250

[1] 9.5 hours for 3,500 respondents that file the annual filing and 1.5 hours for 2,000 respondents that file the monthly filing, if adopted.
[2] 9.5 hours for 3,500 respondents that file the annual filing and 6 hours for 2,000 respondents that file the quarterly filing, if adopted.

Needs and Uses: The Commission has issued a Further Notice which seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. The Commission seeks comment on specific proposals to require carriers to contribute based on the number and capacity of connections to a public network, or to contribute based on modifications to the existing mechanism, such as on a projected revenues basis. Additionally, the Commission seeks comment on limiting the manner in which carriers recover contribution costs from their customers. If carriers choose to recover universal service contributions from their customers through line items, the Commission seeks comment on requiring carriers to do so through a uniform universal service line item that corresponds to the contribution assessment on the carrier. The Universal Service Administrative Company (Administrator) would use information filed on connections and capacity or revenues to determine the universal service contribution factor. Section 254 of the Act requires carriers providing interstate telecommunications services to contribute to universal service. Currently, respondents file their gross-billed end-user telecommunications revenues on a quarterly basis in FCC Form 499–Q, and on an annual basis in FCC Form 499A.

Synopsis of Further Notice

I. Introduction

1. In 1997, the Commission adopted a system under which telecommunications providers contribute to universal service based on their end-user revenues. Since that time, the telecommunications marketplace has changed rapidly and technologies have evolved, with major developments including increased competition, migration to new products and services, and bundling of traditionally distinct services. These trends could erode the contribution base over time. In light of these trends, the Commission began a proceeding to revisit its universal service contribution methodology in May 2001. Commenters have submitted a range of innovative ideas and proposals for reforming the current system, while others assert that the status quo should be maintained. We now seek to further develop the record on some of these proposals.

2. In the Further Notice, we seek more focused comment on whether to assess contributions based on the number and capacity of connections provided to a public network, as proposed by some commenters. We seek comment on whether a connection-based assessment approach would ensure the long-term stability, fairness, and efficiency of the universal service contribution system in a dynamic telecommunications marketplace. We also invite commenters to supplement the record developed in response to the *2001 Notice,* (66 FR 28718, May 24, 2001), with any new arguments or data regarding proposals to retain or modify the existing revenue-based system. In addition, we seek additional comment in the Further Notice on reforming the contribution recovery process to make it more fair and understandable for consumers.

3. Whereas this proceeding concerns the Commission's methodology for assessment and recovery of universal service contributions generally, we seek comment in a companion proceeding on a different but related issue: In an evolving telecommunications marketplace, should facilities-based broadband Internet access providers be required to contribute to support universal service and, if so, on what legal basis? That proceeding explores this question by seeking comment on what universal service contribution obligations providers of facilities-based broadband Internet access should have as the telecommunications market evolves, and how such obligations can be administered in an equitable and non-discriminatory manner.

Commenters should be mindful of the relationship between this proceeding and the *Broadband NPRM,* (67 FR 9232, February 28, 2002), proceeding and, where appropriate, should address interrelated issues raised by the proposals.

II. Overview

4. Prior to passage of the Telecommunications Act of 1996, the Commission and the states oversaw a variety of explicit and implicit subsidy programs designed to reduce the cost of telecommunications services for consumers living in high-cost areas and for eligible low-income consumers. Universal service for high-cost areas helped to ensure that consumers in those areas paid rates for services comparable to those paid by consumers in low-cost areas, and the low-income program helped to make services more affordable for low-income consumers. Ensuring the affordability and availability of telecommunications services benefited consumers, and continues to do so, by increasing subscribership levels and, consequently, the value of the Nation's communications network.

5. In section 254 of the Telecommunications Act of 1996, Congress further codified the Commission's historic commitment to ensuring the affordability and availability of telecommunications services for all Americans. Specifically, section 254(d) provides that federal support mechanisms should be specific, predictable, and sufficient to preserve and advance universal service, and that telecommunications providers should contribute on an equitable and nondiscriminatory basis. The Commission implemented the current contribution system in 1997. This system has two distinct but related components: The assessment of contributions on telecommunications providers; and the recovery of contribution payments by providers from their customers. Contributors are assessed on the basis of their interstate and international end-user telecommunications revenues, based on a percentage or ''contribution factor'' that is calculated every quarter. The Commission recognized in 1997 that contributors likely would recover their contributions to universal service from their end users, although they are not required to do so. Contributors are permitted to do so in any equitable and non-discriminatory manner. Many contributors elect to recover their contributions from their customers through a line-item fee, while others do not have a specific line item to recover the costs and instead recover them through their rates. In considering possible reforms to the universal service contribution system, we may determine that it is appropriate to modify the assessment and/or the recovery components.

6. Over the last few years, important changes have occurred in the interstate telecommunications marketplace. Interstate revenues grew consistently between 1984 and 1997, when the current contribution system was adopted, and such growth was expected to continue. Recently, however, interstate revenues have declined for interexchange carriers, which are now responsible for contributing approximately 63 percent of federal universal service funding. Various factors may be responsible for this decline, including migration of customers to new products and services, local exchange carrier entry into the long distance market, and related price competition. If the current methodology is not modified or replaced, this trend could erode the contribution base over time, requiring increases in the contribution factor to maintain current levels of universal service support.

7. We also have observed broader fluctuations in the contribution base. The Common Carrier Bureau recently reported that annual end-user switched interstate telecommunications revenues declined in 2000, the first time since such data has been compiled. We also observed a decline in assessable revenues in the first half of 2001. One analyst projected that United States long distance revenues would decline 12 percent in 2001.

8. Competition in the interexchange market continues to increase. For example, Regional Bell Operating Companies (RBOCs) increasingly are providing interstate long distance service. To date, the Commission has granted RBOCs approval to offer in-region interLATA service in nine states: Arkansas, Connecticut, Massachusetts, Missouri, New York, Pennsylvania, Kansas, Oklahoma, and Texas. One analyst recently reported that Verizon and SBC already have captured 25 percent of the long distance markets in New York and Texas, respectively. Verizon recently reported that it is the fourth-largest residential long distance provider in the nation based on subscriber market share.

9. Because the current contribution system is based on historical revenues, some contend that it creates competitive advantages for contributors with increasing interstate telecommunications revenues, while disadvantaging those with declining revenues. Under the current system, contributors are assessed on revenues that they earned six months earlier. As a result, contributors with increasing revenues recover contributions from a larger revenue base than the one on which they are assessed, and can pass through to their customers lower fees than competitors with declining revenues, who must recover their contributions from a declining revenue base. New entrants also may be able to undercut the prices offered by established service providers who already contribute to universal service, because they do not contribute for the first six months that they provide service due to their lack of historical revenues for that period.

10. In addition, the growth of Commercial Mobile Radio Service (CMRS) appears to be causing a significant migration of interstate telecommunications revenues from wireline to mobile wireless providers. Since the current assessment system was adopted in 1997, mobile telephony subscribership has increased from 55.3 million to 109.5 million subscribers, and average customer minutes of use have increased from 117 minutes per month to 255 minutes per month. Consistent with these trends, mobile service is becoming a substitute for traditional wireline services such as payphones and second lines to the home, and there is a small but growing number of customers who have substituted mobile wireless for their primary residential lines. In addition, many customers are using their mobile service rather than interexchange service to make long distance calls: According to one report, 16 percent of customers surveyed now make most of their long distance calls using mobile services. In some areas, such ''technology substitution'' has begun to erode revenue from interexchange services, which is currently the primary contribution source for universal service funding.

11. Since 1997, marketplace developments also have blurred the distinctions between interstate/intrastate and telecommunications/non-telecommunications revenues on which the current contribution system is based. For example, carriers increasingly are bundling services together in creative ways, such as by offering flat-rate packages that include both local- and long-distance services. Virtually all of the major mobile telecommunications service providers now offer a type of Digital-One-Rate (DOR) pricing plan that allows customers to purchase a bucket of minutes on a nationwide, or nearly

nationwide, network without incurring roaming or long distance charges. A number of carriers, including AT&T Wireless, Verizon Wireless, and Cingular Wireless, also have begun offering regional DOR calling plans. At the end of 2000, approximately 20 million mobile wireless telephone customers subscribed to calling plans that do not charge extra for long distance. The availability of such plans compounds the inherent difficulty of identifying interstate revenues in a mobile environment.

12. Likewise, more and more carriers now offer bundled packages of telecommunications services and customer premises equipment (CPE) or information services. The accelerating development of new technologies like ''voice over Internet'' increases the strain on regulatory distinctions such as interstate/intrastate and telecommunications/non-telecommunications, and may reduce the overall amount of assessable revenues reported under the current system. Additional legal, technological, and market developments that we cannot foresee also could significantly impact the universal service contribution base.

13. In light of these and other changes in the telecommunications marketplace, we have recognized the need to review the current system for assessing universal service contributions. Fifty-nine parties filed comments in response to the *2001 Notice.* Our examination of the record reveals a consensus that reforms are necessary, although different industry segments differ on what reforms should be undertaken. Some commenters support retention of the current revenue-based assessment system. Other commenters support modifying the current system, for example, by assessing contributions on projected or current revenues rather than historical revenues. Still other commenters support replacing the current revenue-based assessment system with one that focuses on connections.

14. Our primary goal in considering possible reforms of the current assessment system is to ensure the stability and sufficiency of the universal service fund as the marketplace continues to evolve. We also seek to identify the best means of ensuring that contributors continue to be assessed in an equitable and nondiscriminatory manner. In addition, we seek to provide certainty to market participants, and minimize the regulatory costs of complying with universal service obligations. Achievement of these goals, in turn, should benefit consumers by helping to ensure that the contribution recovery process is fair, reasonable, and readily understood by consumers.

15. In this Further Notice, we seek comment on whether to base contributions not on a contributor's revenues, but on the number and capacity of the connections it provides to a public network. Under this proposal, contributions for residential, single-line business, and mobile wireless connections would be assessed on a flat, monthly basis. Contributions for multi-line business connections would be calculated to recover the remaining universal service funding needs, based on the capacity of the connections provided. In addition, we seek comment on a variant of a connection-based assessment methodology that would maintain the relative contribution burdens on different industry segments. We also invite commenters to supplement the record developed in response to the *2001 Notice* with any new arguments or data regarding whether to retain or modify the existing system.

16. A connection-based assessment may address the difficulty of applying regulatory distinctions inherent in the existing system to new services and technologies. By harmonizing the contribution system with the telecommunications marketplace, a connection-based assessment approach may help to ensure the stability and sufficiency of the universal service contribution base over time. Such an approach also may provide contributors with greater certainty, reduce administrative costs, and avoid marketplace distortions, ultimately benefiting consumers. Moreover, by eliminating some of the complexity involved with contribution recovery fees and making only one provider responsible for contributing based on a single connection, a connection-based assessment also may make the recovery process more understandable for consumers. Furthermore, by reducing costs associated with the recovery of contributions, a connection-based assessment also may reduce the total amount that consumers pay in contribution recovery fees.

17. Our experience over the last few years also has led us to reevaluate carrier recovery practices. Carriers currently have the flexibility to recover their contribution obligations in any manner that is equitable and nondiscriminatory. Some elect to recover their contributions from their customers through line-item charges, while others elect to collect their contribution requirement through their rates. Although the contribution factor is uniform for all contributors, universal service line items to consumers may vary widely among contributors, and often significantly exceed the amount of the contribution factor. For example, in the second quarter of 2001, after the Commission established a contribution factor of 6.882 percent, one interexchange carrier raised its residential universal service line item to 12 percent. That carrier's residential line item was subsequently reduced to 9.9 percent. Another interexchange carrier increased its residential line item to 11.5 percent on January 1, 2002, even though the contribution factor recently decreased from 6.918 in the fourth quarter to 6.808 percent in the first quarter.

18. Some carriers also employ different recovery methods for different customer groups, imposing universal service line-item charges on certain categories of presubscribed customers, but recovering an undisclosed amount from other customers through per-minute service rates. For example, some carriers do not recover universal service contributions from certain categories of customers, such as dial-around customers. In addition, universal service line-item percentages for residential customers often are higher than those for business customers. Other carriers charge customers large, up-front universal service fees that are unrelated to their revenues from a customer. Such practices may be inexplicable to the casual observer, and may shift a disproportionate share of the cost of contributions onto certain customer classes.

19. In this Further Notice, therefore, we seek comment on how to modify our rules to ensure that carriers that elect to recover their universal service obligations from their customers do so in a manner that is reasonable, fair, and understandable. In particular, we seek comment on whether to require carriers that elect to recover through separate universal service line-item charges on any customer bill to apply a uniform line item on all customer bills. To further develop the record in the *Truth-in-Billing* proceeding, we also seek comment on whether to require carriers to describe such line-item charges on customer bills as the ''Federal Universal Service Fee.'' We seek comment on whether these proposals would help to prevent consumers from being charged excessive universal service fees, to make the recovery process more understandable for consumers, and to ensure that carriers do not recover more from certain customers or classes of customers than from others. We also seek comment on whether the proposed

reforms would place significant administrative or financial burdens on contributing carriers and on the potential benefits and costs for consumers.

III. Procedural Issues

A. Ex Parte Presentations

20. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Initial Regulatory Flexibility Act Analysis

21. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice provided below in section III.C. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for and Objectives of the Proposed Rules

22. Over the last few years, important changes have occurred in the interstate telecommunications marketplace. Recently, interstate revenues have declined for certain interexchange carriers, who are now responsible for contributing approximately 63 percent of federal universal service funding. We observed a decline in assessable revenues in the first half of 2001. One analyst projects that United States long distance revenues will decline 12 percent in 2001. Various factors may be responsible for this decline, including migration of customers to new products and services, local exchange carrier entry into the long distance market, and related price competition. This trend could erode the contribution base over time, requiring increases in the contribution factor.

23. Additionally, since 1997, marketplace developments also have blurred the distinctions between interstate/intrastate and telecommunications/non-telecommunications revenues on which the current contribution system is based. Carriers increasingly are bundling services together in creative ways, for example by offering flat-rate packages that include both local and long distance services. Virtually all of the major mobile telecommunications service providers now offer a type of Digital-One-Rate (DOR) pricing plan that allows customers to purchase a bucket of minutes on a nationwide, or nearly nationwide, network without incurring roaming or long distance charges. A number of carriers, including AT&T Wireless, Verizon Wireless, and Cingular Wireless, also have begun offering regional DOR calling plans. At the end of 2000, approximately 20 million mobile telephone customers subscribed to calling plans that offer free nationwide long distance. The availability of such plans compounds the inherent difficulty of identifying interstate revenues in a mobile environment. Traditional wireline providers also are increasingly offering bundled rates for packages of local and long distance services.

24. Likewise, more and more carriers now offer bundled packages of telecommunications services and customer premises equipment (CPE) or information services. The accelerating development of new technologies like ''voice over Internet'' increases the strain on regulatory distinctions such as interstate/intrastate and telecommunications/non-telecommunications, and may reduce the overall amount of assessable revenues reported under the current system. Additional legal, technological, and market developments that we cannot foresee now also could significantly impact the universal service contribution base.

25. In light of these and other changes in the telecommunications marketplace, the Commission has recognized the need to review the current system for assessing universal service contributions. Our examination of the record reveals a consensus that reforms are necessary, although different industry segments differ on what reforms should be undertaken. Our primary goal is to ensure the stability and sufficiency of the universal service fund as the marketplace continues to evolve. We also seek to identify the best means of ensuring that contributors continue to be assessed in an equitable and nondiscriminatory manner, and recover their contributions in ways that are fair and understandable for consumers. In addition, we seek to provide certainty to market participants, and minimize the regulatory costs of complying with universal service obligations.

2. Legal Basis

26. The legal basis as proposed for this Further Notice is contained in sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 4(j), 201–205, 254, 403.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

27. The Commission's contributor reporting requirements apply to a wide range of entities, including all telecommunications carriers and other providers of interstate telecommunications services that offer telecommunications services for a fee. Thus, we expect that the proposal in this proceeding could have a significant economic impact on a substantial number of small entities. Of the estimated 5,000 filers of the Telecommunications Reporting Worksheet, FCC Form 499, we do not know how many are small entities, but we offer below a detailed estimate of the number of small entities within each of several major carrier-type categories.

28. To estimate the number of small entities that could be affected by these proposed rules, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

29. The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telecommunications companies that are commonly used under our rules.

30. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

31. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Trends in Telephone Service* report. According to data in the most recent report, there are 4,822 interstate carriers. These carriers include, *inter alia,* incumbent local exchange carriers, competitive local exchange carriers, competitive access providers, interexchange carriers, other wireline carriers and service providers (including shared-tenant service providers and private carriers), operator service providers, pay telephone operators, providers of telephone toll service, wireless carriers and services providers, and resellers.

32. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

33. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

34. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), operator service providers (OSPs), payphone providers or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually on the Form 499–A. According to our most recent data, there are 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in this Order.

35. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. The applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends Report,* 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small cellular service carriers that may be affected by the proposed rules, if adopted.

36. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. If

this general ratio continues in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

37. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order,* (62 FR 16004, April 3, 1997), we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. Two auctions of Phase II licenses have been conducted. In the first auction, nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: One of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

38. *Private and Common Carrier Paging.* In the Paging *200 MHz Third Report and Order,* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends Report,* 427 carriers reported that they were engaged in the provision of paging and messaging services. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 427 small paging carriers that may be affected by the decisions and rules adopted in this Order. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

39. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

40. *Narrowband PCS.* To date, two auctions of narrowband PCs licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order,* (65 FR 35875, June 6, 2000). A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA. In the future, the Commission will auction 459 licenses to serve MTAs and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

41. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify

as small entities under the SBA's definition.

42. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. We will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

43. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

44. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

45. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

46. Should the Commission decide that fundamental reform of the existing contribution methodology is needed, the associated rule changes potentially could modify the reporting and recordkeeping requirements of telecommunications service providers regulated under the Communications Act. As discussed previously, we potentially could require telecommunications service providers to file additional and/or different monthly or quarterly reports. Any such reporting requirements potentially could require the use of professional skills, including legal and accounting expertise. Without more data, we cannot accurately estimate the cost of compliance by small telecommunications service providers. In this Further Notice, we therefore seek comment on the frequency with which carriers should submit reports to USAC, the types of burdens carriers will face in periodically submitting reports to USAC, and whether the costs of such reporting are outweighed by the potential benefits of the possible reforms. Entities, especially small businesses, are encouraged to quantify the costs and benefits of the reporting requirement proposals.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

47. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

48. As discussed previously, this Further Notice seeks comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. We seek more focused comment on whether to assess contributions based on the number and capacity of connections provided to a public network, as proposed by some commenters. A connection-based assessment approach may address the difficulty of applying regulatory distinctions inherent in the existing system to new services and technologies. By harmonizing the contribution system with the telecommunications marketplace, a connection-based assessment approach may help to ensure the stability and sufficiency of the universal service contribution base over time. We also invite commenters to supplement the record developed in response to the *2001 Notice* with any new arguments or data regarding whether to retain or modify the existing revenue-based system. For example, some commenters suggest that we retain or modify slightly the existing system. In addition, we seek additional comment in the Further Notice on reforming the contribution recovery process to make it more fair and understandable for consumers.

49. Wherever possible, the Further Notice seeks comment on how to reduce the administrative burden and cost of compliance for small telecommunications service providers. We seek comment, for example, on the appropriate frequency and content of reporting under a connection-based methodology. We particularly seek comment from contributors that are ''small business concerns'' under the Small Business Act.

50. Contributors currently report their gross-billed interstate end-user telecommunications revenues on a quarterly basis on the Form 499-Q. We seek comment on requiring contributors to report the number and capacity of their connections on a monthly basis. Under this proposal, each month contributors would receive a fill-in-the-blank bill from USAC and would remit their contribution based on the number and capacity of their end-user connections in service as of the end of the prior month. Therefore, the proposed new Form 499–M would serve both as a contributor's monthly bill and its reporting obligation. Although contributors would have to report more frequently under this proposal than under the current system, their overall reporting burdens may be significantly reduced because they would only be required to report the number and capacity of the connections they provide, rather than their interstate telecommunications revenues. In

addition, a contributor's reporting obligation and its bill would become one in the same. We also seek comment on whether requiring only one entity to contribute for a connection would ease some of the administrative burdens associated with compliance. Last, we also seek comment on an alternative that might assist small entities: how to craft a de minimis exemption should the Commission choose to adopt a connection-based system.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

51. None.

A. Comment Filing Procedures

52. Pursuant to § 1.415 and § 1.419 of the Commission's rules, interested parties may file comments April 12, 2002, and reply comments April 29, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

53. Comments filed through the ECFS can be sent as an electronic file via the Internet to <*http://www.fcc.gov/e-file/ecfs.html*>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

54. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

55. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Accounting Policy Division, 445 12th Street, SW., Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 96–45, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CYB402, Washington, DC 20554.

56. Written comments by the public on the proposed and/or modified information collections are due on or before April 12, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 13, 2002. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbherman@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503 or via the Internet to *JeanetteThornto@omb.eop.gov.*

IV. Ordering Clauses

57. Pursuant to the authority contained in sections 4(i), 4(j), 201–205, 254, and 403 of the Communications Act of 1934, as amended, this Further Notice of Proposed Rulemaking is adopted.

58. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–6029 Filed 3–12–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 020215032–2032–01; I.D. 110701D]

RIN 0648–AP59

Fisheries of the Northeastern United States; Proposed 2002 Specifications for the Atlantic Bluefish Fishery

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

ACTION: Proposed 2002 specifications for the Atlantic bluefish fishery; request for comments.

SUMMARY: NMFS proposes 2002 specifications for the Atlantic bluefish fishery, including total allowable landings (TAL), state-by-state commercial quotas, and recreational harvest limits and possession limits for Atlantic bluefish off the East Coast of the United States. The intent of the specifications is to conserve and manage the bluefish resource and provide for sustainable fisheries.

DATES: Public comments must be received no later than 5 p.m., Eastern Standard Time, on March 28, 2002.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment (EA), Preliminary Regulatory Economic Evaluation (PREE), Initial Regulatory Flexibility Analysis (IRFA), and Essential Fish Habitat Assessment (EFHA) are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The EA, PREE, IRFA, and EFHA are accessible via the Internet at *http:/www.nero.gov/ro/doc/nr. htm.*

Comments on the proposed specifications should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Please mark the envelope, ''Comments--2002 Bluefish Specifications.'' Comments also may be sent via facsimile (fax) to 978–281–

9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Myles A. Raizin, Fishery Policy Analyst, (978) 281–9273, e-mail at Myles.A.Raizin@noaa.gov, fax at (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations implementing the Atlantic Bluefish Fishery Management Plan (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at § 648.160. The FMP requires that the Council recommend, on an annual basis, a TAL, which is composed of a commercial quota and a recreational harvest limit. The FMP also requires that: (1) the TAL for any given year be set based on the fishing mortality rate (F) resulting from the stock rebuilding schedule contained in the FMP, or the estimated F in the most recent fishing year, whichever is lower; and (2) a total of 17 percent of the TAL be allocated to the commercial fishery, as a quota, with the remaining 83 percent allocated as a recreational harvest limit, with the stipulation that if 17 percent of the TAL is less than 10.50 million lb (4.8 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.50 million lb (4.8 million kg) as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed TAL.

The Council's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to ensure that they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications in the **Federal Register**. After considering public comment, NMFS will publish final specifications in the **Federal Register**.

Proposed 2002 Specifications

Proposed TAL

On August 9, 2001, the Council adopted specifications for the 2002 Atlantic bluefish fishery. NMFS has reviewed documents submitted by the Council in support of its recommendation for the 2002 specifications and has found that the Council has complied with the FMP objectives and other applicable law. Therefore, NMFS is proposing to implement the Council's recommended specifications. For the 2002 fishery, the stock rebuilding program in the FMP would restrict F to 0.41. However, the 2000 fishery produced an F of only 0.326. So, in accordance with the FMP, the TAL proposed for 2002 was set to achieve F=0.326. The resulting Total Allowable Catch (TAC) recommended by the Council and proposed by NMFS is 29.1 million lb (13.2 million kg). The TAL is calculated by deducting discards, estimated at 2.2 million lb (0.99 million kg) for 2002, from the TAC. Therefore, the proposed TAL for 2002 is 26.866 million lb (12.19 million kg).

Proposed Commercial Quota and Recreational Harvest Limit

If the TAL for the 2002 fishery were allocated based on the percentages specified in the FMP, the commercial quota would be 4.567 million lb (2.07 million kg) with a recreational harvest limit of 22.299 million lb (10.12 million kg). However, actual recreational landings from the last several years were much lower than this allocation, ranging between 8.30 and 14.3 million lb (3.76 and 6.49 million kg). There is no reason to expect that recreational landings in 2002 will exceed this range from prior years. Thus, the recreational fishery is not projected to land a 22.299 million-lb (10.12 million kg) harvest limit in 2002. As such, the FMP and the implementing regulations authorize the specification of a commercial quota of up to 10.5 million lb (4.76 million kg) for 2002. NMFS proposes to transfer 5.933 million lb from the initial 2002 recreational allocation of 22.299 million lb (10.12 million kg), resulting in 16.365 million lb (7.42 million kg) for the proposed 2002 recreational harvest limit and a proposed 2002 commercial quota of 10.5 million lb (4.76 million kg). The proposed 2002 commercial quota would be an increase from the 2001 quota (9.58 million lb (4.35 million kg)) implemented by NMFS and the states under the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for Atlantic Bluefish. A recreational possession limit of 15 fish/person and a 2–percent TAL research set-aside are also proposed. The FMP allows the Council to set a bag limit of between 5 and 20 fish that would allow the recreational fishery to harvest an amount of fish that does not exceed the proposed harvest limit. From the implementation of the FMP in 1989, until 2001, the bag limit remained at 10 fish. In 2001, the Council determined that a 15–fish bag limit would increase recreational harvest by only 5 percent when compared to the 10–fish bag limit. Since the recreational harvest is estimated to remain low relative to the recreational harvest limit, the Council has concluded that continuing the 15–fish bag limit is appropriate to protect the bluefish stock. Some or all of the research set-aside amount will be allocated if research proposals to utilize it are approved. A Request for Proposals was published to solicit proposals for 2002, based on research priorities identified by the Council (66 FR 38636, July 25, 2001, and 66 FR 45668, August 29, 2001). The deadline for submission was September 14, 2001, and proposals are currently under review. If all of the bluefish research set-aside is allocated, the commercial quota would be 10.290 million lb (4.67 million kg) and the recreational harvest limit would be 16.038 million lb (7.28 million kg). The quota set-asides, the commercial quota, and the recreational harvest limit will be adjusted in the final rule establishing the annual specifications for the bluefish fishery, if necessary, to reflect set-aside allocations to projects forwarded to the NOAA Grants Office for award. If the awards are not made for any reason, NMFS will publish a notification in the **Federal Register** to restore the unused set-aside amount to the annual commercial and recreational allocations.

Proposed State Commercial Allocations

Proposed state commercial allocations for the recommended 2002 commercial quotas are shown in the table below, based on the percentages specified in the FMP and subtracting the proposed 2–percent research set-aside.

State	% of quota	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)
				With 2 % Research Set -Aside	With 2 % Research Set -Aside
ME	0.6685	70,193	31,839	68,789	31,202

State	% of quota	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)	2002 Commercial Quota (lb)	2002 Commercial Quota (kg)
NH	0.4145	43,523	19,741	42,652	19,347
MA	6.7167	705,254	319,898	691,148	313,500
RI	6.8081	714,851	324,251	700,553	700,553
CT	1.2663	132,962	60,310	130,302	59,104
NY	10.3851	1,090,436	494,613	1,068,627	484,721
NJ	14.8162	1,555,701	705,654	1,524,587	691,541
DE	1.8782	197,211	89,453	193,267	87,664
MD	3.0018	315,189	142,967	308,885	140,108
VA	11.8795	1,247,348	565,787	1,222,401	554,472
NC	32.0608	3,366,384	1,526,966	3,299,056	1,496,427
SC	0.0352	3,696	1,676	3,622	1,643
GA	0.0095	998	452	978	443
FL	10.0597	1,056,269	479,115	1,035,143	469,533
Total	100.0000	10,500,000	4,762,720	10,290,000	4,667,465

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows

The analysis considered three alternatives. Analysis of the Preferred Alternative examined the impacts on industry that would result from a TAL of 26.87 million lb (12.19 million kg), with 10.50 million lb (4.76 million kg) allocated to the commercial sector of the fishery, which represents the maximum allowed under the FMP, and 16.37 million lb (7.42 million kg) allocated to the recreational sector with a 15–fish possession limit. Analysis of Alternative 2 considered a TAL of 26.87 million lb (12.19 million kg) with a commercial allocation of 4.57 million lb (2.07 million kg); 22.30 million lb (10.11 million kg) recreational; and a 15–fish recreational possession limit. Analysis of Alternative 3 considered a TAL of 26.87 million lb (12.19 million kg);9.58 million lb (4.35 million kg) commercial, which represents the commercial status quo ; 17.28 million lb (7.84 million kg) recreational; and a 15–fish possession limit.

There is very little information available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. However, given the level of the recreational harvest limit for 2002 and recreational landings in recent years it is not anticipated that this management measure will affect the demand for party/charter boat trips. Given that the recreational harvest limit is over 61% higher than the 2000 landings, the possession limit is expected to increase angler satisfaction and is not expected to result in landings in excess of the recreational harvest limit.

The analysis assumed that in the absence of cost data, gross revenue was a sufficient proxy for profitability. Furthermore, the analysis identified all participants as small entities; therefore, there are no negative effects on those small businesses from disproportionate competitiveness with large entities. Results of their analysis indicate that based on 2000 landings, on a coastwide basis, the Preferred Alternative would yield a 1.10–percent increase in revenue to the commercial sector, Alternative 2 would yield a 60.79 percent decrease, and Alternative 3 would yield an 8.45 percent decrease.

The Council, in analyzing the impacts of the three alternatives on fishermen in individual states, concluded that the increase in revenues under the Preferred Alternative and Alternative 3 would occur in all states except New York and North Carolina. Under Alternative 2, all states would show decreases in revenue. The Council's analysis was based on the FMP requirement that an overage of the quota for an individual state in 2001 be subtracted from the quota for that state in the following year. At the time the Council prepared their analysis, both New York and North Carolina had exceeded their quota, and the Council based their analysis on the premise that quotas would be reduced in these states for the 2002 fishery. The Council assumed that preexisting overages in 2001 could force reductions in available quota to the states of New York and North Carolina in 2002 at the rates of 71.86 percent and 10.76 percent, respectively.

The Council further indicated that under the Preferred Alternative and Alternative 3, the significantly negative economic impacts to the states of New York and North Carolina could easily be mitigated by a transfer of commercial quota from another state, as allowed under the FMP, making the impacts negligible. This was accomplished under the FMP for the 2001 fishery, thus, making their initial analysis regarding the impacts of 2001 overages on the 2002 fishery moot.

In sum, in the absence of perfect information regarding transfers for the 2001 fishery, the Council offered 2 scenarios-- one with transfers, in which they concluded there would be negligible economic impacts, and one without transfers, in which they concluded that significantly negative economic impacts would occur due to the requirement to reduce 2002 quotas to account for 2001 overages. However, the Council did not take into account that fishermen in the states of North Carolina and New York have recorded landings in 2001 that far exceed the proposed 2002 quotas for those States. This presents a quandary since it is uncertain as to whether transfers will take place in 2002 and if they do, to what extent those transfers will affect total 2002 landings. A comparison of actual 2001 state landings and the proposed 2002 state quotas and a discussion of their impacts is found below.

New information gathered by NMFS has made it possible to more accurately predict economic impacts of the proposed 2002 specifications to New York and North Carolina by comparing actual 2001 landings to proposed 2002 state allocations of the bluefish TAL. The Council did not have complete 2001 landings data at the time it prepared its PREE.

The Preferred Alternative of 10.50 million lb of bluefish TAL would

allocate 1,090,436 lb (494,613 kg) of bluefish to New York and 3,366,384 lb (1,526,966 kg) to North Carolina. Actual 2001 landings amounted to 1,186,843 lb (538,495 kg) for New York and 3,584,627 lb (1,626,418 kg) for North Carolina. All other states landed less in 2001 than their proposed 2002 allocation of the total bluefish TAL, and, therefore, would not be impacted.

Under the assumption that 2002 allocations for New York and North Carolina represent harvest constraints to those fisheries, there would be an 8–percent reduction in bluefish revenues in New York and a 6–percent reduction in North Carolina associated with the Preferred Alternative when compared to 2001 landings, 16 and 14–percent reductions associated with Alternative 3, and 60–and 59–percent reductions associated with Alternative 2. Under Alternative 2, even with transfers of quota, New Jersey, New York, North Carolina, and Massachusetts would show a significant decrease in revenues for a substantial number of vessels according to the PREE. Implicit in this analysis is the assumption that when a state's quota is reached and the fishery is closed, the state will not be able to take advantage of a transfer provision under the FMP that allows states that have a surplus quota to transfer a portion or all of that quota to a state that has or will reach its quota. The transfer provision was implemented by Amendment 1 to the FMP as a tool to mitigate the adverse economic effects of prematurely closing a fishery when surplus quota exists.

The Council, in its analysis, was correct in assuming that it is highly unlikely that reductions in revenues would occur since allocations to the states can be adjusted inseason through transfers. Based on historical evidence, under the 2000 and 2001 bluefish fisheries, and, prior to 2000, under the Interstate Management Plan for Atlantic Bluefish, states have been cooperative in transferring commercial bluefish quota when needed by states running a deficit. In fact, to harvest more than their allotted quota, New York and North Carolina received 200,000 and 1,134,000 lb (90,744 and 514,599 kg) of quota in 2001, respectively, from states that had surpluses. Given that commercial coastwide landings have averaged 7.685 million lb (3.487 million kg) for the years 1998 through 2001, and the 2002 proposed TAL is 10.500 million lb (4.768 million kg), the Council had a strong basis to assume that transfers will again take place in 2002, thus reducing impacts to vessels in New York and North Carolina or other states that may require additional quota to avoid a closure.

For all three alternatives, the Council notes that there is very little information available to estimate how sensitive the affected party/charter boat anglers might be to the proposed fishing regulations. However, since the 2002 harvest limits are 61, 120, and 70 percent greater than 2000 recreational harvest, it can be assumed that there would be no negative impacts on party/charterboats from the 2002 specifications.

Estimate of the Number of Small Entities

An active participant in the commercial sector was defined as being any vessel that reported having landed one or more lb of bluefish in the Dealer data during calendar year 2000. These data cover activity by unique vessels. Of the active vessels reported in 2000, 829 vessels landed bluefish from Maine to North Carolina. The Dealer data do not cover vessel activity in the South Atlantic. The Dealer data indicate that 126 federally permitted vessels landed bluefish in North Carolina in 2000. However, the North Carolina landings data for bluefish may be incomplete in this data system. Trip Ticket Report data indicate that 1,088 vessels landed bluefish in North Carolina in 2000 (Lees Sabo, North Carolina Division of Marine Fisheries, pers. comm., 2001). Some of these vessels may be included in the 126 vessels identified as landing bluefish in the Dealer data. As such, double counting is possible. In addition, 136 vessels landed bluefish in Florida's east coast in 1999. Bluefish landings in South Carolina and Georgia are negligible compared to the total bluefish landing along the Atlantic coast in 2000. As such, it was assumed there was no vessel activity for those two states. In addition, it was estimated that in recent years approximately 2,063 party/charter vessels may have been active and/or caught bluefish.

Alternatives which Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

The Council and NMFS included a provision in the FMP that would minimize economic impacts to vessels in states that faced closure by allowing a transfer of quota within the coastwide allocation. However, under certain circumstances where state surplus quotas are not available, there are no alternatives to mitigate significant economic impact. It is more likely that this scenario would occur under Alternative 2 where the coastwide and state quotas are less than half the proposed quotas. The Preferred Alternative provides a commercial coastwide quota that would not put constraints on total landings based on previous years' total landings, thus allowing for transfers to take place. Also, the Preferred Alternative provides a recreational harvest limit that exceeds previous years' recreational harvest.

Thus, the Preferred Alternative offers the best opportunity for minimizing any negative impact on small entities.

This action is not controversial. This proposed rule does not contain any collection-of-information, reporting, or recordkeeping requirements. It will not duplicate, overlap, or conflict with any other Federal rules.

Dated: March 7, 2002.

Rebecca Lent

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–6070 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 49

Wednesday, March 13, 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

Agricultural Marketing Service

[Docket No. LS–01–14]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension of a currently approved information collection for grain and molasses market news reports.

DATES: Comments on this notice must be received by May 13, 2002, to be assured of consideration.

Additional Information or Comments: Comments may be mailed to Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS, USDA; STOP 0252; 1400 Independence Avenue SW.; Washington, DC 20250–0252; Phone (202) 720–8054; Fax (202) 690–3732; or E-mail to *John.VanDyke@usda.gov.* All comments received will be available for public inspection at this address during the hours of 8 a.m. to 4 p.m. Monday through Friday, and on the Internet at *www.ams.usda.gov/lsg/mncs.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Grain Market News Reports and Molasses Market News Reports.

OMB Number: 0581–0005.

Expiration Date of Approval: 07–31–2002.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621), section 203(g) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and to bring about a balance between production and utilization.

The grain industry has requested that USDA continue to issue market news reports on grain and molasses. These reports are compiled by AMS in cooperation with the grain and feed industry. Market news reporting must be timely, accurate, and continuous if it is to be useful to producers, processors, and the trade in general. Industry traders can use market news information to make marketing decisions on when and where to buy and sell. For example, a producer could compare prices being paid at local, terminal, or export elevators to determine which location will provide the best return. Some traders might choose to chart prices over a period of time in order to determine the most advantageous day of the week to buy or sell, or to determine the most favorable season. In addition, the reports are used by other Government agencies to evaluate market conditions and calculate price levels, such as USDA's Farm Service Agency, that administers the Farmer-owned Reserve Program. Economists at most major agricultural colleges and universities use the grain and feed market news reports to make short and long-term market projections. Also, the Government is a large purchaser of grain and related products, a system to monitor the collection and reporting of data is needed.

The information must be collected, compiled, and disseminated by an impartial third-party, in a manner which protects the confidentiality of the reporting entity. AMS is in the best position to provide this service.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .108 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 202.

Estimated Number of Responses per Respondent: 19.

Estimated Total Annual Burden on Respondents: 420 hours.

Comments are invited on: (1) 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) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5935 Filed 3–12–02; 8:45 am]

BILLING CODE 3412–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–01–13]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension and revision of a currently approved information collection used to compile and generate the Federally Inspected Estimated Daily Slaughter Report for the Livestock and Grain Market News Program.

DATES: Comments on this notice must be received by May 13, 2002, to be assured of consideration.

Additional Information or Comments: Comments may be mailed to Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS, USDA; STOP 0252; 1400 Independence Avenue, SW.; Washington, DC 20250–0252; Phone (202) 720–8054; Fax (202) 690–3732; or e-mail to *John.VanDyke@usda.gov.* All comments received will be available for public inspection at this address during the hours of 8 a.m. to 4 p.m. Monday through Friday, and on the Internet at *www.ams.usda.gov/lsg/mncs*.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Plan for Estimating Daily Livestock Slaughter Under Federal Inspection.

OMB Number: 0581–0050.

Expiration Date of Approval: 07–31–2002.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621, *et seq*) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements aiding in the maintenance of farm income and to bring about a balance between production and utilization.

Under this market news program, USDA issues a market news report estimating daily livestock slaughter under Federal inspection. This report is compiled on a voluntary basis in cooperation with the livestock and meat industry. The information provided by respondents facilitates market news reporting, which must be timely, accurate, unbiased, and continuous if it is to be useful to the industry. The daily livestock slaughter estimates are provided at the request of industry and are used to make production and marketing decisions.

The Daily Estimated Livestock Slaughter Under Federal Inspection Report is used by a wide range of industry contacts, including packers, processors, producers, brokers, and retailers of meat and meat products. The livestock and meat industry requested that USDA issue slaughter estimates (daily and weekly), by species, for cattle, calves, hogs, and sheep in order to assist them in making immediate production and marketing decisions and as a guide to the volume of meat in the marketing channel. The information requested from respondents includes their estimation of the current day's slaughter at their plant(s) and the actual slaughter for the previous day. Also, the Government is a large purchaser of meat and related products and this report assists other Government agencies in providing timely information on the quantity of meat entering the processing channels.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .02 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 72.

Estimated Number of Responses per Respondent: 260.

Estimated Total Annual Burden on Respondents: 374 hours.

Comments are invited on: (1) 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) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5937 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–02–03]

Beef Promotion and Research: Certification and Nomination for the Cattlemen's Beef Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State cattle producer organizations or associations and general farm organizations, as well as cattle or beef importer organizations, who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

DATES: Applications for certification must be received by close of business April 12, 2002.

ADDRESSES: Certification forms as well as copies of the certification and nomination procedures may be requested from Marlene M. Betts, Acting Chief; Marketing Programs Branch, LS, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251.

FOR FURTHER INFORMATION CONTACT: Marlene M. Betts, Acting Chief, Marketing Programs Branch on 202/720–1115.

SUPPLEMENTARY INFORMATION: The Beef Promotion and Research Act of 1985 (Act) (7 U.S.C. 2901 *et seq.*), enacted December 23, 1985, authorizes the implementation of a Beef Promotion and Research Order (Order). The Order, as published in the July 18, 1986, **Federal Register** (51 FR 26132), provides for the establishment of a Board. The current Board consists of 100 cattle producers and 8 importers appointed by USDA. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that USDA shall either certify or otherwise determine the eligibility of State cattle producer organizations or associations and general farm organizations, as well as any importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Persons who are individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they

must establish to the satisfaction of USDA that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order (7 CFR 1260.143(b)(2)). Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process, including the beginning and ending dates of the established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, **Federal Register** (51 FR 11557) and currently appear at 7 CFR 1260.500 through 1260.640. Organizations which have previously been certified to nominate members to the Board do not need to reapply for certification to nominate producers and importers for the upcoming vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of 3 years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in early 2003:

State or unit	Number of vacancies
Arkansas	1
California	1
Colorado	1
Florida	1
Idaho	1
Kansas	3
Kentucky	1
Minnesota	1
Missouri	1
Montana	2
Nebraska	3
New Mexico	1
North Dakota	1
Oklahoma	2
Pennsylvania	1
South Dakota	1
Texas	5
Virginia	1
Wyoming	1
Importers	5

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northeast, Northwest, mid-Atlantic, and Southeast units, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations and general farm organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official ''Application for Certification of Organization or Association,'' which must be received by close of business April 12, 2002. Uncertified eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR 1260.540(b). Applications from States or units without vacant positions on the Board and other applications not received within the 30-day period after publication of this Notice in the **Federal Register** will be considered for eligibility to nominate producers or importers for subsequent vacancies on the Board.

Only those organizations or associations which meet the criteria for certification of eligibility promulgated at 7 CFR § 1260.530 are eligible for certification. Those criteria are:

(a) For State organizations or associations:

(1) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit,

(2) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit,

(3) There must be a history of stability and permanency, and

(4) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(b) For organizations or associations representing importers, the determination by USDA as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) The number and type of members represented (i.e., beef or cattle importers, etc.),

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle,

(3) The stability and permanency of the importer organization or association,

(4) The number of years in existence, and

(5) The names of the countries of origin for cattle, beef, or beef products imported.

All certified organizations and associations, including those that were previously certified in the States or units having vacant positions on the Board, will be notified simultaneously in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms and background information sheets.

The names of qualified nominees received by the established due date will be submitted to USDA for consideration as appointees to the Board.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C., Chapter 35 and have been assigned OMB No. 0581–0093, except Board member nominee information sheets are assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 2901 *et seq.*

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5936 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood/Willamette Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Meeting.

SUMMARY: The Hood/Willamette Resource Advisory Committee (RCA) will meet on Thursday, April 4, 2002. The meeting is scheduled to begin at 9 a.m. and will conclude at approximately 4 p.m. The meeting will be held at the South Salem Phoenix Inn; 4370 Commercial St. SE; Salem, Oregon; (503) 588–9220. The tentative agenda includes: (1) Complete review and Recommendation of Projects; (2) Process for Making Recommendations on 2003 Projects; (3) Public Forum.

The Public Forum is tentatively scheduled to begin at 1 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the April 4 meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–9220.

Dated: March 4, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–5926 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of final results of antidumping administrative review and rescission of new shipper review.

SUMMARY: On August 24, 2001, the Department of Commerce published the preliminary results of the new shipper review and the administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The periods of review are June 1, 2000, through November 30, 2000, and November 1, 1999, through October 31, 2000, respectively. The two reviews have been aligned at the request of the petitioner and the agreement of the new shipper. The new shipper review concerns one new shipper and the administrative review covers four producers/exporters of subject merchandise.

We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our analysis for the new shipper review. We have made no changes to the margin determined for the administrative review. The final dumping margins for the administrative review are listed in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Mark Ross, Office of Antidumping/Countervailing Duty Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3477 or (202) 482–4794, respectively, for information concerning the new shipper review. For information concerning the administrative review, please contact Edythe Artman or Mark Ross at the same address; telephone (202) 482–3931 for Edythe Artman.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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

Background

On August 24, 2001, the Department published the preliminary results of the new shipper and administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (the PRC). See *Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping New Shipper Review, Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review,* 66 FR 44596 (August 24, 2001) *(Preliminary Results).* We invited parties to comment on our preliminary results. With respect to the new shipper review, we received comments from the petitioner and the new shipper, Clipper Manufacturing Ltd. (Clipper). We received comments from the petitioner and one of the respondents, Fook Huat Tong Kee Pte., Ltd., and Taian Fook Huat Tong Kee Foods Co., Ltd. (collectively FHTK), that pertained to the administrative review.

We have conducted these reviews in accordance with section 751 of the Act and 19 CFR 351.213 and 351.214.

Scope of the Order

The products covered by this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.

The scope of this order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 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 order is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to the administrative review are addressed in the ''Issues and Decision Memorandum for the Administrative Review of Fresh Garlic from the People's Republic of China'' (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated March 6, 2002, which is hereby adopted by this notice. All issues raised by parties concerning the *bona fides* of Clipper's sale and the Department's decision to rescind the new shipper review are addressed in the ''Issues and Decision Memorandum: New Shipper Review of Clipper Manufacturing Ltd.'' (Clipper Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated March 6, 2002, which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Decision Memo and Clipper Decision Memo is attached to this notice as an Appendix. The Decision Memo and Clipper Decision Memo are public documents and are on file in the Central Records Unit (CRU), Main Commerce Building, Room B–099, and are accessible on the Web at ia.ita.doc.gov. The paper copies and electronic versions of both memoranda are identical in content.

Separate Rates

In our preliminary results, we found that Clipper and FHTK met the criteria for the application of separate antidumping duty rates. Because we are rescinding the new shipper review, we are not making a final determination as to whether Clipper is entitled to a separate rate at this time. With respect to FHTK, we have not received any

other information since our preliminary results that warrants reconsideration of our separate-rate determination (see the *Preliminary Results,* 66 FR at 44597). Therefore, we find that FHTK should be assigned an individual dumping margin.

Use of Facts Otherwise Available

In our preliminary results of the new shipper review, we applied adverse facts available to Clipper and assigned it a rate of 376.67 percent for shipments during the period of review. Because we are rescinding the review covering Clipper, the use of facts otherwise available for Clipper is no longer an issue. For a detailed description of our analysis, see the Clipper Decision Memo.

In our preliminary results of the administrative review, we assigned a rate of 376.67 percent, based on the use of adverse facts available, to FHTK, Rizhao Hanxi Fisheries and Comprehensive Development Co., Ltd., Zhejiang Materials Industry, and Wo Hing (H.K.) Trading Co. For a detailed discussion of our application of the facts otherwise available, see the *Preliminary Results,* 66 FR at 44599–600, and the ''Memorandum from Edythe Artman to Laurie Parkhill'' regarding the use of facts otherwise available and the corroboration of secondary information (August 14, 2001), on file in the CRU.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes concerning Clipper in the new shipper review. See ''Rescission of New Shipper Review'' below. We have not made revisions that changed our analysis for the administrative review.

Final Results of the Administrative Review

We determine that a margin of 376.67 percent exists for all shipments of subject merchandise produced or exported by FHTK for the period November 1, 1999, through October 31, 2000. For Rizhao Hanxi Fisheries and Comprehensive Development Co., Ltd., Zhejiang Materials Industry, Wo Hing (H.K.) Trading Co., and all other Chinese producers and exporters of the subject merchandise for the period November 1, 1999, through October 31, 2000, we determine that a PRC-wide margin of 376.67 percent exists. 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.

Rescission of New Shipper Review

For the reasons detailed in the Clipper Decision Memo, we determine that Clipper's sale was not a *bona fide* sale as required by 19 CFR 351.214(b)(2)(iv)(C), although there was indeed an ''entry'' of the merchandise, as referenced in 19 CFR 315.214(b)(2)(iv)(A) of the regulations. Because we have no *bona fide* sale upon which to base a margin calculation, we are hereby rescinding the new shipper review with respect to Clipper. With this rescission, the PRC-wide margin of 376.67 percent applies to Clipper's entries during the period of review.

In response to the preliminary results, we received comments from Clipper objecting to the use of facts otherwise available in the calculation of its rate for the preliminary results. Clipper argued that the Department should issue it a supplemental questionnaire to resolve the remaining issues regarding garlic growing costs.

Because we are rescinding the new shipper review, we have not addressed Clipper's comments concerning the use of facts otherwise available. Comments by the petitioner and Clipper concerning the *bona fides* of Clipper's transaction are addressed in the Clipper Decision Memo.

Cash-Deposit Requirements

The following deposit rates will be effective upon publication of this notice of final results of administrative review for all shipments of fresh garlic from the PRC 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 FHTK, the cash-deposit rate will be 376.67 percent; (2) for PRC exporters, including Clipper, which have not been found to be entitled to a separate rate, the cash-deposit rate will be 376.67 percent; and (3) for all non-PRC exporters of subject merchandise from the PRC, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final 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 these review periods. Failure to comply with this requirement, pursuant to 19 CFR 351.402(f)(3), could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: March 6, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

Decision Memo

1. Use of Facts Available for FHTK.
2. Miscellaneous.

Clipper Decision Memo

Bona Fides of the Sale.

[FR Doc. 02–6076 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

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

Assistant Secretarial Business Development Mission: Italy and Spain

Rome and Milan, Barcelona and Madrid

July 6–15, 2002

Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service Maria Cino will lead a senior-level business

development trade mission focusing on women or minority-owned and/or -managed businesses to Rome and Milan, Italy, and Barcelona and Madrid, Spain. This Business Development Mission is being organized to coincide with the Global Summit of Women, to be held July 11–13, in Barcelona, Spain. The Global Summit of Women will bring together many high-level female private and public sector participants from around the world. While the trade mission and summit focus on women or minority-owned and/or managed companies, participation in the mission is not limited to such businesses and all interested U.S. companies are encouraged to apply to this four-city, two country trade mission. Recruitment closes on May 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Selina Marquez, U.S. Department of Commerce. Telephone 202–482–4799, e-mail *Trade.Missions@mail.doc.gov.*

Dated: March 7, 2002.

Thomas H. Nisbet,

Director, Export Promotion Coordination, Office of Planning, Coordination and Management.

[FR Doc. 02–5946 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011701C]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Reopening of comment period; Notice of Availability and request for comments.

SUMMARY: Notice is hereby given that NMFS is reopening the comment period for the Routine Road Maintenance Program (RMP) submitted jointly by the State of Washington through Washington State Department of Transportation (WSDOT), King, Pierce, Snohomish, Clallam, Kitsap, Mason, and Thurston Counties, and the Cities of Bellevue, Bremerton, Burien, Covington, Edgewood, Everett, Kenmore, Kent, Lake Forest Park, Lakewood, Maple Valley, Newcastle, Renton, SeaTac, Sammamish, Shoreline, Tacoma, and University Place pursuant to protective regulations promulgated under the Endangered Species Act (ESA). NMFS is also modifying the list of Evolutionarily Significant Units (ESUs) in the **SUPPLEMENTARY INFORMATION** section. The RMP would affect 10 Evolutionarily Significant Units (ESUs) of threatened salmonids identified in the **SUPPLEMENTARY INFORMATION** section, not 12 as stated in the previous notice. The comment period is being reopened because there were delays in notifying the public about the availability of the RMP. This document serves to notify the public of the availability of the RMP for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft RMP must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on April 12, 2002.

ADDRESSES: Written comments should be sent to Laura Hamilton, Habitat Conservation Division, National Marine Fisheries Service, 510 Desmond Drive, Suite 103, Lacey, Washington 98503. Comments may also be faxed to 360–753–9517. Copies of the entire RMP are available on the Internet at *http://www.metrokc.gov/roadcon/bmp/pdfguide.htm*. Comments will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Laura Hamilton at phone number 360–753–5820, or e-mail: *Laura.Hamilton@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the following 10 threatened salmonid ESUs: Puget Sound, Lower Columbia River, Upper Willamette River chinook salmon (*Oncorhynchus tshawytscha*); Hood Canal summer-run and Columbia River chum salmon (*O. Keta*); Ozette Lake sockeye salmon (*O. Nerka*); Snake River Basin, Lower Columbia River, Upper Willamette River, and Middle Columbia River steelhead (*O.mykiss*).

Background

WSDOT and the counties and cities named here, submitted the RMP for routine road maintenance activities that might affect certain salmonid ESUs listed as threatened in Washington State. The RMP was designed to be intentionally protective of salmonids and their habitat in the conduct of routine road maintenance activities.

In Part 1, the RMP describes the program framework including the 10 program elements that comprise the program (Regional Forum, Program Review, Best Management Practices (BMPs) and Conservation Outcomes (element 3), Training, Compliance Monitoring, Research, Adaptive Management, Emergency Response, Biological Data Collection, and Reporting). In Part 2,the RMP elaborates on element 3, the BMPs, in much greater detail and provides detailed instructions to crews, supervisors, environmental support staff, design personnel and managers. Part 3 describes a process by which additional counties, cities, and ports in Washington State may develop routine road maintenance programs by adopting RMP parts 1 and 2, and then submit their RMP to NMFS for review, public comment, and approval or disapproval.

The RMP defines what activities are routine road maintenance. These consist of maintenance activities that are conducted on currently serviceable structures, facilities, and equipment, involve no expansion of or change in use, and do not result in significant negative hydrological impact.

Finally, the RMP includes a biological review of the RMP prepared by WSDOT and the other entities named above. The biological review analyzes the effects of the RMP on listed salmonids and their habitat statewide. The biological review concludes that the identified routine road maintenance activities conducted throughout Washington State under the RMP will neither impair properly functioning habitat, nor appreciably reduce the functioning of already impaired habitat, nor retard the long-term progress of impaired habitat toward PFC. Approval or disapproval of the RMP will depend on NMFS' findings after public review and comment.

As specified in the July 10, 2000, ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve a routine road maintenance program of any state, city, county, or port, provided that NMFS finds the activities to be consistent with the conservation of listed salmonids' habitat by contributing to the attainment and maintenance of properly functioning condition. Prior to final approval of a routine road maintenance program, NMFS must publish notification in the **Federal Register** announcing the program's availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and

sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with routine road maintenance provided that a state or local program has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: March 8, 2002.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–6069 Filed 3–12–02; 8:45am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

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

March 8, 2002.

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

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

EFFECTIVE DATE: March 13, 2002.

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

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 54983, published on October 31, 2001.

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 8, 2002.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 25, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the period which began onJanuary 1, 2002 and extends through December 31, 2002.

Effective on March 13, 2002, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
340/640	2,235,436 dozen.
347/348	2,676,676 dozen.
351/651	471,552 dozen.
443	76,980 numbers.
448	52,943 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

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

Sincerely,
William J. Dulka,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–6075 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange's Proposal To Permit Exchange of Futures for, or in Connection With, Futures Transactions in Brent Crude Oil Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for public comment on a proposed exchange rule to permit Exchange of Futures for Futures (''EFF'') transactions.

SUMMARY: The New York Mercantile Exchange (''NYMEX'' or ''Exchange'') has requested that the Commission approve proposed new Rule 6.21D to permit EFF transactions in the Exchange's Brent Crude Oil (''Brent'') futures contract. The proposed new rule would establish a non-competitive trading procedure that would operate in a manner that is analogous in some respects to block trading rules and in other respects to exchange of futures for physicals (''EFP'') rules currently in operation at some exchanges. NYMEX intends for the proposal to enable ''eligible contract participants,'' as that term is defined by section 1a(12) of the Commodity Exchange Act, to liquidate open positions in Exchange-specified substantially equivalent contracts at another exchange and to establish comparable positions in the Exchange's Brent contract. The proposed rule essentially provides a mechanism to transfer Brent futures positions from another exchange to NYMEX. NYMEX proposes to implement the rule on a one-year pilot program basis.

Acting pursuant to the authority delegated by Commission Regulation 140.96(b), the Division of Trading and Markets, in concurrence with the Division of Economic Analysis and the Office of General Counsel, has determined to publish NYMEX's proposal for public comment. The Division believes that publication of the proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before April 12, 2002.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418–5521 or by electronic mail to *secretary@cftc.gov.* Reference should be made to the NYMEX proposal to adopt EFF procedures for the Brent Crude Oil futures contract.

FOR FURTHER INFORMATION, CONTACT: Please contact Jane H. Croessmann, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5433. Electronic mail: *jcroessmann@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NYMEX began trading its Brent futures contract on September 5, 2001. NYMEX represents that a number of market participants have expressed

interest in the Exchange establishing a mechanism whereby positions in Brent futures contracts at another exchange could be transferred to NYMEX. NYMEX represents that it has designed proposed Rule 6.21D to address those needs.

II. Summary Description of Proposed EFF Procedure

Under proposed Rule 6.21D, eligible contract participants would be permitted to execute away from the central marketplace transactions of 50 or more NYMEX Brent futures contracts. As a condition precedent to the NYMEX transaction, the parties must have liquidated a position in a substantially equivalent contract at another exchange, although they would not be required to execute those liquidating transactions against each other.[1] Regardless of whether the parties executed a single liquidating transaction with each other or two separate liquidating transaction with other parties, the quantities of the liquidating transactions would have to be substantially equivalent to the quantity covered by the later NYMEX transaction.

NYMEX states that its proposal would provide a means for sophisticated market participants to liquidate open Brent positions at another exchange and to individually negotiate transactions that would essentially result in the transfer of those positions to NYMEX. NYMEX further states that Rule 6.21D's various restrictions should permit parties to make those transfers, while avoiding exposure to the possibility of significant price slippage in a thinly traded market. NYMEX believes that by facilitating the transfer of positions between markets, its proposal would serve to increase competition between markets and, thus, benefit their users.

III. Text of Proposed NYMEX Rule 6.21D

Below is the text of proposed new NYMEX Rule 6.21D.

Rule 6.21D. Exchange of Futures for, or in Connection With, Futures Transactions

(A) General Requirements. (1) An exchange of futures for, or in connection with, futures (EFF) consists of two discrete, but related, transactions; one initial futures transaction effected on another regulated futures exchange (Underlying Transaction) and a subsequent futures transaction in an eligible NYMEX contract that is reported at the Exchange pursuant to the procedures specified in this rule (NYMEX Transaction).

(2) Liquidating Transactions. As a condition precedent to the NYMEX Transaction, the parties to the NYMEX Transaction must have engaged in a transaction on the other regulated futures exchange pursuant to the procedures of such other exchange that resulted in liquidating an existing position at such other exchange.

(3) Quantity. The quantity covered by the Underlying Transaction must be substantially equivalent to the quantity covered by the NYMEX Transaction. The contract specifications for the futures contract traded in the Underlying Transaction must be substantially equivalent, as determined by the Exchange, to the contract specifications for the eligible futures contract comprising the NYMEX Transaction. In addition, the minimum transaction size for the NYMEX Transaction is 50 contracts.

(4) Report to Clearing Member. For each party to the NYMEX Transaction, that party, within two hours of its receipt of trade confirmation on the Underlying Transaction(s) at the other exchange, must submit to the NYMEX Clearing Member(s) carrying its account the details of the NYMEX Transaction. Upon receipt of such information, the NYMEX Clearing Member(s) must prepare a contemporaneous record of the information that also indicates the time of receipt of such information.

(5) Eligible Contracts and Transactions. EFF transactions may be effected only for transactions in the Exchange's Brent Crude Oil futures contract.

(6) Eligible Participants. This trading procedure is available only to a person or entity qualifying as an ''eligible contract participant'' as that term is defined by the Commodity Exchange Act and CFTC rules.

(7) Floor Reporting Requirements and Deadlines. A report of each EFF transaction shall be given, and notice thereof shall be posted on the Floor of the Exchange. The report of an EFF transaction shall be given on the Floor of the Exchange during the hours of futures trading on the day that the transaction thereto was made, or if such agreement was made after the close of trading, then on the next business day.

(8) EFF transactions shall be cleared through the Exchange in accordance with normal procedures, shall be clearly identified and marked in the manner provided by the Exchange, and shall be recorded by the Exchange and by the Clearing Members involved.

(9) EFF transactions are permitted until the close of trading on the last trading day in the expiring contract month of the Exchange's NYMEX Brent Crude Oil futures contract.

(B) Clearing Member Reporting Requirements. A report of such EFF transaction shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFF as made under this Rule and shall contain the following information: a statement that the EFF has resulted or will result in a change of positions or other such change, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFF on the Floor of the Exchange.

(C) Exchange Request for Information. Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFF transaction. Upon the request of the Exchange, all documentary evidence relating to the EFF, including documentation of the Underlying Transaction on the other futures exchange, shall be obtained by the Clearing Members from the buyer or seller and made available by the Clearing Members for examination by the Exchange.

(D) Omnibus Accounts and Foreign Brokers. All omnibus accounts and foreign brokers shall submit a signed EFF reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFF pursuant to this Rule 6.21D, shall supply the name of its customer and such other information as the Exchange may require. Such information shall be submitted to the Exchange's Compliance Department by 12:00 noon no later than two (2) Exchange business days after the day of posting the EFF on the Floor of the Exchange. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFF information to the Exchange may result in a hearing by the Business Conduct Committee to limit, condition or deny access of such omnibus account or foreign broker to the market.

IV. Request for Comment

The Commission requests comment from interested persons concerning any aspect of NYMEX's EFF proposal. The Commission would be particularly interested in comments responding to the following questions:

(1) NYMEX contends that its proposal would facilitate the transfer of positions from one futures market to another and, thus, would promote competition among markets that ultimately would benefit participants in both markets. Would such a procedure, in fact increase competition between the markets?

(2) Would a non-competitive trading procedure at one exchange designed to encourage the transfer of positions from another exchange affect the integrity of price discovery at either or both markets?

(3) Under NYMEX's proposal, the condition precedent liquidating transaction(s) at another exchange and the subsequent NYMEX transaction would not be a single, integrated transaction, as is the case with EFPs. Would this feature of EFFs create any incentives to engage in improper practices at either NYMEX or the other exchange?

(4) NYMEX analogizes its proposal to block trading rules that have been implemented at other futures exchanges. NYMEX represents that the proposed EFF minimum transaction

[1] Rule 6.21D(3) provides that NYMEX shall determine whether a contract at another exchange is substantially equivalent. NYMEX has indicated to the Commission that, at this time, the International Petroleum Exchange's (''IPE'') Brent futures contract appears to be the only contract that would meet this standard. The NYMEX EFF procedure would be implemented without any special arrangement with IPE or any corresponding IPE rule change.

size of 50 contracts exceeds in size more than 90% of the Brent futures contract transactions executed in recent months at NYMEX. The Commission has utilized the 90% minimum threshold test in evaluating previously approved block trading proposals. In applying this standard, however, the Commission has traditionally looked at trading activity not only at the exchange that proposed block trading procedures, but also at trading in related cash and futures markets. So, for example, in the case of the Cantor Exchange's proposal to establish minimum thresholds for block trades in Treasury securities futures, the Commission evaluated the thresholds based on both the light trading activity at Cantor and the much heavier activity in Treasury securities futures at the Chicago Board of Trade, as well as transactions in the cash market.

(a) How should the Commission evaluate the minimum threshold for Brent EFF transactions?

(b) Should the Commission also consider the size of transactions executed in Brent futures contract at another exchange?

(c) How should that information best be obtained if the other exchange is not subject to the Commission's jurisdiction?

(d) If volume and liquidity in the NYMEX Brent futures contract increase, should the minimum threshold be modified?

V. Miscellaneous

Other materials submitted by the NYMEX in support of the request for approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (2001)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Issued in Washington, DC on March 7, 2002.

John C. Lawton,

Acting Director.

[FR Doc. 02–6051 Filed 3–12–02; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0215]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–15 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: March 7, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

25 FEB 2002
In reply refer to:
I-02/000984

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-15, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to India for defense articles and services estimated to cost $146 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-15

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: India**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$123 million
Other	$ 23 million
TOTAL	$146 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Eight AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar sets with related equipment, 26 AN/VRC-90E SINCGAR radios, generators, trailers, communications equipment, Global Position Systems, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, U.S. Government Quality Assurance Team (QAT), spare and repair parts, support equipment, publications and other related elements of program support.**

(iv) **Military Department: Army (UMJ)**

(v) **Prior Related Cases, if any: None**

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: Yes. Consistent with FAR and DFARS.**

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.**

(viii) **Date Report Delivered to Congress: 25 FEB 2002**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

India – AN/TPQ-37(V)3 FIREFINDER Counter-Battery Artillery Radar Sets

The Government of India has requested a possible sale of eight AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar sets with related equipment, 26 AN/VRC-90E SINCGAR radios, generators, trailers, communications equipment, Global Position Systems, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, U.S. Government Quality Assurance Team (QAT), spare and repair parts, support equipment, publications and other related elements of program support. The estimated cost is $146 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a country which has been and continues to be an important force for political stability and economic progress in South Asia.

These radar sets will provide an increase in counter-battery artillery capability consistent with India's force planning and defense strategy. India needs these SINCGARS radio systems to fulfill their strategic commitments for complete communicative interoperability and standardization of equipment and to be able to communicate with their various vehicles and U.S. forces. India will have no difficulty absorbing these radar sets into their armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be the Raytheon Hughes Aircraft Corporation of El Segundo, California and ITT Company of Fort Wayne, Indiana. There are no offset agreements proposed in connection with this potential sale.

When the radar sets arrive, implementation of this proposed sale will require three U.S. contractor representatives for one month. Up to eight U.S. Government Quality Assurance representatives will be required for one week following delivery of the radar sets. The specific requirements for the support will be established during program definition between representatives of the United States Government and India.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-15

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The major components of the AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar set containing sensitive technology are:

a. Operations Control Group/Signal Processor Unit and Software - contains critical technologies related to the computer and radar control card and signal processing capabilities. The signal processing algorithms are unclassified..

b. Antenna-Transceiver Group - contains critical technologies in the Antenna Array Group, the system receiver, transmitter/exciter, and waveguide components.

2. The AN/TPQ-37(V)3 system is moderately susceptible to the development of countermeasures. A potential adversary could develop electronic warfare and jamming countermeasures if the system hardware and related critical technologies were acquired.

3. A determination has been made that India can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02–5971 Filed 3–12–02; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Science Board (DSB) Task Force on Precision Compellence will meet in closed session on April 30-May 1, 2002; May 29–30, 2002; June 18–19, 2002; and July 23–24, 2002, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will conduct a comprehensive study of the ends and means of precision compellence, of the nuanced use of force, in concert with coalition partners, to achieve political, economic and moral change in countries affecting U.S. interests.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force on Precision Compellence will survey the focused use of force so as to alter regimes' behavior, and in ways that are most promising to isolate regimes of concern from their populations and supporting organs and bureaucracies. This will include the means to acquire a well-founded conceptual delineation of targets critically important to the diplomatic, economic and military dominance of the regime. A regime's values and vulnerabilities being highly idiosyncratic, the Task Force shall select some concrete case studies for exploration in depth. These might include current rogue states, terrorist organizations, and future potential adversaries. Of particular relevance are the cleavage planes, where the discriminating use of force might divide the interests of different strata, political, ethnic or religious groups, or even personal rivalries.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: March 7, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–5969 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee Meetings

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Science Board (DSB) Task Force on Aircraft Carriers of the Future will meet in closed session on April 8–9, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA 22201. The Task Force will assess how aircraft carriers should serve the nation's defense needs in the 21st Century and beyond.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will examine the expected naval environment and the role of the Navy for the next 20–50 years; the role of the carrier and the carrier battle group in a joint environment in which technology has progressed to an appropriate pace for both the U.S. and its potential adversaries; the effects of Unmanned Combat Air Vehicles on the role of the carrier and the carrier battle group; how the carrier should evolve or be transformed to best meet mission requirements in a joint environment; how the role of the aircraft carrier might change and the characteristics that might affect the change; and the technology improvement barriers that need to be overcome to significantly improve the ability of the carrier to execute its missions.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meeting will be closed to the public.

Dated: March 7, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–5970 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The Aerospace Command and Control will meet Langley Air Force Base. The purpose of this meeting is to allow the Advisory Group to learn and provide feedback on specific issues relating to the AC2ISRC. The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (10) and (4) thereof.

DATES: 13–14 March, 2002.

ADDRESSES: Langley Air Force Base, VA.

FOR FURTHER INFORMATION CONTACT: HQ USAF Scientific Advisory Board Secretariat, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–5941 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The Predictive Battlespace Awareness to Improve Military Effectiveness Study will meet at Ramstein Air Force Base on 18–19 March 2002, Spangdahlem Air Force Base on 20 March 2002, and Lakenheath Air Force Base on 21–22 March 2002. The purpose of this meeting is to allow the Scientific Advisory Board and study leadership of this CSAF-directed study to continue the ''data gathering'' phase of the ongoing study efforts. The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (10) and (4) thereof.

DATES: 18–22 March, 2002.

ADDRESSES: Ramstein AFB, Germany; Spangdahlem AFB, Germany; and Lakenheath AFB, United Kingdom.

FOR FURTHER INFORMATION CONTACT: HQ USAF Scientific Advisory Board Secretariat, (703) 697–8404.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–5942 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The 2002 Spring General Board Meeting in support of the HQ USAF Scientific Advisory Board will meet at Hickam Air Force Base and the Hale Koa Hotel in Hawaii. The purpose of this meeting is to hear PACAF and PACOM-specific briefings and to complement the ''data gathering'' phase of ongoing study efforts. The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (10) and (4) thereof.

DATES: 15–19 April, 2002.

ADDRESSES: Hickam AFB, HI; and the Hale Koa Hotel, HI.

FOR FURTHER INFORMATION CONTACT: HQ USAF Scientific Advisory Board Secretariat, (703) 697–8404.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–5943 Filed 3–11–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the general availability of exclusive or partially exclusive licenses under the following pending patent. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing ability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; and (6) small business status.

Patent application Serial Number 10/060605 entitled ''Rapid and Non-Invasive Method to Evaluate Immunization Status of a Patient'' filed January 30, 2002. The present invention relates to an assay method and kit for detecting the presence of a pre-designated, target IgG antibody in a sample selected from one or more patient bodily fluids. The method comprises the following steps: (a) Contacting the sample of one or more patient bodily fluids with a membrane-bound recombinant protective antigen to bind to the target IgG antibody in the sample; (b) previously, simultaneously or subsequently to step a., binding the protective antigen (PA) with a conjugated label producing a detectable signal; and (c) detecting the signal whereby the presence of the target IgG antibody is determined in the sample by the intensity of the signal. The method can further comprise the step of evaluating immunization status of the patient from whom the sample came by comparing the signal or lack thereof with immunizations previously received by the patient. In a preferred embodiment, the recombinant protective antigen (PA) specifically binds to anthrax protective antigen-specific IgG antibodies. Preferably, the immunoassay of the present invention comprises a lateral-flow assay comprising a membrane, a conjugated label pad, and a recombinant protective antigen (PA) bound to the membrane.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice.

ADDRESSES: Submit applications to the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428 or e-mail at *schlagelc@nmrc.navy.mil.*

Dated: March 6, 2002.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–6019 Filed 3–12–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the general availability of exclusive or partially exclusive licenses under the following pending patent. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing ability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; and (6) small business status.

Patent application Serial Number 10/061036 entitled ''Rapid Lateral Flow Assay for Determining Exposure to Mycobacterium Tuberculosis and Other Mycobacteria'' filed January 30, 2002. The present invention relates to an assay method and kit for detecting the presence of at least one pre-designated, target antibody to a mycobacterium in a sample selected from one or more patient bodily fluids. The method comprises the following steps: (a) Contacting the sample of one or more patient bodily fluids with at least one mycobacterium antigen on a lateral-flow assay membrane to bind to the target antibody in the sample; (b) previously, simultaneously or subsequently to step a., binding at least one mycobacterium antigen with a conjugated label producing a detectable signal; and (c) detecting the signal whereby the presence of the target antibody is determined in the sample by the intensity or presence of the signal. The method can further comprise the step of evaluating immunization status of the patient from whom the sample came by comparing the signal or lack thereof with immunizations previously received by the patient and in comparison to a known standard control. In a preferred embodiment, the mycobacterium antigen specifically binds to Mycobacterium tuberculosis specific antibodies. Preferably, the immunoassay of the present invention comprises a lateral-flow assay comprising a membrane, a conjugated label pad, and at least one mycobacterium antigen bound to the membrane. In a preferred embodiment, at least one mycobacterium antigen is selected from the group consisting of 38kDa and 16kDa antigens.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice.

ADDRESSES: Submit applications to the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of

Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428 or e-mail at *schlagelc@nmrc.navy.mil.*

Dated: March 6, 2002.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–6020 Filed 3–12–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 13, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 8, 2002.

John Tressler,

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

Office of Educational Research and Improvement

Type of Review: New.

Title: Integrated Postsecondary Education Data System (IPEDS), Minimum Data Set (MDS).

Frequency: One-time.

Affected Public: Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 9,924. Burden Hours: 2,232.

Abstract: IPEDS is a system of surveys designed to collect basic data from postsecondary institutions in the United States. To date, the main focus of IPEDS has been Title IV institutions, but institutions that do not participate in these federal student financial aid programs are becoming an increasingly important source of educational opportunity in the country. However, the scope and nature of this group of non-Title IV institutions is not well known. In order to arrive at a statistical estimate of the number of non-Title IV institutions nationwide, IPEDS proposes to conduct an area search to identify these institutions, and to collect a Minimum Data Set of items from them. These data will be made publicly available through a prototype Web-based data access system.

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

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

[FR Doc. 02–6050 Filed 3–12–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Impact Aid

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice extending the application deadline date for Impact Aid fiscal year 2003 section 8002 and 8003 grants.

SUMMARY: The Secretary extends the deadline date for the submission of applications for Impact Aid fiscal year 2003 section 8002 and 8003 grants to April 12, 2002. Impact Aid regulations at 34 CFR 222.3 specify that the annual application deadline is January 31. Due to changes in the applications that were necessitated by legislative amendments in the fiscal year 2001 reauthorization of the program and the subsequent revision, production, and distribution of the application packages, the Secretary extends the deadline for the potential applicants under sections 8002 and 8003 for Impact Aid assistance for fiscal year 2003. Section 8003 applicants must still use a survey date for their student counts that is at least three days after the start of the 2001–2002 school year and before the extended deadline of April 12, 2002.

DATES: *Effective Date:* This notice extending the application deadline date to April 12, 2002, for Impact Aid fiscal year 2003 section 8002 and 8003 grants is effective March 13, 2002. The deadline date for the transmittal of comments on those applications by State Educational Agencies is April 26, 2002. The Secretary will also accept and approve for payment any otherwise approvable application that is received on or before the 60th calendar day after April 12, 2002, which is June 11, 2002, or the 60th day after the Secretary provides written notice to a local educational agency. However, any applicant meeting the conditions of the preceding sentence will have its payment reduced by 10 percent of the amount it would have received had its application been filed by April 12, 2002.

For Applications or Information Contact: Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–6244. Telephone: (202) 260–3858.

If you use a telecommunications device for the deaf (TDD) you may call

the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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(Catalog of Federal Domestic Assistance Number 84.041)

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Dated: March 8, 2002.

Rod Paige,

Secretary of Education.

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DEPARTMENT OF ENERGY

National Nuclear Security Administration; Record of Decision of the Final Site-Wide Environmental Impact Statement for the Oak Ridge Y–12 National Security Complex

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Record of decision.

SUMMARY: The U.S. Department of Energy (DOE), is issuing this Record of Decision on the operation of the Y–12 National Security Complex (Y–12) in the State of Tennessee. This Record of Decision is based on the information and analysis contained in the Site-Wide Environmental Impact Statement (EIS) for the Y–12 National Security Complex (DOE/EIS–0309), and other factors, such as the mission responsibilities of the DOE. DOE has decided to implement the Preferred Alternative, which is Alternative 4 (No Action-Planning Basis Operations Plus Construct and Operate a Highly Enriched Uranium (HEU) Materials Facility and Special Materials Complex). This alternative includes the continued operations at Y–12 to meet the NNSA mission requirements and other DOE program activities, together with the construction and operation of two new facilities: HEU Storage Facility and the Special Materials Complex.

FOR FURTHER INFORMATION CONTACT: For further information on the Site-Wide EIS or Record of Decision, or to receive a copy of the Site-Wide EIS, contact: Gary Hartman, Document Manager, U.S. Department of Energy, Oak Ridge Operations Office, Post Office Box 2001, Oak Ridge, Tennessee 37831, (865) 576–0273. For information on the DOE National Environmental Policy Act (NEPA) process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (205) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

That National Nuclear Security Administration (NNSA), a separately organized agency within the DOE, prepared this Record of Decision pursuant to the regulations of the Council on Environmental Quality for implementing NEPA (40 CFR parts 1500–1508) and DOE's NEPA Implementing Procedures (10 CFR part 1021). This Record of Decision is based, in part, on DOE's Site-Wide EIS for the Oak Ridge Y–12 National Security Complex (DOE/EIS–0309).

The Y–12 National Security Complex is one of three primary installations on the Oak Ridge Reservation (ORR) in Oak Ridge, Tennessee. The ORR is in eastern Tennessee, approximately 40 km (25 miles) west of Knoxville. The Y–12 area on the ORR covers about 2,197 ha (5,428 acres). The main area of Y–12 is largely developed and encompasses 328 ha (811 acres) with approximately 580 buildings. The land surrounding the main area of Y–12 is used primarily for a buffer area as well as for environmental restoration and waste management activities. Approximately 8,900 workers, including DOE employees and contractors, are at Y–12.

As one of the DOE major production facilities, Y–12 has been the primary site for enriched uranium processing and storage, and one of the primary manufacturing facilities for maintaining the U.S. nuclear weapons stockpile. Y–12 also conducts, and/or supports, nondefense-related mission activities including environmental monitoring, remediation, and decontamination and decommissioning activities of the DOE Environmental Management Program; management of waste materials from past and current operations; research activities operated by other federal agencies through the Work-for-Others Program and the National Prototyping Center; and the transfer of highly specialized technologies to support the capabilities of the U.S. industrial base.

The Site-Wide EIS considers the environmental impacts of ongoing and proposed activities at Y–12. DOE expects to continue to support new projects and facilities for Y–12 (or consider Y–12 as an alternative site for such facilities or activities). Such new proposals will be considered in programmatic or project-specific NEPA reviews, as appropriate, as they become ripe for analysis. Subsequent NEPA reviews for projects or activities at Y–12 will make reference to, and be tiered from, the Site-Wide EIS.

Alternatives Considered

DOE analyzed two No Action alternatives and three ''action'' alternatives in the Y–12 Site-Wide EIS. The first No Action alternative (Alternative 1A, No Action-Status Quo) is basically a continuation of Y–12 activities (based on 1999 operations), but does not include some Defense Program activities that had not resumed following a 1994 stand-down at Y–12 for safety reasons. The second No Action alternative (Alternative 1B, No Action-Planning Basis Operations) reflects an increase in activities at Y–12 to account for the resumption of all required Defense Program missions. The

No Action–Status Quo Alternative (Alternative 1A) is not considered reasonable for future Y–12 operations because it does not meet Y–12 mission needs.

The ''action'' alternatives are as follows: Alternative 2 (No Action-Planning Basis Operations Alternative Plus HEU Storage Mission Alternative); Alternative 3 (No Action-Planning Basis Operations Alternative Plus Special Materials Mission Alternative); and Alternative 4 (No Action–Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and Special Materials Complex). For Alternative 2, DOE analyzed two sub-alternatives: Alternative 2A would construct and operate a new HEU Materials Facility and Alternative 2B would upgrade and expand Building 9215 for HEU storage. All reasonable alternatives are described in greater detail below.

Alternative 1B (No Action–Planning Basis Operations)

Under Alternative 1B (No Action—Planning Basis Operations Alternative), Y–12 would continue historic nuclear weapons program missions. This alternative reflects the implementation of the DOE decision in the Stockpile Stewardship and Management Programmatic Environmental Impact Statement Record of Decision (61 FR 68014, December 19, 1996) to maintain the Defense Programs national security mission at Y–12, but to downsize Y–12 consistent with reduced requirements. This includes: (1) Defense Programs capabilities to produce and assemble uranium and lithium weapons components, to recover uranium and lithium materials from the component fabrication process and disassembled weapons, to produce secondaries, cases, and related nonnuclear weapons components, to process and store enriched uranium, and to supply enriched uranium, lithium, and other products; (2) Environmental Management activities at Y–12 related to environmental monitoring, remediation, deactivation and decontamination, and management of waste materials from past and current operations; (3) Office of Science activities operated by Oak Ridge National Laboratory (ORNL); and (4) Defense Programs support of other federal agencies through the Work-for-Others Program, the National Prototype Center, and the transfer of highly specialized technologies to support the capabilities of the U.S. industrial base. The No Action–Planning Basis Operations Alternative also includes activities to store surplus enriched uranium pending disposition in accordance with the Storage and Disposition of Weapons–Usable Fission Materials Programmatic Environmental Impact Statement Record of Decision (62 FR 3014, January 14, 1997).

Alternative 2A (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility)

This alternative includes the No Action—Planning Basis Operations Alternative plus the construction and operation of a new HEU Materials Facility. The HEU Materials Facility would be a single-story concrete structure. It would enable Y–12 to safely and securely store: HEU Categories I and II, including canned subassemblies that contain HEU; and cans containing HEU in metal and oxide forms that are part of the strategic reserve or excess inventories. The HEU Materials Facility would replace the use of existing storage vaults and facilities located within existing Y–12 buildings.

Options for locating the new HEU Materials Facility include two candidate site locations: Site A (located on the west end of the Y–12 site in the West Portal Parking Lot area) and Site B (located on the west end of the Y–12 site in the area of the Y–12 Scrap Metal Yard south of Building 9114, west of the western-most portion of the Y–12 Perimeter Intrusion Detection and Assessment System (PIDAS) and north of Portal 33 and Second Street).

Alternative 2B (No Action—Planning Basis Operations Alternative Plus Upgrade Expansion of Building 9215)

This alternative is similar to Alternative 2A, except that the storage of HEU would be accommodated through the expansion of the existing Building 9215. The building would be expanded by approximately 160 by 300 feet, with two floors, and would be sized to handle all of the long-term storage requirements anticipated for Y–12 similar to those described for the HEU Materials Facility. The proposed site for construction of the Building 9215 expansion is a parcel of land approximately two acres in size located west of Building 9212 and 9998 and north of Building 9215.

Alternative 3 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New Special Materials Complex)

This alternative includes the No Action—Planning Basis Operations Alternative plus the construction and operation of a Special Materials Complex. The Special Materials Complex would house a number of separate processing operations and the support facilities to serve each. Included in the Special Materials Complex would be: (1) Beryllium production operations at Y–12; (2) a facility for purification of special materials; (3) a manufacturing/warehouse facility to produce special materials and provide for storage of new materials and parts; (4) an isostatic press for forming blanks for machining; and (5) a core support structure to house common support functions for the complex.

Options for locating the new Special Materials Complex include three candidate sites: Site 1 is approximately 20 acres and is located northwest of Building 9114 and on the north side of Bear Creek Road. Site 2 is approximately 10 acres and is located at the Y–12 Scrap Metal Yard area southeast of Building 9114 and east of the western-most portion of the Y–12 PIDAS; Site 3 is approximately 10 acres and is located on the west end of the Y–12 site in the area of the Y–12 Scrap Metal yard, south of Building 9114, west of the western-most portion of the Y–12 PIDAS and north of Portal 33 and Second Street.

Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and Special Materials Complex)

This alternative includes the No Action—Planning Basis Operations Alternative plus the construction and operations of a new HEU Materials Facility at one of two candidate sites (Site A or Site B described above under Alternative 2A), and the construction and operation of a Special Materials Complex at one of three candidate sites (Site 1, 2, or 3 described above under Alternative 3).

Preferred Alternative

DOE's Preferred Alternative is Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and a Special Materials Complex). The Preferred Alternative includes the continued maintenance of existing Defense Programs capabilities and other DOE programs, continued support/infrastructure activities, and implementation of new facility construction projects for the Y–12 HEU Storage Mission and Special Materials Mission (*i.e.,* the HEU Materials Facility, and the Special Materials Complex). The preferred site for the HEU Materials Facility is Site A.

Environmentally Preferable Alternative

Ordinarily, the environmentally preferable alternative is the alternative that causes the least damage to the biological and physical environment; it is also the alternative that best protects, preserves, and enhances historic, cultural, and natural resources. After considering impacts to each resource area by alternative, DOE has identified Alternative 1A (No Action—Status Quo Alternative) as having the fewest direct impacts to the biological and physical environment because operations would not resume to full levels and fewer new construction projects would be implemented. Although DOE does not consider Alternative 1A to be reasonable for future Y–12 operations because it does not meet Y–12 mission needs, it is the environmentally preferable alternative. With respect to the ''reasonable'' alternatives, the analyses indicate that there would be very little difference in the environmental impacts among the alternatives analyzed and also that any impacts would be small. Of the reasonable alternatives, Alternative 1B (No Action—Planning Basis Operations) would have the fewest impacts, and thus, is environmentally preferable.

Environmental Impacts of Alternatives

DOE weighed environmental impacts as one factor in its decision-making. DOE analyzed existing environmental impacts and the potential impacts that might occur for each reasonable alternative, including the irreversible or irretrievable commitments of resources.

Land Use

There is a small difference in the impacts on land use between the No Action—Planning Basis Operations Alternative and Alternatives 2, 3, and 4, which include the HEU Storage Mission and Special Materials Mission projects. Differences among the alternatives are primarily associated with facility construction. Potential land disturbance would range from 35–51 ha (No Action—Planning Basis) to 45–64 ha (Preferred Alternative). The permanent land disturbance would range from 18–29 ha (No Action—Planning Basis Operations) to 26–37 ha (Preferred Alternative). No land use change would result from implementing any of the alternatives, except for Alternatives 3 and 4 if the Special Materials Complex is constructed at Site 1.

Transportation

There would be a small increase in vehicle traffic on Oak Ridge area roads due to construction activities under each of the Site-Wide EIS alternatives. The construction traffic increase during peak construction periods would range from 85 vehicles per day (No Action—Planning Basis Operations) to 420 vehicles per day (Preferred Alternative). The additional traffic would have a negligible impact on Y–12 site traffic and level-of-service on area roads.

The overall maximum lifetime fatalities from Y–12 annual shipments over the next ten years of all types of materials and waste due to Y–12 operations were estimated to be 2.8 fatalities under each of the Site-Wide EIS alternatives. Of these estimates, 1.8 fatalities would be due to traffic accidents; 0.9 fatalities would be due to incident-free transport of radiological materials and waste; and 0.006 fatalities would be due to vehicle emissions. There is little variation in impacts between alternatives because effects are small, and any projected increased transport of radioactive materials is not enough to make a significant change in the small effects.

Socioeconomics

Y–12 employment changes would be very small (less than 100) under all the alternatives because operations, including operations associated with new facilities for the HEU Storage Mission and the Special Materials mission, would use existing workers. The employment changes would affect regional population, employment, personal income, and other socioeconomic measures in the region by less than one percent. Accordingly, no adverse socioeconomic impacts would be expected to result from any of the alternatives.

Geology and Soils

No impacts to geology or geological conditions are expected with any of the alternatives. Potential impacts on soil due to disturbance and/or erosion are related to the area of disturbance during construction. The smallest potential increase in soil erosion would result from the No Action—Planning Basis Operations Alternative, and the greatest potential would be with the Preferred Alternative. Standard construction soil erosion control measures would be used to minimize erosion and impacts. New facility site design and layout would address storm water runoff control. No significant impacts on soils are expected.

Soil contamination from past Y–12 operations and activities is being addressed through the Office of Environmental Management's Environmental Restoration Projects at Y–12. Environmental restoration activities or actions would not change the alternatives in the Site-Wide EIS and would continue to occur at the same rate for all the alternatives.

Water Resources

Water demand for Y–12 Site-Wide EIS alternatives ranges from 20.2 million liters per day of treated water (No Action—Planning Basis Operations) to 20.43 million liters per day of treated water (Preferred Alternative). The total treated water demand of ORR (including Y–12, ORNL, and East Tennessee Technology Park) is approximately 22,290 million liters per year, which is well within the ORR water supply system capacity of 44,347 million liters per year. All water for operations at ORR, including Y–12, is supplied by the Clinch River. Water usage among Y–12 alternatives does not vary appreciably.

Groundwater contamination attributed to Y–12 operations and other waste disposal operations is present in Bear Creek Valley, Upper East Fork Poplar Creek, and the Chestnut Ridge area of Y–12. The contamination is due primarily to past Y–12 operations and other waste management practices rather than current operations. Investigations and cleanup at locations with groundwater contamination would continue at the same rate under any of the Site-Wide EIS alternatives.

Biological Resources

Construction projects under all the alternatives would impact terrestrial resources due to the loss of small amounts of grassland, old-field habitat, and mixed hardwood/conifer forest habitat. The No Action—Planning Basis Operations Alternative would have the least impact, based on area disturbed (35–51 ha), and Alternative 4 (Preferred Alternative) would have the largest impact (45–64 ha). The variation among alternatives is not significant. The potential habitat loss is small compared to available similar habitat in the immediate Y–12 area. With appropriate design and construction best management practices, no significant adverse impacts to biological resources are projected under any of the Site-Wide EIS alternatives.

Potential impact to wetlands (both direct and indirect) would be least with the No Action—Planning Basis Operations Alternative (0.4ha) and greatest with Alternative 4 (1.2 ha). With appropriate site layout design and construction best management practices, significant adverse impacts would not be expected. In addition, no adverse impacts to aquatic resources are expected from any of the alternatives.

Potential impact to Tennessee-listed endangered and threatened plant

species may occur under the No Action—Planning Basis Operations Alternative due to construction of the Environmental Management Waste Management Facility, a separate *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA) project activity at Y–12. Prior to construction, DOE will survey the disposal facility construction site for the presence of listed species and consult with the US Fish and Wildlife Service and Tennessee Wildlife Resource Agency, as appropriate. No Federal or state-listed threatened or endangered species would be impacted by proposed new construction projects for the HEU Storage Mission or Special Materials Mission under the other Y–12 Site-Wide EIS alternatives.

Air Quality

Non-radioactive hazardous air pollutants would not be expected to significantly degrade air quality or affect human health under any of the alternatives. The alternatives do not result in large differences in chemical usage or steam from the Y–12 Steam Plant (the major source of criteria pollutants). No net increase in Y–12 building floor space is anticipated under the Preferred Alternative because any added new floor space is expected to be offset by other downsizing activities at Y–12 and the transfer of mission activities to the new facilities. Air emissions are, therefore, not expected to change by a magnitude that would trigger more stringent regulatory requirements or warrant additional continuous monitoring.

The radiological dose to the maximally exposed individual due to the annual radiological air emissions from Y–12 facilities during normal operations under each of the alternatives would be lower than the National Emissions Standards for Hazardous Air Pollutants limit of 10 millirem per year. The estimated radiological dose to a maximally exposed individual would be 4.5 millirem per year for each of the alternatives.

The calculated collective dose to the population within 80 kilometers (50-miles) of Y–12 for each alternative from the annual radiological air emissions due to Y–12 operations would be 33.7 person-rem per year. These doses were considered in the human health impact analysis.

Visual Resources

There would be no adverse impacts to visual resources that change the overall appearance of the existing landscape, obscure scenic views, or alter the off-site visibility of Y–12 structures under any of the alternatives.

Noise

There would be no change in the on-site noise levels (50 to 70 dBA) or off-site noise levels (35 to 50 dBA in rural locations and 53 to 62 dBA in city of Oak Ridge) due to normal Y–12 operations under any of the alternatives.

Site Infrastructure

Electrical consumption would range from 566,000 megawatt hours per year (No Action—Planning Basis Operations Alternative) to 602,000 megawatt hours per year (Preferred Alternative). There is little difference in projected water usage among the alternatives, approximately 5.3 million additional gallons per day. Annual projected utility demands for all alternatives would be well within system capabilities. Other infrastructure-related factors, including maintaining roads, communications, steam, natural gas, and facility decommissioning, would be similar for each alternative and would not pose adverse impacts.

Cultural Resources

No impact to historic and cultural resources is expected under the No Action-Planning Basis Operations Alternative. Alternatives 2, 3, and 4 would have a small potential to encounter buried cultural resources due to utility relocation associated with potential construction projects identified in the alternatives. Alternative 4 (Preferred Alternative) would have the largest potential to impact buried cultural resources, since it includes construction of new facilities for both the HEU Materials Storage Mission and the Special Materials Mission. Any potential adverse impacts are anticipated to be minor and able to be mitigated.

No historic properties would be affected by the No Action—Planning Basis Operations Alternative or alternatives 2A, 3, or 4. Alternative 2B includes the expansion of Building 9215 and would be a major alteration of a historic property. Consultation with the Tennessee Historical Commission would be conducted in accordance with procedures in the Y–12 Cultural Resource Management Plan to resolve any adverse effect.

Waste Management

The projected annual waste generation from Y–12 normal operations would not vary appreciably across alternatives from the No Action—Planning Basis Operations Alternative volumes. Liquid and solid low-level waste would increase the greatest under Alternative 4 (Preferred Alternative) by 757 liters (200 gallons) per year and 120 cubic meters (157 cubic yards) per year, respectively. There would be no additional mixed low-level waste (solid or liquid) under Alternatives 2, 3, or 4. Liquid and solid hazardous waste would increase the most under Alternative 4 (Preferred Alternative), by 14,998 liters (3,962 gallons) per year and 37 cubic meters (48 cubic yards) per year, respectively. Treatment and disposal of these wastes at on-site locations is projected to constitute a small portion of the existing capacity for treatment and disposal.

Worker and Public Health

During construction, yearly non-fatal occupational injuries/illnesses at Y–12 could increase by an estimated maximum of 15 above the No Action—Planning Basis Operations Alternative. During operations, the estimated total number of yearly non-fatal occupational injuries/illnesses for the Y–12 workforce would be the same (424) for all the alternatives.

The annual average dose to Y–12 workers of 11.6 millirem would be the same for all the alternatives and would result in an estimated 0.024 latent cancer fatalities per year. Under alternatives 2 and 4, the number of latent cancer fatalities expected from HEU storage operations workers would decrease due to a reduction in the workforce, but there would be no change in average worker dose compared to the No Action—Planning Basis Operations Alternative. There would be a one-time transfer of stored HEU to the new HEU storage facility under Alternatives 2 and 4. This transfer would result in a total worker dose of 150 person-millirem and 0.002 latent cancer fatalities. Because there are no radiological impacts associated with the Special Materials Complex, the radiological impacts associated with Alternative 3 are the same as the No Action—Planning Basis Operations Alternative. Under all of the Site-Wide EIS alternatives, the dose to the maximally exposed individual would be 4.5 millirem per year and result in an estimated 2.65×10^{-6} latent cancer fatalities per year of exposure. The 80 kilometer (50 mile) population dose under all of the alternatives would be 33.7 person-rem per year, and the corresponding estimated number of latent cancer fatalities would be 1.69×10^{-5} per year. Thus, no significant adverse health effects would be expected from any of the alternatives for Y–12.

Environmental Justice

Based on the analysis of all resource areas and demographic information on low-income and minority populations, DOE does not expect any environmental justice related issues (i.e., projected impacts are not disproportionately high and adverse for minority or low-income populations in the area) from the continued operation of Y–12 under any of the alternatives.

Facility Accidents

The accident analyses considered a variety of initiators (including natural and manmade phenomena), the range of activities at Y–12, and the range of radioactive and other hazardous materials at Y–12. The operational accident analysis included the following scenarios that would result in multiple source releases of hazardous materials: beyond evaluation-basis earthquake accident; criticality accident; fire involving radioactive materials; fire involving chemicals; and a chemical release due to loss of containment. The beyond evaluation-basis earthquake accident dominates the radiological risk due to accidents at Y–12 because it involves radiological releases at multiple facilities and is considered credible (that is, it would be expected to occur with a frequency of less than 5×10^{-4} per year but greater than 1×10^{-6} per year). It is noteworthy that the consequences of such a seismic event are dependent on the frequency of the earthquake event, the facility design, and the amount of materials that could be released due to the earthquake; such features do not change across the alternatives, so the impacts of these accidents are the same for all the Site-Wide EIS alternatives.

The risks were estimated conservatively in terms of both frequency of the event and the consequences of such events. (In particular, it is noteworthy that the analysis assumes the structural collapse of the building accompanied by the most significant internal events, including fire and explosions that create a path for release of material outside of the building.) The total risk of an accident is the product of the accident frequency and the consequences to the total population within 80 kilometers (50 miles). Risks of excess latent cancer fatalities per year of operation would not be expected to exceed 2.8×10^{-5} for the bounding accident analyzed. Statistically, this would equate to a maximum of one latent cancer fatality approximately every 35,700 years of operation.

The risk for release of chemicals, such as hydrogen fluoride, is calculated similarly as the product of the frequency and numbers of people exposed to greater than the selected guideline concentrations, Emergency Response Planning Guidelines (ERPG–2). (ERPG–2 is the maximum airborne concentration below which nearly all individuals could be exposed for up to 1 hour without irreversible or serious health effects or symptoms that could impair their abilities to take protective action). Under all alternatives, the risk for chemical releases ranges from between 80 and 190 workers exposed (fire involving chemicals accident scenario) to between 80 and 310 workers exposed (chemical release due to loss of containment accident scenario).

Comments on the Final Site-Wide EIS

DOE distributed approximately 500 copies of the Final Site-Wide EIS to appropriate Congressional members and committees, the states of Tennessee, Georgia, and North Carolina, local governments, other Federal agencies, and other interested stakeholders. Prior to the issuance of this ROD, DOE received two comment letters regarding the Final Y–12 Site-Wide Environmental Impact Statement. The first letter, from the Tennessee Department of Environment and Conservation (TDEC), provided clarifications and minor technical corrections to the ''Affected Environment'' chapter of the SWEIS (Chapter 4). The TDEC also reiterated their support of Alternative 4, the preferred alternative. The second letter, from the Citizens Advisory Committee of the Oak Ridge Reservation Local Oversight Committee, contained two comments and several technical corrections. The comments, which were consistent with comments this group previously submitted on the Draft Y–12 Site-Wide Environmental Impact, were responded to in the Final Y–12 Site-Wide Environmental Impact, and no additional response is necessary. The group also stated their preference that the Special Materials Complex be sited at a ''brownfield'' site. Although these comments, clarifications and minor technical corrections did not change any of the environmental impacts of the alternatives, they were considered by the Department in issuing this ROD.

Other Decision Factors

As directed by the President and Congress, the DOE/NNSA is responsible for maintaining the safety, security and reliability of the country's nuclear weapons stockpile. In addition, DOE has national security, energy resources, environmental quality, and science and technology mission lines, which it supports at a number of facilities across the United States. DOE/NNSA directs and funds Y–12 activities in support of its programs and missions. While protecting human health and the environment, DOE/NNSA needs to continue to fulfill its responsibilities as mandated by statutes, Presidential Decision Directives, and Congressional authorization and appropriations.

As noted in the Final Site-Wide EIS, Y–12 houses unique facilities and expertise that have been developed over the past 50 years. These capabilities have served national security and other national needs successfully in the past. Under current planning, the U.S. will maintain a nuclear weapons stockpile and require manufacturing capabilities to address issues of national importance for the maintenance of that stockpile and for other purposes, including assuring the safety and reliability of that stockpile. The unique facilities and expertise at Y–12 are needed to address these issues. These factors were also considered (in addition to the human health and environmental impact information discussed above) in reaching this Record of Decision.

Decision

DOE/NNSA has decided to continue to operate Y–12 for the foreseeable future at the planning basis operations level and to construct two new facilities to support Y–12 missions: HEU Storage Facility and Special Materials Complex. DOE/NNSA is implementing the Preferred Alternative, Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility (Site A location) and Special Materials Complex). This alternative includes the planned required operations of the NNSA mission at Y–12 and the continued operations/support at existing levels for other Y–12 activities conducted by other DOE offices (*e.g.,* Environmental Management; Nuclear Energy, Science and Technology; Nuclear Nonproliferation and National Security) and nondefense research and development programs conducted by ORNL, Work-for-Others, and Technology Transfer. In addition, this alternative includes the construction and operation of a new HEU Materials Facility and Special Materials Complex. This alternative also includes the continued maintenance of existing capabilities, and continues support and infrastructure activities. The following discussion describes the major actions that will be taken under Alternative 4,

with an emphasis on those areas that have had the most extensive programmatic or public interest. The decision in this Record of Decision will be reflected in DOE/NNSA budget requests and management practices. However, the actual implementation of these decisions is dependent on DOE/NNSA funding levels and allocations of DOE/NNSA budgets across competing priorities.

Planning Basis Operations

DOE/NNSA remains committed to meeting the NNSA Weapons Stockpile Management Program requirements assigned to Y–12, as described in the Final SWEIS. As part of its implementation of the Preferred Alternative, DOE will continue all activities associated with the resumption of remaining enriched uranium operations that were shut-down due to the Y–12 1994 stand-down. The planning basis operations level also includes continuing the current, planned, and weapons-directed activities associated with the major components of the Weapons Stockpile Management Program. Other DOE Program activities at Y–12 would continue at current levels for the foreseeable future, including those conducted by Environmental Management; Nuclear Nonproliferation and National Security; Nuclear Energy Science and Technology; and Nondefense Research and Development Program activities by ORNL, the Work-for-Other Program, and Technology Transfer Program.

The Department has decided that under the Preferred Alternative, operations at Y–12 associated with long-term storage of HEU, including transport and receiving, would be transferred to the new HEU Materials Facility, when completed. In addition, current special materials operations would be replaced by operations in the new Special Materials Complex, when completed.

HEU Storage Mission

The Department has decided to construct the new HEU Materials Facility at Site A as described in Section 3.2.3.2 of the Final Y–12 SWEIS. Site A is the Y–12 West Portal Parking Lot, located just north of Portal 16. Site A was selected over Site B based on overall cost, proximity to the major Y–12 production manufacturing facilities, construction phase security issues and impact on current production activities, and environmental impacts. The HEU Materials Facility would be used for long-term storage of Categories I and II HEU. The new facility would provide the capacity to store approximately 14,000 cans and 14,000 drums of HEU, a surge capacity area for an additional 4,000 drums, and a storage area for materials currently under international safeguards. Constructing the new facility would consolidate and modernize the HEU storage operations at Y–12. Consolidating HEU in the HEU Materials Facility would enable Y–12 to meet its HEU storage mission in a more safe and efficient manner; improve nuclear materials security and accountability; minimize the number of personnel required for operations and security; and enhance worker and public health and safety, and environmental protection.

Special Materials Mission

The Department has decided to construct the Special Materials Complex at Y–12. A location for construction of the Special Materials Complex has not been decided. Ongoing studies involving the Special Materials mission and project configuration and design needs must be completed before a decision on a location for these facilities can be made. The engineering design for this facility will proceed while the Department is completing the project review and additional studies. Once these studies are completed, DOE/NNSA intends to review the Site-Wide EIS for completeness and amend the Site-Wide and ROD, as appropriate, to announce the site selection. Constructing the Special Materials Complex would modernize special materials operations at Y–12, reduce the health risk to workers and the public, and ensure efficient production of adequate quantities of special materials (*e.g.,* beryllium) to meet projected nuclear weapons stockpile requirements for the next 50 years.

Mitigation Measures

The Site-Wide EIS includes a discussion of existing programs and plans and controls built into the operations at Y–12, including operating within applicable regulations, DOE Orders, contractual requirements and approved polices and procedures. No new mitigation measures were identified. It is unnecessary to prepare a Mitigation Action Plan under 10 CFR 1021.331.

Conclusion

DOE/NNSA has considered environmental impacts, stakeholders' concerns, and national policy in its decisions regarding the management and use of Y–12. The analysis contained in the Site-Wide EIS is both programmatic and site-specific in detail. It is programmatic from the perspective of broad, multi-use facility management and site-specific in the detailed project and program activity analysis. The impacts identified in the Site-Wide EIS were based on conservative estimates and assumptions. In this regard, the analyses bound the impacts of the alternatives evaluated in the Site-Wide EIS.

DOE has decided to implement Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and Special Materials Complex), i.e., the Preferred Alternative in the Final Site-Wide EIS. The location for the HEU Materials Facility construction is in the area identified as Site A (the Y–12 West Portal Parking Lot) in the Final Site-Wide EIS. A location for construction of the Special Materials Complex has not been decided. Ongoing studies involving the special materials mission and project configuration and design needs must be completed before a decision on a location for the Special Materials Complex can be made.

Issued in Washington, DC, this 4th day of February, 2002.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 02–6034 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Number DE–PS07–02ID14268]

Manufacture, Installation, and Testing of New Environmentally Friendly Hydropower Turbine Designs

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of availability of financial assistance solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications from hydropower site developers who are currently planning or conducting the rehabilitation of an in-place hydroelectric unit or installation of a new hydroelectric unit(s) which will have a power output of 1 MW or greater; and are willing to use environmentally friendly technologies identified by DOE. DOE will only consider sites located in U.S. (50 states) and Canada.

DATES: The issuance date of Solicitation Number DE–PS07–02ID14268 will be on March 6, 2002. The deadline for receipt of applications will be approximately on June 4, 2002.

ADDRESSES: The solicitation in its full text will be available on the Internet at the following URL address: *http://e-*

center.doe.gov. The Industry Interactive Procurement System (IIPS) provides the medium for disseminating solicitations, receiving financial assistance applications and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. An IIPS ''User Guide for Contractors'' can be obtained on the IIPS Homepage and then clicking on the ''Help'' button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Layne Isom, Contract Specialist, (208) 526–5633, *isomla@id.doe.gov.*

SUPPLEMENTARY INFORMATION: The expected period of performance is 2–5 years. DOE prefers projects that can quickly meet the DOE Hydropower Program goals. The amount of funding available for award is approximately $1 million for 2002, and approximately $2.5 million for each year thereafter through 2006. Federal funding support during the out years may be less or more depending upon availability of funds and the satisfactory progress on individual projects. DOE anticipates awarding one or more cooperative agreements, in accordance with DOE Financial Assistance Regulations of Title 10 of the Code of Federal Regulations, Chapter II, Subchapter H, Part 600. Applicants who are selected will cost-share up to 50% of the project total cost. The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.087, Renewable Energy Research and Development.

Issued in Idaho Falls on March 6, 2002.

Cheryl A. Thompson,

Procurement Services Division.

[FR Doc. 02–6035 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 02–19: Innovations in Fusion Energy Confinement Systems

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving grant applications for innovative experiments in fusion energy confinement systems. Organizations with research projects funded under previous notices for this topic that are now due for continuation funding need not submit; however, those seeking renewal funding in Fiscal Year 2003, should submit a renewal application under this Notice. Successful applications will be funded early in Fiscal Year 2003.

The Office of Fusion Energy Sciences is interested in applications for innovative fusion energy experimental research. The specific areas of interest are:

1. Innovative Approaches to Understanding Plasmas.
2. Innovative Confinement Concepts.
3. Innovative Plasma Operations in Support of Proof of Principle (POP), Performance Extension (PE), and Burning Plasma Experiments.

More specific information on each area of interest is outlined in the general and program specific information section below.

The research should be aimed at experimentally elucidating the physics principles involved. Research projects are sought which are unique, first of a kind and which provide new scientific insights. Although the main thrust of this initiative is experimental, consideration will also be given to applications that are directed at scientific assessment of new concepts, approaches, and plasma operations that are not ready for experimental investigation. Applications for research on existing large experiments, or initiatives in Inertial Fusion Energy should not be submitted in response to this notice. Collaborative applications submitted from different institutions that are directed at a single proposed experiment will be ''bundled'' and reviewed collectively.

Due to the limited availability of funds, Principal Investigators with continuing grants may not submit a new application in the same area(s) of interest as their current grant(s). A Principal Investigator may submit only one application under each area of interest as listed above.

DATES: To permit timely consideration for awards in Fiscal Year 2003, applications submitted in response to this notice must be received by DOE no later than 4:30 p.m., E.D.T., May 15, 2002. No electronic submissions of formal applications will be accepted.

ADDRESSES: Completed formal applications referencing Program Notice 02–19 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 02–19. The above address must also be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Specific contacts for each area of interest, along with telephone numbers and Internet addresses, are listed below:

Innovative Approaches to Understanding Plasmas: Steve Eckstrand, Research Division, SC–55, Telephone: (301) 903–5546, or by Internet address: *steve.eckstrand@science.doe.gov*

Innovative Confinement Concepts: Dr. Curtis W. Bolton III, Research Division, SC–55, Telephone: (301) 903–4914, or by Internet address: *curt.bolton@science.doe.gov*

Innovative Plasma Operations in Support of POP, PE, and Burning Plasma Experiments: Chuck Finfgeld, Research Division, SC–55, Telephone: (301) 903–3423, or by Internet address: *charles.finfgeld@science.doe.gov*

SUPPLEMENTARY INFORMATION: General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to SC's Financial Assistance Guide and required forms is possible via the Internet using the following Web site address: *http://www.science.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of an application if an award is not made.

In selecting applications for funding, the DOE Office of Fusion Energy Sciences will give priority to applications that can produce experimental results within three to five years after grant initiation. Theoretical research will be accepted for consideration under this Notice when bundled with and in support of an experimental application. The detailed description of the proposed project should contain the following items: (1) A detailed experimental research plan, (2) The specific results or deliverable expected at the end of the project period, (3) Goal of the experiment, (4) Synopsis of the experimental program plan, (5) Adequacy of the facilities and budget, (6) Discussion of why this research would have an important

impact on the prospects for fusion energy, and (7) Discussion of how the experiment would elucidate the physics principles of the innovation.

Applications concerned with scientific assessment of new concepts, approaches, and plasma operations that are not ready for experimental investigation should have a well-defined scope and duration of no more than two years. These applications will be considered non-renewable. The product of such assessment would be a clear scientific description of the concept and its operation, its physics and engineering basis, critical analysis of major difficulties to be overcome in developing the concept as a net producer of energy through the fusion process, and an analysis of what would be achieved by moving to experimental research.

Program Funding

It is anticipated that up to $4,500,000 in Fiscal Year 2003, will be available to start new projects from applications received in response to this Notice. The number of awards and range of funding will depend on the number of applications received and selected for award. Future year funding is anticipated to be greater but will depend on the nature of the applications, suitable experimental progress and the availability of funds. The cost-effectiveness of the application will be considered when comparing applications with differing funding requirements. Applications for scientific assessment of new concepts will be limited to a maximum of $150,000 in any year. Applications requiring annual funding as low as $50,000 are welcome and encouraged.

To enable all reviewers to read all applications, the application must be limited to a maximum of twenty (20) pages (including text and figures) plus not more than one page each of biographical information and publications of the principal investigator, plus any additional forms required as a part of the standard grant application.

An original and seven copies of each application must be submitted. Due to the anticipated number of reviewers, it would be helpful for each applicant to submit an additional seven copies of each application. In lieu of the seven additional copies, applicants may provide a CD–ROM containing the application in Portable Document Format (PDF). The label on the CD must clearly identify the institution, principal investigator, and title of the application. (If the applicant elects to submit a CD, an original and seven copies of the application must still be submitted.)

Merit Review

Applications will be subjected to formal merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605:

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of the applicant's personnel and adequacy of the proposed resources;
4. Reasonableness and appropriateness of the proposed budget.

The Office of Fusion Energy Sciences shall also consider, as part of the evaluation, other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas and within the program areas, coupling to theory and computational support, and quality of previous performance. Strong preference will be given to proposals for work based in the United States. Selection of applications/proposals for award will be based upon the findings of the technical evaluations, the importance and relevance of the proposed research to the Office of Fusion Energy Sciences' mission, and funding availability.

Program Specific Supplementary Information

1. Innovative Approaches to Understanding Plasmas: These are innovative experiments aimed at understanding some key scientific issue of importance to fusion energy. This could include experiments aimed at understanding turbulence and zonal flows, understanding reconnection, or understanding other outstanding fusion energy sciences issues.
2. Innovative Confinement Concepts: This is innovative experimental research that has the possibility of leading to improved fusion energy power plants.
3. Innovative Plasma Operations in Support of POP, PE, and Burning Plasma Experiments: The fusion program has a number of confinement concepts that have passed beyond the exploratory stage to either the POP, PE, or the burning plasma stages. Innovative Plasma Operations is aimed at developing the science and understanding of new ways to enhance the performance of the POP, PE, or burning plasma experiments. This could include work on stabilizing resistive wall modes, new methods of turbulence suppression, methods to suppress neo-classical tearing modes, and novel methods to use fusion energetic particles.

The Catalog of Federal Domestic Assistance number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on March 4, 2002.

John Rodney Clark,

Associate Director for Resource Management.

[FR Doc. 02–6037 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–02–U

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 02–20: Theoretical Research in Plasma and Fusion Science

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting new and renewal grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy (DOE), announces its interest in receiving grant applications for theoretical research relevant to the U.S. program in magnetic fusion energy sciences. All individuals or groups planning to submit applications for new or renewal funding in Fiscal Year 2003, should submit in response to this Notice.

The specific areas of interest are:

1. Magnetohydrodynamics and Stability
2. Confinement and Transport
3. Edge and Divertor Physics
4. Plasma Heating and Non-inductive Current Drive
5. Innovative/Integrating Concepts
6. Atomic and Molecular Processes in Plasmas

More specific information on each area of interest is outlined in the general and program specific supplementary information section below. OFES may also solicit proposals from time to time under separate announcements of Initiatives to support coordinated, goal-directed community efforts. The Initiatives will be funded to achieve specific programmatic and scientific aims and will be subject to requirements that are different from those of this notice. Such grants, if funded, will be subject to periodic reviews of progress.

Due to the limited availability of funds, Principal Investigators with continuing grants may not submit a new application in the same area(s) of interest as their previous application(s), which received funding. A Principal Investigator may submit only one

application under each area of interest as listed above.

DATES: To permit timely consideration for awards in Fiscal Year 2003, applications submitted in response to this notice must be received by DOE no later than 4:30 p.m., E.D.T., June 4, 2002. Electronic submissions of formal applications will not be accepted.

Applicants are requested to submit a letter-of-intent by May 7, 2002, which includes the title of the application, the name of the Principal Investigator(s), the requested funding and a one-page abstract. These letters-of-intent will be used to organize and expedite review processes. Failure to submit a letter-of-intent will not negatively prejudice a responsive formal application submitted in a timely fashion. Electronic submissions of letters-of-intent are preferable.

ADDRESSES: Formal applications referencing Program Notice 02–20, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 02–20. The above address must also be used when submitting applications by U.S. Postal Service Express or any other commercial overnight delivery service, or when hand-carried by the applicant.

Letters-of-intent referencing Program Notice 02–20, sent by mail should be addressed to: U.S. Department of Energy, Office of Science, Office of Fusion Energy Sciences, SC–55, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: John Sauter. Letters-of-intent submitted via e-mail should be sent to the following e-mail address: *john.sauter@science.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Office of Fusion Energy Sciences, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Specific contacts for each area of interest, along with telephone numbers and Internet addresses, are listed below:

1. Magnetohydrodynamics and Stability:

Rostom Dagazian, Research Division, SC–55, Telephone: (301) 903–4926, or by Internet address: *rostom.dagazian@science.doe.gov.*

2. Confinement and Transport:

Curt Bolton, Research Division, SC–55, Telephone: (301) 903–4914, or by Internet address: *curt.bolton@science.doe.gov.*

3. Edge and Divertor Physics:

Mike Crisp, Research Division, SC–55, Telephone: (301) 903–4883, or by Internet address: *michael.crisp@science.doe.gov.*

4. Plasma Heating and Non-inductive Current Drive:

Rostom Dagazian, Research Division, SC–55, Telephone: (301) 903–4926, or by Internet address: *rostom.dagazian@science.doe.gov.*

5. Innovative/Integrating Concepts:

Steve Eckstrand, Research Division, SC–55, Telephone: (301) 903–5546, or by Internet address: *steve.eckstrand@science.doe.gov.*

6. Atomic and Molecular Processes in Plasmas:

Mike Crisp, Research Division, SC–55, Telephone: (301) 903–4883, or by Internet address: *michael.crisp@science.doe.gov.*

SUPPLEMENTARY INFORMATION: General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to SC's Financial Assistance Guide and required forms is possible via the Internet using the following Web site address: *http://www.science.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of an application if an award is not made.

Program Funding

It is anticipated that about $4,000,000 of Fiscal Year 2003, funding will be available to fund new work or renewals of existing work from applications received in response to this Notice. The number of awards and range of funding will depend on the number of applications received and selected for award. Since future year funding is not anticipated to increase, applications should propose constant effort in future years (allowing for inflation). Future year funding will depend upon suitable progress and the availability of funds. The cost-effectiveness of the application will be considered when comparing applications with differing funding requirements. Applications requiring annual funding as low as $50,000 are welcomed and encouraged.

Collaborative research projects involving more than one institution, as well as basic work in support of the Scientific Discovery through Advanced Computing initiative, are encouraged. Applications submitted from different institutions, which are directed at a common research activity, should clearly indicate they are part of a proposed collaboration and contain a brief description of the overall research project. However, each application must have a distinct scope of work and a qualified principal investigator, who is responsible for the research effort being performed at his or her institution. Synergistic collaborations with researchers in federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories are also encouraged, though no funds will be provided to these organizations under this Notice. Further information on preparation of collaborative applications may be accessed via the Internet at: *http://www.science.doe.gov/production/grants/Colab.html.*

Since we expect that reviewers will be asked to review several applications, those applications from individual PIs or small groups (1–4 people) should be limited to a maximum of twenty (20) pages (including text and figures), while applications from theory groups should be limited to thirty (30) pages. A few selected publications may be included in an Appendix as background information. In addition, please limit biographical and publication information for the principal investigator and senior personnel to no more than two pages each. A minimum of a signed original and seven copies of each application must be submitted as stated in the Application Guide. However, due to anticipated number of reviewers, each applicant is requested to submit twelve (12) copies of his/her application. In addition, each principal investigator should provide an e-mail address.

In addition to the information required by 10 CFR part 605 each application should contain the following items: (1) A succinct statement of the goal of the research, (2) a detailed research plan, (3) the specific results expected at the end of the project period, (4) an analysis of the adequacy of the budget, (5) a discussion of the impact of the proposed research on other fields of science, and (6) for projects requiring significant computational resources (e.g. at the National Energy Research Scientific Computing Center), the application should contain an estimate and justification of the resources that will be required.

Merit Review

Applications will be subjected to formal merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR part

605. *(http://www.science.doe.gov/production/grants/605index.html)*

1. Scientific and/or technical merit of the project;

2. Appropriateness of the proposed method or approach;

3. Competency of the applicant's personnel and adequacy of the proposed resources; and

4. Reasonableness and appropriateness of the proposed budget.

Scientific and technical merit also includes the importance and relevance of the proposed research to the U.S. fusion program. Accordingly, preference will be given to work based in the U.S.

In addition, proposals from theory groups will also be rated on the synergy of the group and the management of the group. With respect to synergy, the criteria are:

(1) Clear evidence of collaborative work.

(2) The extent to which the group addresses difficult problems requiring a team effort.

With respect to management the criteria are:

(1) Clear evidence of scientific leadership.

(2) The extent to which the management evaluates the relevance and scientific impact of the group's work.

The Office of Fusion Energy Sciences shall also consider, as part of the evaluation, other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas and within the program areas, ensuring support for major computational efforts, ensuring support for experiments, and quality of previous performance. Selection of applications/proposals for award will be based upon the findings of the technical evaluations, the importance and relevance of the proposed research to the Office of Fusion Energy Sciences' mission, and funding availability.

Program Specific Information

1. Magnetohydrodynamics and Stability

Grant applications are solicited for new research or continuation of past efforts in magnetohydrodynamics (MHD) theory in support of work on magnetically confined fusion plasmas. Current areas of interest include advanced tokamak (AT), innovative confinement concepts (ICC), burning plasma physics and steady state, high-beta plasma issues. Both analytical and computational approaches will be considered. Additional work is needed on nonlinear MHD codes to include new physics, such as extended MHD (including flows and various non-ideal MHD effects), resistive wall modes, and particularly neoclassical tearing modes. Finally, basic work in support of the Scientific Discovery through Advanced Computing initiative that involves the development of large-scale MHD codes will also be considered.

2. Confinement and Transport

Applications will be considered in the area of confinement and transport in plasmas. This area covers plasma turbulence, energy, particle, momentum and radiation transport in the core of the plasma and theory based transport modeling. The work of interest includes work in support of tokamak as well as non-tokamak innovative concepts. Topics of interest include among others, electromagnetic effects on turbulence, shear flow generation and its impacts on transport, and understanding of the role of collisions in turbulent plasmas. Both analytical and computational work is of interest. Basic work in support of the Scientific Discovery through Advanced Computing initiative that involves the development of large-scale codes to explore turbulence will also be considered.

3. Edge and Divertor Physics

Applications will be considered in the area of edge physics theory. This area covers plasma turbulence, energy, particle and radiation transport in the edge of the plasma and in the neighborhood of the separatrix. The work of interest includes neutrals transport in divertors and plasma edge region, atomic physics processes affecting temperature, radiation and flame front propagation in divertors and pedestal and elm theory and modeling. Both analytical and numerical models are of interest. Techniques and algorithms for modeling fast particles in the edge region as well as adaptive grid methods and their application to modeling of plasma turbulence and transport in the edge region will be considered.

4. Plasma Heating and Non-inductive Current Drive

Applications will be considered in the area of radio frequency (RF) physics in plasmas. This includes RF propagation, heating and current drive. Of interest are both analytical and numerical treatments of interaction of plasmas with radio frequency waves. These include electron cyclotron, ion cyclotron, lower hybrid and Bernstein waves. Topics of interest include, among others, physical processes involved in conversion layers, power deposition for temperature profile control and interaction of waves of different frequencies to produce specific effects on the plasma. Applications for modeling radio frequency launchers and their coupling to the edge plasma will also be considered.

5. Innovative/Integrating Concepts

Grant applications are desired for theoretical and computational research on innovative concepts that have the possibility of leading to improved magnetic fusion systems. Increased theoretical and computational research is needed to make optimal use of innovative fusion related experiments. Applications are also desired for theoretical and computational research on integrated studies that include multiple topics.

6. Atomic and Molecular Processes in Plasmas

Grant applications will be considered for theoretical research relevant to the description of atomic processes in plasmas. In addition to overall scientific merit, emphasis will be given to work that promises to aid the understanding of the basic atomic processes that are important for modeling of magnetically confined plasmas and high-density plasmas found in inertial confinement fusion experiments. The program has found understanding electron-atom and electron-ion collisions and the radiation emitted by atoms and ions to be of importance for the modeling of plasma behavior in experiments. Some current areas where atomic processes are considered to be important include the effects of transport, the effects of impurities and the understanding of diagnostics.

(The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.)

Issued in Washington, DC, on March 4, 2002.

John Rodney Clark,

Associate Director of Science, for Resource Management.

[FR Doc. 02–6033 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–02–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–043]

ANR Pipeline Company; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 4, 2002, ANR Pipeline Company (ANR) filed an

amendment to a service agreement between ANR and Duke Energy Fuels, L.P. and an Amended and Restated Negotiated Rate Letter Agreement between these same parties, in compliance with the Commission's January 16, 2002 Letter Order in Docket No. RP99–301–032. *ANR Pipeline Company,* 98 FERC ¶ 61,025 (2002).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5982 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–184–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Seventeenth Revised Sheet No. 19, and Eighth Revised Sheet No. 68H, to be effective April 1, 2002.

ANR states that the above-referenced tariff sheets are being filed to comply with the annual redetermination of the levels of ''Transporter's Fuel Use (%)'', as required by ANR's currently effective tariff. In accordance with Section 1.68 of the General Terms and Conditions in ANR's tariff, the annual redetermined percentages are based upon ANR's most recent three (3) calendar years' experience of compressor fuel usage (1999, 2000 and 2001), and most recent four (4) years' experience of Lost and Unaccounted For gas (1998, 1999, 2000 and 2001).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6002 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–193–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on February 28, 2002, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective March 1, 2002:

Fifty-first Revised Sheet No. 8
Fifty-first Revised Sheet No. 9
Fiftieth Revised Sheet No. 13
Sixty-first Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to implement recovery of approximately $3.1 million of above-market costs that are associated with its obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs, and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR advises that the proposed changes would increase current quarterly Above-Market Dakota Cost recoveries from $2,447,977 to $3,099,144.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6011 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–194–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that, on February 28, 2002, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sixty-Second Revised Tariff Sheet No. 18, proposed to become effective March 1, 2002.

ANR states that the above-referenced tariff sheet is being filed to implement

the annual reconciliation of the recovery of its Above-Market Dakota Costs, as required by its tariff recovery mechanism. ANR advises that the filing proposes a negative reservation surcharge adjustment of ($0.001) applicable to its currently effective, firm service Rate Schedules. Pursuant to this negative surcharge, ANR proposes to refund, over the twelve month period of March 1, 2002 to February 28, 2003, the ($38,540) of Above-Market Dakota Cost over collections, inclusive of interest, which are reflected in the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6012 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–177–000]

CMS Trunkline Gas Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, CMS Trunkline Gas Company, LLC (Trunkline) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in Appendix A attached to the filing, to become effective April 1, 2002.

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of Trunkline's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets listed on Appendix A reflect: a 0.06% decrease (Field Zone to Zone 2), a 0.05% decrease (Zone 1A to Zone 2), no change (Zone 1B to Zone 2), a 0.18% increase (Zone 2 only), a 0.23% decrease (Field Zone to Zone 1B), a 0.22% decrease (Zone 1A to Zone 1B), a 0.17% decrease (Zone 1B only), a 0.05% decrease (Field Zone to Zone 1A), a 0.04% decrease (Zone 1A only) and no change (Field Zone only) to the currently effective fuel reimbursement percentages.

Trunkline states that copies of this filing are being served on all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5995 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–173–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective April 1, 2002:

Third Revised Sheet No. 369B

CIG states the tariff sheet is being filed to collect Take-or-Pay costs from its jurisdictional sale customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5991 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–181–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2002:

Second Revised Sheet No. 15
Second Revived Sheet No. 16

CIG states the tariff sheets are being filed to refund to CIG sales customers the balance in CIG's PGA Close-out/ Account No. 191 as of January 31, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5999 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–195–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 4, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2002:

Twenty-Fourth Revised Sheet No. 11A

CIG states the tariff sheet is being filed to revise the Fuel Reimbursement Percentage applicable to Lost, Unaccounted-For and Other Fuel Gas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6013 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–170–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of April 1, 2002:

Fifty-sixth Revised Sheet No. 25
Fifty-sixth Revised Sheet No. 26
Fifty-sixth Revised Sheet No. 27
Forty-ninth Revised Sheet No. 28

Columbia states that this filing comprises Columbia's annual filing pursuant to Section 36.2 of the General Terms and Conditions (GTC) of its Tariff. GTC Section 36, ''Transportation Costs Rate Adjustment (TCRA),'' enables Columbia to adjust its TCRA rates prospectively to reflect estimated current costs and unrecovered amounts for the deferral period. The TCRA rates consist of a current TCRA rate, reflecting an estimate of costs for a prospective 12-month period, and a TCRA surcharge rate, which is a true-up for actual activity within the deferral period. In this filing, the TCRA rate consists of a Current Operational TCRA Rate and an Operational TCRA Surcharge to recover the unrecovered amounts for the deferral period pursuant to GTC Section 36.4(a).

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://*

www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5988 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–174–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of April 1, 2002:

Twelfth Revised Sheet No. 44

Columbia submits its annual filing pursuant to the provisions of Section 35, ''Retainage Adjustment Mechanism (RAM)'', of the General Terms and Conditions

(GTC) of its Tariff. Twelfth Revised Sheet No. 44 sets forth the retainage factors applicable to Columbia's transportation, storage and gathering services, as revised by this filing.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5992 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–182–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of April 1, 2002:

Fifty-seventh Revised Sheet No. 25
Fifty-seventh Revised Sheet No. 26
Fifty-seventh Revised Sheet No. 27
Fiftieth Revised Sheet No. 28
Seventeenth Revised Sheet No. 31

Columbia states that these revised tariff sheets are filed pursuant to Section 45, ''Electric Power Costs Adjustment (EPCA),'' of the General Terms and Conditions (GTC) of Columbia's FERC Gas Tariff, Second Revised Volume No. 1. Section 45.1 allows Columbia to recover electric power costs, including carrying charges, incurred for compression of natural gas by means of various Transportation EPCA Rates and an LNG EPCA Rate, each of which shall be comprised of a current EPCA rate and an EPCA surcharge. The Transportation EPCA Rate is applicable to buyers under Columbia's FTS, NTS, SST, GTS, OPT, and ITS rate schedules. The LNG EPCA Rate is applicable to Rate Schedules X–131, X–132, and X–133.

Columbia states that these revised tariff sheets are being filed to reflect adjustments to Columbia's current costs for electric power for the twelve-month period beginning April 1, 2002.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6000 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–178–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 1, 2002:

Twenty-ninth Revised Sheet No. 18
Nineteenth Revised Sheet No. 18A
Thirtieth Revised Sheet No. 19

Columbia Gulf states that this filing represents Columbia Gulf's annual filing pursuant to the provisions of Section 33, ''Transportation Retainage Adjustment (TRA),'' of the General Terms and Conditions (GTC) of its Tariff.

Columbia Gulf states that the tariff sheets listed above set forth the transportation retainage factors as a result of this filing. GTC Section 33.2 enables Columbia Gulf to state retainage

factors for its rate zones, which factors consist of a current and an over/under recovered component. Pursuant to GTC Section 33.4(a), the current component reflects the estimate of total company-use, lost, and unaccounted-for quantities required during the 12-month period commencing, in an annual filing such as this, on April 1. Pursuant to GTC Section 33.4(b) the over/under recovered component reflects the reconciliation of ''actual'' company-use, lost, and unaccounted-for quantities with quantities actually retained by Columbia Gulf for the preceding calendar year; i.e., the deferral period.

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5996 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–168–000]

Cove Point LNG Limited Partnership; Notice of Filing

March 7, 2002.

Take notice that on March 1, 2002 Cove Point LNG Limited Partnership (Cove Point) tendered for filing, pursuant to Section 1.37 of the General Terms and Conditions of Cove Point's FERC Gas Tariff, workpapers supporting the calculation of Cove Point's retention percentages for the annual period beginning April 1, 2002. Cove Point states that the proposed retention percentages for both the peaking services and transportation will remain unchanged from the currently effective retention percentages placed into effect April 1, 2001.

Cove Point states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 14, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5986 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184]

El Dorado Irrigation District; Notice of Authorization for Continued Project Operation

March 6, 2002.

On February 22, 2000, El Dorado Irrigation District, licensee for the El Dorado Project No. 184, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 184 is located on the South Fork of the American River in El Dorado, Alpine, and Amador Counties, California.

The license for Project No. 184 was issued for a period ending February 23, 2002. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 184 is issued to El Dorado Irrigation District for a period effective February 24, 2002, through February 23, 2003, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before February 24, 2003, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that El Dorado Irrigation District is authorized to continue operation of the El Dorado Project No. 184 until such time as the Commission acts on its application for subsequent license.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5853 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–185–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, effective April 1, 2002:

Eighth Revised Sheet No. 2
Fifty-Second Revised Sheet No. 8A
Forty-Fourth Revised Sheet No. 8A.01
Forty-Fourth Revised Sheet No. 8A.02
Second Revised Sheet No. 8A.04
Eleventh Revised Sheet No. 207
Original Sheet No. 207A
Original Sheet No. 207B

FGT states that in conjunction with its Phase V Expansion approved in Docket Nos. CP00–40, et al., it will install electric driven compressor units at its Compressor Station 13A. To power the compressors, FGT states that it has entered into a long-term contract for shaft horsepower with an affiliate, Enron Compressor Services (ECS). FGT states that ECS's ability to perform its obligations to deliver shaft horse power is uncertain because of issues surrounding the bankruptcy of Enron Corp and a number of Enron subsidiaries. FGT states that, because of the uncertainty surrounding its arrangement with ECS, FGT may be required to purchase power directly from the electric utility authorized to serve the new units at Station 13A. FGT states that the instant filing is to establish a Purchased Power Surcharge to recover usage related payments made by FGT to operate the units at Station 13A.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6003 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–192–000]

KO Transmission Company; Notice of Tariff Filing March 7, 2002.

Take notice that on March 4, 2002, KO Transmission Company (KOT) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twelfth Revised Sheet No. 10, bearing a proposed effective date of April 1, 2002.

KO Transmission states that the purpose of the filing is to revise its fuel retainage percentage consistent with Section 24 of the General Terms and Conditions of its Tariff. According to KO Transmission, Columbia Gas Transmission Corporation (Columbia) operates and maintains a portion of KO Transmission facilities pursuant to the Operating Agreement referenced in its Tariff at Original Sheet No. 7. Pursuant to that Operating Agreement, Columbia retains certain volumes associated with gas transported on behalf of KO Transmission. On March 1, 2002, Columbia notified KO Transmission that under terms of the Operating Agreement, KO Transmission will be subject to a 1.02% retainage. Accordingly, KO Transmission states that the instant filing tracks this fuel retainage.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6010 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–189–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective April 1, 2002:

Title Page

First Revised Sheet No. 100
First Revised Sheet No. 110
First Revised Sheet No. 111
First Revised Sheet No. 229
First Revised Sheet No. 497
First Revised Sheet No. 247
First Revised Sheet No. 250
First Revised Sheet No. 425
First Revised Sheet No. 495

Midwestern states that the purpose of this filing is to reflect minor housekeeping changes. Midwestern proposes to revise the Title Page, Original Sheet Nos. 100, 110, 111, 229 and 425 to correct spelling and punctuation errors. The proposed changes to Original Sheet No. 247 have been made to reflect the deletion of a repeated word. Midwestern also proposes to change the reference to ''the Rate After Adjustments'' on Original Sheet No. 250, so that it is consistent with the column heading on the Summary of Rates and Charges on First Revised Sheet No. 5. Original Sheet No. 495 has been revised to reflect a correction to the signature block on the

Electronic Communication Agreement. Northern Plains Natural Gas Company, its Operator, was removed because it does not need to be listed on the signature block of this form. Midwestern also proposes to revise Original Sheet No. 497 to clarify that Agents, when receiving invoices, will also receive all supporting documentation.

Midwestern states that copies of this filing have been sent to all of Midwestern's shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6007 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–005]

Millennium Pipeline Company, L.P.; Notice of Compliance Filing

March 7, 2002.

Take notice that on February 19, 2002, Millennium Pipeline Company, L.P. (Millennium) tendered for filing in the above referenced dockets, revised rates and pro forma tariff sheets in compliance with the Commission's Interim Order issued December 19, 2001, in Docket No. CP98–150–000, et al., (97 FERC ¶ 61,292).

Millennium asserts that the Interim Order directed it to file within sixty days rates consistent with the revised capital structure and pro forma tariff sheets that reflect compliance with the GISB standards, Order No. 637, and the other modifications discussed in the order. Millennium contends that in compliance with the rate provisions of the Interim Order, it filed Revised Exhibits N and P that set forth the derivations of the revised FT, IT, and PL recourse rates. Millennium asserts that it has sought rehearing of the Interim Order's requirement that the rates be designed on a capital structure of 75 percent debt and 25 percent equity in lieu of the proposed capital structure of 65 percent debt and 35 percent equity. Millennium asserts that the Interim Order required the initial rates to be filed at least 60 days prior to its in-service date. Millennium contends that accordingly, it will file its initial rates before that deadline and consistent with the capital structure determination set forth in the Commission's order on rehearing.

In compliance with the Interim Order, Millennium asserts that it filed revised pro forma tariff sheets, GISB requirements, and Order No. 637 and its progeny. In addition, Millennium asserts that it identified technical changes required to update its tariff, correct typographical errors, correct cross-reference, and eliminate minor inconsistencies among different tariff provisions. As required by the Interim Order, Millennium contends that it is providing marked pro forma tariff sheets showing changes from the original pro forma tariff and table identifying the changes made to the original pro forma tariff.

Any questions concerning this filing may directed to counsel for Millennium, Julia E. Sullivan., Esq., Sidley Austin Brown & Wood LLP at 202 736–8000, fax (202) 736–8711, or via the Internet at *jsullivan@sidley.com*.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 5, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5975 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–623–003 and RP01–622–002 (Not Consolidated)]

Mississippi River Transmission Corporation; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 4, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 2002:

Eighth Revised Sheet No. 2
Forty-Fifth Revised Sheet No. 5
Forty-Fifth Revised Sheet No. 6
Forty-Second Revised Sheet No. 7
Seventeenth Revised Sheet No. 8
Sixth Revised Sheet No. 11
Fifth Revised Sheet No. 21
Fourth Revised Sheet No. 28
Fourth Revised Sheet No. 33
Second Revised Sheet No. 44
First Revised Sheet No. 56
Sixth Revised Sheet No. 71
Seventh Revised Sheet No. 74
Second Revised Sheet No. 234
Fourth Revised Sheet No. 235
Original Sheet No. 235A
Substitute Sixth Revised Sheet No. 249
Substitute First Revised Sheet No. 249A
Third Revised Sheet No. 264
Third Revised Sheet No. 290

MRT states that the tariff sheets, along with other supporting materials, are being filed in compliance with the Commission's February 1, 2002 order in these proceedings, by providing for separate charges for (a) Fuel Use and (b) Lost And Unaccounted For Gas (LUFG). MRT states that as a result of the proposed revisions, an exemption in appropriate circumstances from Fuel Use charges will not have the consequence of triggering a like exemption from LUFG charges.

MRT states that it has served copies of the filing upon all customers and relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5985 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–94–001 and CP01–94–003]

Nornew Energy Supply, Inc.; Notice of Compliance Filings

March 7, 2002.

Take notice that on February 19, 2002, Nornew Energy Supply, Inc. (Nornew), 19 Ivy Street, Jamestown, New York 14701 and Norse Pipeline, L.L.C. (Norse), 2500 Tanglewilde, Suite 250, Houston, Texas 77063, filed in compliance with the Commission's order dated January 16, 2002, its FERC Gas Tariff, Original Volume No. 1. Nornew also filed Appendices A, B and C, a list of the tariff sheets and a red-lined version of the tariff, showing the changes from the pro forma tariff filed as Exhibit P to Nornew's certificate application dated March 1, 2001. Subsequently, on March 4, 2002, Nornew filed corrected versions of the paper and electronic tariff sheets, correcting certain formatting errors in the tariff sheets filed on February 19, 2002. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5974 Filed 3–13–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–190–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of April 1, 2002:

Sixth Revised Sheet No. 119
Fourth Revised Sheet No. 270
Original Sheet No. 270A
First Revised Sheet No. 406
Second Revised Sheet No. 407
First Revised Sheet No. 429B

Northern Border is filing revised tariff sheets to revise Subsection 5.1 of Northern Border's Rate Schedule T–1, and Subsection 26.2(b) of the General Terms and Conditions and to make associated housekeeping changes to Exhibit A of the U.S. Shippers and T–1B Service Agreements.

Northern Border states that the proposed changes will provide more flexibility and expand the alternatives and that Shippers and Northern Border have in contracting for firm capacity.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6008 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–11–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreement

March 7, 2002.

Take notice that on March 1, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance a Rate Schedule TF–1 non-conforming service agreement. Northwest also tendered the following tariff sheet as part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective April 1, 2002:

Fifth Revised Sheet No. 366

Northwest states that the service agreement contains a scheduling priority provision imposing subordinate primary corridor rights. Northwest states that the tariff sheet is submitted to add such agreement to the list of non-

conforming service agreements contained in Northwest's tariff and to update that list to reflect the termination of another non-conforming service agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5976 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–169–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective April 1, 2002:

Third Revised Volume No. 1

Sixteenth Revised Sheet No. 14

Original Volume No. 2

Thirty-Second Revised Sheet No. 2.1

Northwest states that the purpose of this filing is to propose new fuel reimbursement factors (Factors) for Northwest's transportation and storage rate schedules. The Factors allow Northwest to be reimbursed in-kind for the fuel used during the transmission and storage of gas and for the volumes of gas lost and unaccounted-for that occur as a normal part of operating the transmission system.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5987 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–176–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing, to become effective April 1, 2002.

Panhandle states that this filing is made in accordance with Section 24 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets filed herewith reflect the following changes to Fuel Reimbursement Percentages:

(1) No change in the Gathering Fuel Reimbursement Percentage;
(2) A 0.05% increase in the Field Zone Fuel Reimbursement Percentage;
(3) No change in the Market Zone Fuel Reimbursement Percentage;
(4) No change in the Injection and Withdrawal Field Area Storage Reimbursement Percentages; and
(5) No change in the Injection and Withdrawal Market Area Storage Reimbursement Percentages.

Panhandle further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5994 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP02–188–000, CP01–69–003, and RP00–491–001]

Petal Gas Storage, L.L.C.; Notice of Tariff Filing

March 7, 2002.

Take notice that on March 1, 2002, Petal Gas Storage, L.L.C. (Petal),

tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A and Appendix B to its filing. Petal requests that these sheets be made effective April 1, 2002.

Petal states that the tariff sheets are being filed in compliance with the Commission's October 25, 2001 (Certificate Order), and February 14, 2002 Orders in the above-referenced proceeding. The Certificate Order approved Petal's request to construct and operate approximately 59 miles of pipeline, compression and appurtenant facilities (the Petal Pipeline), and accepted Petal's pro forma filing to establish transportation services on the Petal Pipeline, subject to certain revisions.

Petal states that it is submitting the Appendix A tariff sheets in compliance with the Certificate Order to implement those sheets. Petal further states that it is submitting the proposed alternate Appendix B sheets at the request of, and as a resolution of, issues raised by its customers. Petal further states that it is also submitting the instant filing in its Certificate (CP01–69) and Order No. 637 proceedings (RP00–491–000), so that all parties may have a chance to comment in accordance with the February 14, 2002 Order on Clarification.

Petal states that copies of the filing have been mailed to all affected customers and state regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6006 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–191–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

March 7, 2002.

Take notice that on March 1, 2002, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, Thirty-seventh Revised Sheet No. 4. GTN requests that the above-referenced tariff sheet become effective April 1, 2002.

GTN states that the purpose of this filing is to request a reduction in its Mitigation Revenue Recovery Surcharge (MRRS) in compliance with the requirements of its Settlement in Docket Nos. RP94–149–000, et al. In addition, GTN is filing to reduce its Competitive Equalization Surcharge, which was designed to mirror the MRRS and apply to new expansion shippers subscribing to long-term firm capacity on GTN.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6009 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–014]

Questar Pipeline Company; Notice of Negotiated Rate

March 7, 2002.

Take notice that on March 1, 2002, Questar Pipeline Company's (Questar) tendered for filing a tariff filing to implement a negotiated-rate contract as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, et al.

The Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers. Questar submitted its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 (Policy Statement) issued January 31, 1996.

Questar states that copies of this filing has been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5983 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–175–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 2002:

Eighth Revised Sheet No. 5
Eighth Revised Sheet No. 6
Ninth Revised Sheet No. 7

REGT states that the revised tariff sheets are being filed in accordance with the Stipulation and Agreement (Settlement) approved by the Commission on March 31, 1992 in Docket No. RP91–49–004 and Section 18 of the General Terms and Conditions of REGT's Tariff, which govern REGT's recovery of certain contract settlement costs (''CSC'') relating to the buyout or buydown of certain take-or-pay gas supply contracts. The Settlement and Tariff Section 18 provide for annual filings by REGT over a ten-year period to address REGT's CSC recovery through surcharges and other procedures. REGT states that because the final recovery period will end March 31, 2002, the instant filing reflects removal of the CSC surcharges from its transportation rates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5993 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89–224–020]

Southern Natural Gas Company; Notice of GSR Refund Filing

March 7, 2002.

Take notice that on February 28, 2002, Southern Natural Gas Company (Southern) tendered for filing a refund report which calculates and allocates among its customers $290,321 of GSR amounts overcollected during 2001.

Southern states that copies of the filing were served upon all parties listed on the official service list complied by the Secretary in these proceedings and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 14, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5979 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–180–000]

Southwest Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 5, to become effective April 1, 2002.

Southwest states that this filing is made in accordance with Section 16 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Southwest's FERC Gas Tariff, First Revised Volume No. 1. The Fuel Reimbursement Adjustment filed herewith reflects the following Fuel Reimbursement Percentages: (1) West Area Storage Facilities Injection 1.45% and Withdrawal 0.70%; and (2) East Area Storage Facilities Injection 2.75% and Withdrawal 1.41%.

Southwest further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5998 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–007]

Texas Gas Transmission Corporation; Notice of Negotiated Rate

March 7, 2002.

Take notice that on March 1, 2002, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective April 1, 2002:

Third Revised Sheet No. 40

Texas Gas states that the purpose of this filing is to reflect a new negotiated rate/non-conforming contract in its tariff as required Section 154.112(b) of the Commission's regulations and as directed by Commission Letter Order dated April 27, 2001. The contract is non-conforming due to its capacity release crediting mechanism.

Texas Gas states that copies of the revised tariff sheet is being mailed to the parties on the official service list for this docket number, Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5980 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–460–002]

Total Peaking Services, L.L.C.; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 1, 2001, Total Peaking Services, L.L.C., (Total Peaking) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 2001:

First Revised No. 65
First Revised No. 67
Second Revised No. 82
Substitute First Revised No. 86
First Revised No. 97
First Revised No. 98

Total Peaking states that the filing is being made in compliance with the Commission's Order on Order No. 637 Compliance Filing issued in this docket on June 4, 2001, and in response to the letter Order in this docket issued February 5, 2002.

Total Peaking represents that these sheets are consistent with the August 15, 2000 Compliance Filing that was accepted by the Commission in the June 4, 2001 Order. These sheets replace erroneous tariff sheets that were filed on November 21, 2001 inadvertently and rejected in the February 5, 2002 letter Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5984 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–042]

TransColorado Gas Transmission Company; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 1, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Forty-Second Revised Sheet No. 21 and Fifteenth Revised Sheet No. 22A, to be effective March 1, 2002.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets propose to revise TransColorado's Tariff to reflect negotiated-rate contract revisions.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5981 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–172–000]

TransColorado Gas Transmission Company; Notice of Annual Fuel Gas Reimbursement Report

March 7, 2002.

Take notice that on March 1, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing its annual Fuel Gas Reimbursement Percentage (FGRP) report and proposed a Phase I −0.1% variance adjustment and a Phase II 0.1% variance adjustment to be effective April 1, 2002. The Phase I variance adjustment is applicable to contracts entered into after March 31, 2001.

TransColorado stated that a copy of this filing has been served upon its customers, the New Mexico Public Utilities Commission and the Colorado Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 14, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5990 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–171–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which sheets are enumerated in Appendix A to the filing, with an effective date of April 1, 2002.

Transco states that the instant filing is submitted pursuant to Section 38 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file, to be effective each April 1, a redetermination of its fuel retention percentages applicable to transportation and storage rate schedules. The derivations of the revised fuel retention percentages included therein are based on Transco's estimate of gas required for operations (GRO) for the forthcoming annual period April 2002 through March 2003 plus the balance accumulated in the Deferred GRO Account at January 31, 2002. Appendix B attached to the filing contains workpapers supporting the derivation of the revised fuel retention percentages.

An alternate tariff sheet has also been tendered for filing which reflects a change in the method used to derive the fuel retention factor applicable to Rate Schedules ISS, WSS, WSS-Open Access and WSS-Open Access-R. This approach reduces the fuel retention percentage applicable to Rate Schedules WSS, WSS-Open Access and WSS-Open Access-R by .72% and results in a fuel retention percentage of .64% for the forthcoming annual period under Rate Schedules ISS, WSS, WSS-Open Access and WSS-Open Access-R. Appendix B–1 attached to the filing contains workpapers supporting the derivation of the revised fuel retention factor contained therein.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5989 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–183–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to be effective April 1, 2002.

Transco states that the instant filing is submitted pursuant to Section 41 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to reflect net changes in the Transmission Electric Power (TEP) rates at least 30 days prior to each TEP Annual Period beginning April 1. Attached in Appendix B are workpapers supporting the derivation of

the revised TEP rates reflected on the tariff sheets included therein.

The TEP rates are designed to recover Transco's transmission electric power costs for its electric compressor stations (Stations 35, 100, 115, 120, 125, 145 and 205). The costs underlying the revised TEP rates consist of two components—the Estimated TEP Costs for the period April 1, 2002 through March 31, 2003 plus the balance in the TEP Deferred Account including accumulated interest as of January 31, 2002. Appendix C contains schedules detailing the Estimated TEP Costs for the period April 1, 2002 through March 31, 2003 and Appendix D contains workpapers supporting the calculation of the TEP Deferred Account.

Transco states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also beviewed 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. 02–6001 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–186–000]

Vector Pipeline L.P.; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on February 28, 2002, Vector Pipeline L.P. (Vector), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective April 1, 2002.

Vector states that the purpose of this filing is to make editorial-type changes to its existing tariff, revise and amend various provisions of its tariff to reflect operating experience, amend certain provisions in the tariff to reflect new Commission policy, and to add a new Website Access Agreement Vector states that it is proposing revised tariff sheets which reflect changes to make editorial type corrections, to revise and update sections of its tariff based on operating experience, to accommodate changes in Commission policy, and in order to reflect Vector's current corporate headquarters. In addition, Vector asserts that it is adding a Website Access Agreement form.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6004 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–179–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, to become effective April 1, 2002.

Williams states that the revised tariff sheets are being filed to allow Williams to transition from a monthly allocation pipeline to a daily allocation pipeline. These changes coincide with the way the natural gas industry typically conducts its business as well as the capabilities Williams now has in measuring gas flow and providing accurate real time measurement to its point operators and shippers. Various meetings have been held with Williams' customers and state commissions to discuss the provisions of this change to a daily allocation system. Although the tariff sheets are proposed to go into effect April 1, 2002, as part of the discussions, Williams agreed to accept the maximum suspension period for the proposed tariff changes. This will allow Williams' customers and point operators more time to become accustomed to the new processes and allow for implementation, after the maximum suspension period, effective as of September 1, 2002.

Williams states that copies of the revised tariff sheets are being mailed to Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://*

www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5997 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–187–000]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on February 28, 2002, Wyoming Interstate Company, Ltd. (WIC), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, Eighth Revised Sheet No. 4C, to become effective April 1, 2002.

WIC states that the tendered tariff sheet revises the Columbia Exit Fee Surcharge Credits applicable to WIC's maximum rate firm and interruptible shipper's transportation service on WIC's system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6005 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–23–000, et al.]

Trans-Elect, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 6, 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. Trans-Elect, Inc., Michigan Transco Holdings, L.P., Consumers Energy Company and Michigan Electric Transmission Company

[Docket Nos. EC02–23–000 and ER02–320–002]

Take notice that on March 4, 2002, Consumers Energy Company (CECo) filed changes to its easement agreement with Michigan Electric Transmission Company which agreement is associated with the transfer of CECo's electrical transmission facilities to a subsidiary of Trans-Elect, Inc.

CECo states that the purpose of this filing is to comply with Ordering Paragraph (D) of the Federal Energy Regulatory Commission's (Commission) Order Conditionally Authorizing Disposition of Jurisdictional Facilities and Conditionally Approving Proposed Rates and Agreements, 98 FERC ¶ 61,142.

CECo states that a copy of this filing is available for public inspection during regular business hours at CECo's Washington legal office at 1016 16th Street, NW., Suite 100, Washington, DC 20036. In addition copies of this filing are being served on all parties and the Michigan Public Service Commission.

Comment Date: March 18, 2002.

2. Ameren Service Company

[Docket Nos. ER00–1379–001, ER00–1386–001, ER00–2068–001 and ER00–2365–002]

Take notice that on March 1, 2002, Ameren Service Company tendered for filing with the Federal Energy Regulatory Commission (Commission) a Compliance Refund Report pursuant to the Commission's Letter Order issued January 16, 2002 in the above-referenced proceedings.

Comment Date: March 22, 2002.

3. Tri-State Power, LLC

[Docket No. ER01–2444–002]

Take notice that on March 1, 2002, Tri-State Power, LLC (TSP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a long-term contract under which (TSP) will sell electricity under Rate Schedule FERC No. 1 to Tri-State Generation & Transmission Association, Inc. (TSGTA). TSP also filed a short-term agreement under which it will sell start-up test energy to TSGTA.

Comment Date: March 22, 2002.

4. American Electric Power Service Corporation

[Docket No. ER02–371–003]

Take notice that on March 1, 2002, American Electric Power Service Corporation (AEP), on behalf of its public utility operating companies, submitted for filing revised pages to the AEP open access transmission service tariff and to the Transmission Coordination Agreement in compliance with the Commission's January 16, 2002 order in the above-captioned proceeding.

AEP states that a copy of the transmittal letter has been served on all parties to this proceeding, all customers under the tariff and a copy of the filing has been served on the Public Utility Commission of Texas, the Louisiana Public Service Commission, the Arkansas Public Service Commission and the Oklahoma Corporation Commission.

Comment Date: March 22, 2002.

5. Tampa Electric Company

[Docket No. ER02–508–002]

Take notice that on February 28, 2002, Tampa Electric Company (TEC) tendered for filing in compliance with the February 1, 2002 letter order a revised Interconnection and Operating Agreement between TEC and CPV Pierce, Ltd. as a service agreement under TEC's open access transmission tariff.

Comment Date: March 21, 2002.

6. Tampa Electric Company

[Docket No. ER02–551–002]

Take notice that on February 28, 2002, Tampa Electric Company (TEC) tendered for filing in compliance with the February 1, 2002 letter order a revised Interconnection and Operating Agreement between TEC and Calpine Construction Finance Company, L.P. as a service agreement under TEC's open access transmission tariff.

Comment Date: March 21, 2002.

7. Cinergy Services, Inc.

[Docket Nos. ER02–666–001, ER02–667–001 and ER02–668–001]

Take notice that on March 1, 2002, Cinergy Services, Inc., (Cinergy), submitted for filing First Revised Rate Schedule Nos. 286, 288 and 292 to comply with the Commission's order of January 31, 2002 in the above referenced dockets.

Cinergy has served a copy of this compliance filing on the Public Utilities Commission of Ohio, The Midwest Independent System Operator, Strategic Energy, L.L.C., Newenergy, Inc., and FirstEnergy Services, Corp.

Comment Date: March 22, 2002.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–816–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Cinergy Services, Inc. (Cinergy). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

9. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–830–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Minnesota Power & Light Company (Minnesota Power).

The Midwest ISO states that its filing is in compliance with Order No. 614. Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–850–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Louisville Gas & Electric Company/Kentucky Utilities (LG&E/KU). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

11. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–863–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Alliant Energy Corporate Services, Inc. (Alliant). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

12. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–903–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest

ISO by Otter Tail Power Company (OTP). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

13. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–918–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Central Illinois Light Company (CILCO). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

14. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–919–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Indianapolis Power & Light Company (IPL). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

15. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–941–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Southern Indiana Gas & Electric Company (SIGECO). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

16. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–951–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Northern States Power Company (NSP). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

17. Mississippi Power Company

[Docket No. ER02–1179–000]

Take notice that on March 1, 2002, Mississippi Power Company and Southern Company Services, Inc., its

agent, on February , 2002, tendered for filing a Service Agreement with East Mississippi Electric Power Association for DENA Station Service Delivery Point, pursuant to the Southern Companies' Electric Tariff, FERC Electric Tariff, First Revised Volume No. 4. The agreement will permit Mississippi Power to provide wholesale electric service to East Mississippi Electric Power Association at a new service delivery point.

Copies of the filing were served upon East Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment Date: March 22, 2002.

18. Ocean State Power

[Docket No. ER02–1184–000]

Take notice that on February 28, 2002, Ocean State Power (Ocean State) tendered for filing revised pages to Rate Schedule FERC Nos. 1–4, which update Ocean State's rate of return on equity (ROE) with respect to such rate schedules.

Ocean State requests an effective date for the rate schedule changes of April 29, 2002.

Copies of the Supplements have been served upon, among others, Ocean State's power purchasers, the Massachusetts Department of Public Utilities, and the Rhode Island Public Utilities Commission.

Comment Date: March 21, 2002.

19. Montana Power Trading & Marketing Company

[Docket No. ER02–1185–000]

Take Notice that on February 28, 2002, PanCanadian Energy Services Inc. on behalf of Montana Power Trading & Marketing Company, filed with the Federal Energy Regulatory Commission (Commission), certain information as required by the Commission's January 6, 1997 order in Docket No. ER97–399–000.

Comment Date: March 21, 2002.

20. Automated Power Exchange, Inc.

[Docket No. ER02–1186–000]

Take notice that on February 28, 2002, Automated Power Exchange, Inc. (APX) submitted for filing an annual report for 2001.

Comment Date: March 21, 2002.

21. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1187–000]

Take notice that on March 1, 2002, pursuant to section 205 of the Federal Power Act and Section 35.16 of the Commission's regulations, 18 CFR 35.16, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Succession for certain Transmission Service Agreements and Network Transmission Service and Operating Agreements held by American Transmission Company LLC (ATC).

Copies of this filing were sent to all applicable customers under the ATC Open Access Transmission Tariff by placing a copy of the same in the United States mail, first-class postage prepaid.

Comment Date: March 22, 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. 02–5973 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 7, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection. A mailing error has occurred; therefore, this notice is being reissued and the deadline for filing is extended.

a. *Application Type:* Amendment of License.

b. *Project No.:* 4659–026.

c. *Date Filed:* August 8, 2001.

d. *Applicant:* Independence County.

e. *Name of Project:* White River Lock and Dam No. 3 Hydroelectric Project.

f. *Location:* The project is located on the White River, in Independence County, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Donald H. Clarke, Law Offices of GKRSE, 1500 K Street NW, Suite 330, Washington, DC 20005. Telephone (202) 408–5400, or e-mail address: dhclarke@GKRSE-law.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Janet Hutzel at (202) 208–2271, or e-mail address: *janet.hutzel@ferc.fed.us*.

j. *Deadline for filing comments, motions to intervene, and protests:* 30 days from the issuance date of this notice.

k. This notice was issued January 29, 2002 with a comment date of February 28, 2002, and is being reissued with an extended deadline for filing.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please include the project number (P–4659–026) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, motions to intervene, and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site, http://www.ferc.gov, under the ''e-Filing'' link.

l. *Description of Amendment:* The license, issued February 28, 1986, authorizes a transmission line route whereby the as yet unconstructed transmission line would interconnect with Arkansas Power and Light (now Entergy). Independence County now intends to interconnect with a Southwestern Power Administration

(SWPA) transmission line. Independence County thus proposes to (1) change the route for the unconstructed transmission line and (2) build a substation on an existing Southwestern Power Administration (SWPA) right-of-way.

The proposed transmission line would extend along the north side of the White River eastward nine miles from Lock and Dam No. 3 to the proposed substation. Single pole structures would be used to construct the 25 kV transmission line.

The proposed substation would be located approximately two miles east of White River Lock and Dam No. 2 (Project No. 4660), on the north side of the White River. The 100 ft by 150 ft substation would step-up the voltage from 25 kV to 161 kV, and have a transformer rating of 17.5 kV.

SWPA is a cooperating agency in the processing of the license amendment.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at http://www.ferc.gov using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above. n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number (No. 4659–026) of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of Independence County specified in item h, above.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative listed in item h, above.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5977 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 7, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection. A mailing error has occurred; therefore, this notice is being reissued and the deadline for filing is extended.

a. *Application Type:* Amendment of License.

b. *Project No.:* 4660–028.

c. *Date Filed:* August 8, 2001.

d. *Applicant:* Independence County.

e. *Name of Project:* White River Lock and Dam No.2 Hydroelectric Project.

f. *Location:* The project is located on the White River, in Independence County, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Donald H. Clarke, Law Offices of GKRSE, 1500 K Street NW, Suite 330, Washington, DC 20005. Telephone (202) 408–5400, or e-mail address: *dhclarke@GKRSE-law.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Janet Hutzel at (202) 208–2271, or e-mail address: *janet.hutzel@ferc.fed.us.*

j. *Deadline for filing comments, motions to intervene, and protests:* 15 days from the issuance date of this notice.

k. This notice was issued January 29, 2002 with a comment date of February 28, 2002, and is being reissued with an extended deadline for filing.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–4660–028) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, motions to intervene, and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site, http://www.ferc.gov, under the ''e-Filing'' link.

l. *Description of Amendment:* The license, issued November 8, 1985, authorizes a transmission line route whereby the as yet unconstructed transmission line would interconnect with Arkansas Power and Light (now Entergy). Independence County now intends to interconnect with a Southwestern Power Administration (SWPA) transmission line. Independence County thus proposes to (1) change the route for the unconstructed transmission line and (2) build a substation on an existing Southwestern Power Administration (SWPA) right-of-way.

The proposed transmission line would extend along the north side of the White River eastward two miles from Lock and Dam No. 2 to the proposed substation. Single pole structures would be used to construct the 25 kV transmission line.

The proposed substation would be located approximately two miles east of White River Lock and Dam No. 2, on the north side of the White River. The 100 ft by 150 ft substation would step-up the voltage from 25 kV to 161 kV, and have a transformer rating of 17.5 kV.

SWPA is a cooperating agency in the processing of the license amendment.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at http://www.ferc.gov using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above. n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the

Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number (No. 4660–028) of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of Independence County specified in item h, above.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative listed in item h, above.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5978 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Georgia-Alabama-South Carolina System of Projects

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of proposed rate adjustment.

SUMMARY: Southeastern Power Administration (Southeastern) proposes to revise existing schedules of rates and charges applicable to the sale of power from the Georgia-Alabama-South Carolina System of Projects effective for a 5-year period, October 1, 2002, through September 30, 2007. Additionally, opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a forum and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before June 11, 2002. A public information and comment forum will be held at the Westin Atlanta Airport, in Atlanta, Georgia, at 10 a.m., on April 18, 2002. Persons desiring to speak at the forum should notify Southeastern at least 3 days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: Written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711. The public information and comment forums for the Georgia-Alabama-South Carolina System of Projects will be at the Westin Atlanta Airport, 4736 Best Road, Atlanta, Georgia 30337, (404–762–7676).

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance & Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (the Commission) by order issued February 26, 1999, in Docket No. EF98–3011–000, (86 FERC 61,195) confirmed and approved Wholesale Power Rate Schedules SOCO–1, SOCO–2, SOCO–3, SOCO–4, ALA–1–I, MISS–1–I, Duke-1, Duke-2, Duke-3, Duke-4, Santee-1, Santee-2, Santee-3, Santee-4, and Pump-1 applicable to Georgia-Alabama-South Carolina System of Projects' power for a period ending September 30, 2003. On April 23, 1999, in Docket No. EF98–3011–001, the Commission issued an order granting rehearing for further consideration. On July 31, 2001, the Commission issued an order denying rehearing. Rate schedule Regulation-1 was approved by the Administrator, Southeastern Power Administration, on May 2, 2001.

Discussion: Existing rate schedules are predicated upon a July 1998 repayment study and other supporting data contained in FERC Docket No. EF98–3011–000. The current repayment study prepared in February 2002 shows that existing rates are not adequate to recover all costs required by present repayment criteria. Southeastern is proposing to establish rates that will recoup these unrecovered costs.

Existing rates for the Georgia-Alabama-South Carolina System have been in effect since October 1, 1998. This region has experienced a severe drought since that time. This has impacted repayment in two ways. First, revenues have been reduced because Southeastern has had less energy available for sale. Second, expenses have increased because it has been necessary for Southeastern to purchase replacement energy to meet its contractual obligations.

Southeastern is proposing four rate alternatives for public comment. Southeastern is proposing two rate alternatives that would continue the current rate design where purchases of replacement energy are included in the capacity and energy charges from Southeastern. These are designated ''Scenario 1A'' and ''Scenario 1B.'' In addition, Southeastern is proposing two rate alternatives that include a direct pass through of replacement energy costs. These are designated ''Scenario 2A'' and ''Scenario 2B.'' Under these alternatives, replacement energy costs are excluded from the capacity and energy charges.

Proposed Unit Rates

Southeastern is proposing the following rate schedules to be effective for the period from October 1, 2002 through September 30, 2007.

Rate Schedule SOCO–1–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be wheeled and scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated.

Rate Schedule SOCO–2–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be wheeled pursuant to contracts between the Government and Southern Company Services, Incorporated. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule SOCO–3–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated. The customer is responsible for providing a transmission arrangement.

Rate Schedule SOCO–4–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule ALA–1–J

Available to the Alabama Electric Cooperative, Incorporated.

Rate Schedule MISS–1–J

Available to the South Mississippi Electric Power Association to whom power may be wheeled pursuant to contract between the Government and Alabama Electric Cooperative, Inc.

Rate Schedule Duke–1–A

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and Duke Power Company.

Rate Schedule Duke–2–A

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be wheeled pursuant to contracts between the Government and Duke Power Company. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule Duke–3–A

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be scheduled pursuant to contracts between the Government and Duke Power Company. The customer is responsible for providing a transmission arrangement.

Rate Schedule Duke–4–A

Available to public bodies and cooperatives in North Carolina and South Carolina served through the transmission facilities of Duke Power Company. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule Santee–1–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Public Service Authority.

Rate Schedule Santee–2–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Public Service Authority. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule Santee–3–A

Available to public bodies and cooperatives in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Public Service Authority. The customer is responsible for providing a transmission arrangement.

Rate Schedule Santee–4–A

Available to public bodies and cooperatives in South Carolina served through the transmission facilities of South Carolina Public Service Authority. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule SCE&G–1–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Electric & Gas Company.

Rate Schedule SCE&G–2–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Electric & Gas Company. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule SCE&G–3–A

Available to public bodies and cooperatives in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Electric & Gas Company. The customer is responsible for providing a transmission arrangement.

Rate Schedule SCE&G–4–A

Available to public bodies and cooperatives in South Carolina served through the transmission facilities of South Carolina Electric & Gas Company. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule Pump–1

Available to all customers of the Georgia-Alabama-South Carolina System and applicable to energy from pumping operations at the Carters and Richard B. Russell projects.

Rate Schedule Regulation–1

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, Florida, South Carolina, or North Carolina to whom regulation service is provided pursuant to contracts between the Government and the customer.

Rate Schedule Replacement–1

Available to all customers in the Georgia-Alabama-South Carolina System and applicable to replacement energy.

Under Scenario 1A, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $2.98 per kw per month.

Energy: 7.91 mills per kwh.

Generation Services: $0.13 per kw per month.

Under this scenario, 70 per cent of generation revenues are recovered from capacity sales and 30 per cent are recovered from energy sales. These rates include a reserve for contingencies. These rates are expected to produce an average revenue increase of $10.0 million in FY 2003 and all future years.

Under Scenario 1B, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $3.60 per kw per month.

Energy: 3.94 mills per kwh.

Generation Services: $0.13 per kw per month.

Under this scenario, 85 per cent of generation revenues are recovered from capacity sales and 15 per cent are recovered from energy sales. These rates include no reserve for contingencies. These rates are expected to produce an average revenue increase of $9.5 million in FY 2003 and all future years.

Under Scenario 2A, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $2.89 per kw per month.

Energy: 7.67 mills per kwh.

Generation Services: $0.13 per kw per month.

Under Scenario 2A, 70 percent of generation revenues are recovered from capacity sales and 30 per cent are recovered from energy sales. These rates include a reserve for contingencies. These rates are expected to produce an average revenue increase of $7.0 million in FY 2003 and all future years.

Under Scenario 2B, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $3.49 per kw per month.

Energy: 3.82 mills per kwh.

Generation Services: $0.13 per kw per month.

Under Scenario 2B, 85 percent of generation revenues are recovered from capacity sales and 15 per cent are recovered from energy sales. These rates include no reserve for contingencies. These rates are expected to produce an average revenue increase of $6.5 million in FY 2003 and all future years.

The rates for transmission, scheduling, reactive supply, and regulation and frequency response apply to all four scenarios and are illustrated in Table 1.

SOUTHEASTERN POWER ADMINISTRATION PROPOSED RATES FOR TRANSMISSION SCHEDULING, REACTIVE, AND REGULATION CHARGES

Rate schedule	Transmission charge, $/KW/month	Scheduling charge, $/KW/month	Reactive charge, $/KW/month	Regulation charge, $/KW/month
SOCO–1–A	1.51	0.0806	0.11	0.0483
SOCO–2–A	1.51	N/A	0.11	N/A
SOCO–3–A	N/A	0.0806	N/A	0.0483
SOCO–4–A	N/A	N/A	N/A	N/A
ALA–1–J	N/A	N/A	N/A	N/A
MISS–1–J	1.854	N/A	N/A	N/A
Duke–1–A	0.93	N/A	N/A	N/A
Duke–2–A	0.93	N/A	N/A	N/A
Duke–3–A	N/A	N/A	N/A	N/A
Duke–4–A	N/A	N/A	N/A	N/A
Santee–1–A	1.59	N/A	N/A	N/A
Santee–2–A	1.59	N/A	N/A	N/A
Santee–3–A	N/A	N/A	N/A	N/A
Santee–4–A	N/A	N/A	N/A	N/A
SCE&G–1–A	1.13	N/A	N/A	N/A
SCE&G–2–A	1.13	N/A	N/A	N/A
SCE&G–3–A	N/A	N/A	N/A	N/A
SCE&G–4–A	N/A	N/A	N/A	N/A
Pump–1	N/A	N/A	N/A	N/A
Regulation–1	N/A	N/A	N/A	N/A
Replacement–1	N/A	N/A	N/A	N/A

The referenced repayment studies are available for examination at 1166 Athens Tech Road, Elberton, Georgia 30635–6711. Proposed Rate Schedules SOCO–1–A, SOCO–2–A, SOCO–3–A, SOCO–4–A, ALA–1–J, MISS–1–J, Duke–1–A, Duke–2–A, Duke–3–A, Duke–4–A, Santee–1–A, Santee–2–A, Santee–3–A, Santee–4–A, SCE&G–1–A, SCE&G–2–A, SCE&G–3–A, SCE&G–4–A, Pump–1, Regulation–1, and Replacement–1 are also available.

Dated: February 26, 2002.

Charles A. Borchardt,

Administration.

[FR Doc. 02–6036 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00762; FRL–6827–5]

The Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group Working Committee on Pesticide Operations and Management; Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations and Management (WC/POM) will hold a 2–day meeting, beginning on April 8, 2002, and ending April 9, 2002. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, April 8, 2002, from 8:30 a.m. to 5 p.m. and Tuesday, April 9, 2002, from 8:30 a.m. to noon.

ADDRESSES: This meeting will be held at the Sheraton Gunter Hotel - San Antonio, 205 East Houston, San Antonio, TX 78205. The telephone number is (210) 227–3241.

Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. under **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00762 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Georgia A. McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: Mcduffie.Georgia@epa.gov.

Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax number: (802) 472–6957; e-mail address: aapco@plainfield.bypass.com.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00762. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00762 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00762. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Tentative Agenda:

1. Chromated copper arsenate treated woods - Update - State impacts.
2. Pesticide field data plan.
3. Methyl bromide critical use exemption.
4. Inspector credential authorization - Update.
5. Check sample program.
6. Certification and training advisory group (CTAG) issues - Discussion of survey results and issue papers.
7. Funding.
8. Drift update.
9. NAFTA labels - Committee input on practicality.
10. Cross contamination - Revisit PR Notice.
11. E-labeling.
12. Chlorine gas workgroup - Update.
13. Aluminum phosphide.
14. Dursban products - What are States finding in the market.

Lists of Subjects

Environmental protection, Pesticides and pests.

Dated: March 1, 2002.

Bruce A. Sidwell,

Acting Associate Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 02–6067 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7156–9]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of two meetings of the Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel of the Radiation Advisory Committee (RAC) of the US EPA Science Advisory Board (SAB). The Panel will meet on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. For teleconference meetings, available lines may also be limited. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

1. Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel—April 8, 2002 Teleconference

The Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel of the

Radiation Advisory Committee (RAC) of the US EPA Science Advisory Board (SAB) (also referred to as the ''Review Panel,'' or ''Panel'') will meet on Monday, April 8, 2002, via teleconference from 11:00 am to 1:00 pm Eastern Standard Time. This teleconference meeting will be hosted out of Conference Room 6013, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meeting is open to the public, however, due to limited space, seating will be on a first-come basis—the public may also attend via telephone, however, lines may be limited. For further information concerning the meeting or how to obtain the phone number, please contact the individuals listed at the end of this FR notice.

Purpose of the Meeting

The purpose of this public teleconference meeting is to: (a) Discuss the charge and the adequacy of the review materials provided to the MARLAP Review Panel; (b) to clarify any questions and issues relating to the charge and the review materials; (c) to discuss specific charge assignments to the MARLAP Review Panelists; and (d) to clarify specific points of interest raised by the MARLAP Review Panelists in preparation for the face-to-face meeting to be held on April 23–25, 2002. This teleconference meeting of the Review Panel will provide focus on the charge and issues prior to the April 23–25, 2002 meeting of the Panel.

See below for availability of review materials, the charge to the review panel, and contact information.

2. Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel—April 23–25, 2002 Meeting

The MARLAP Review Panel of the Radiation Advisory Committee's (RAC) of the US EPA Science Advisory Board (SAB) will conduct a public meeting on Tuesday, April 23 through Thursday, April 25, 2002. The meeting will begin on Tuesday, April 23, 2002 at 9:00 am and adjourn no later than 5:30 pm that day. On the subsequent days, the meeting may begin at 8:30 am and adjourn no later than 5:30 pm. The meeting will take place in EPA Hearing Room 1153 in the EPA East Headquarters Building, 1201 Pennsylvania Avenue, NW, Washington, DC 20004. ''Break-out'' sessions will be held in this conference room and adjoining rooms 1150A, 1151, and 1155, as appropriate. For further information concerning the meeting, please contact the individuals listed at the end of this FR notice.

The need for subsequent meetings of the MARLAP Review Panel will be discussed at this meeting and schedules of any future meetings to complete review of this topic will be discussed. Information concerning any future public meetings will appear in **Federal Register** notices as appropriate.

Purpose of the Meeting

The purpose of this meeting is to begin a review of the MARLAP document. In particular, the MARLAP Review Panel will: (1) Engage in dialogue with appropriate officials from the participating agencies, departments and commissions responsible for preparation and utilization of the MARLAP Manual; (2) begin to prepare responses to the charge questions (see below); (3) receive public comments as appropriate, and (4) plan and schedule subsequent meetings (if needed) to complete this review.

See below for availability of review materials, the charge to the review panel, and contact information for both meetings.

FOR FURTHER INFORMATION: Any member of the public wishing further information concerning these meetings or who wish to submit brief oral comments must contact Dr. K. Jack Kooyoomjian, Designated Federal Officer, MARLAP, USEPA Science Advisory Board (1400A), Suite 6450, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4557; fax at (202) 501–0582; or via e-mail at *kooyoomjian.jack@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Dr. Kooyoomjian no later than noon Eastern Time five business days prior to the meeting date (April 1, 2002 and April 16, 2002, respectively, for the two meetings). See below for time limitations on public comments.

Members of the public desiring additional information about the meeting locations or the call-in number for the teleconference, must contact Ms. Mary Winston, Management Assistant, MARLAP, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4538; fax at (202) 501–0582; or via e-mail at *winston.mary@epa.gov.*

A copy of the draft agenda for each meeting will be posted on the SAB Website *(www.epa.gov/sab)* (under the AGENDAS subheading) approximately 10 days before that meeting.

Availability of Review Materials

There are seven sponsoring federal agencies, commissions and departments (US Environmental Protection Agency, US EPA; US Department of Energy, DOE; US Nuclear Regulatory Commission, NRC; US Department of Defense, DoD; US National Institutes of Standards and Technology, NIST; US Geologic Survey, USGS; and the US Food and Drug Administration, FDA), and two state representatives (California and Kentucky) for the documents that are the subject of the review. The review document is available electronically at the following site *http://www.eml.doe/marlap/.* For questions and information pertaining to the review document, please contact Dr. Mary E. Clark, Assistant Director, Office of Radiation and Indoor Air (6601), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; tel. (202) 564–9348, FAX (202) 565–2043, e-mail: *clark.marye@epa.gov.* Dr. Clark will refer you to the appropriate agency, commission or department contact for the particular issue of interest. The review document which is the subject of this review is cited as follows:

Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Manual, Volume I: Chapters 1–9, and Volume II: Chapters 10–20 and Appendices, NUREG–1576; EPA 402-B–01–003; NTIS PB2001–106745, August 2001.

The above document and any comments received to date on a previous **Federal Register** solicitation (see 66 *FR,* Vol. 66, No. 170, pgs. 45972 to 45974, Aug 31, 2001; see also *http://www.epa.gov/rpdweb00/marlap/index.html)* can be viewed at the US Environmental Protection Agency, Office of Air and Radiation Docket (Docket Number A–2001–16), Room M1500, 401 M Street, SW, Washington, DC 20460, Tel. (202) 260–7548.

Charge to the Panel

The focus of the review will be on the following charge questions:

Charge Question #1: Is the overall approach presented in part I of MARLAP for the planning implementation and assessment phases of projects which require analysis for radionuclides technically acceptable?

(1a) Is the performance-based approach presented clearly and logically?

(1b) Is the approach reasonable in terms of ease of implementation?

(1c) Does the approach effectively link the three phases (planning, implementation, and assessment) of a project?

Charge Question #2: Is the guidance on laboratory operations in the Part II chapters technically accurate? Does it provide a useful resource base of information for a laboratory's implementation of a performance-based approach?

Charge Question #3: Is the guidance on measurement statistics—specifically measurement uncertainty and detection and quantification capability—technically accurate, clearly presented, and useful for implementation by appropriately trained personnel?, and

Charge Question #4: What are the overall Integration and Implementation Issues?

Note: *This charge question was added by the MARLAP Review Panel.*

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

General Information

Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website *(http://www.epa.gov/sab)* and in *The FY2001 Annual Report of the Staff Director* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Kooyoomjian at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 5, 2002.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 02–6066 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34143D; FRL–6828–1]

Dimethoate Products Cancellation Order and Label Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's cancellation order for the product and use cancellations as requested by companies (hereafter collectively referred to as the ''EUP Registrants'') that hold the registrations of pesticide End-Use Products (EUPs) containing the active ingredient dimethoate and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up a January 10, 2002 notice of receipt from the EUP Registrants, of requests for cancellations and or amendments of their dimethoate product registrations to terminate all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. In the January 10, 2002 notice, EPA indicated that it would issue an order granting the voluntary product and use registration cancellations unless the Agency received any substantive comment within the comment period that would merit its further review of these requests. The Agency did not receive any comments. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective on March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Patrick Dobak, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–6249; fax number: (703) 308–7042; e-mail address: dobak.pat@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use dimethoate products. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for dimethoate, go to the Home Page for the Office of Pesticide Programs or go directly to http://www.epa.gov/pesticides/op/dimethoate.htm.

2. *In person*. The Agency has established an official record for this

action under docket control number OPP 34143D. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

Certain registrants requested in letters dated July, August, September, and October, 2001, that their dimethoate registrations be amended to delete all indoor uses and certain agricultural uses, as described below. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, other dimethoate end-use registrants requested voluntary cancellation of their dimethoate EUP registrations with indoor use and/or certain outdoor non-agricultural uses. EPA announced its receipt of these above-mentioned cancellation requests in a **Federal Register** Notice dated January 10, 2002 (67 FR 1345)(FRL–6817–5).

These requested cancellations and amendments are consistent with the requests in December 2000 by the manufacturers of dimethoate technical products, and EPA's approval of such requests, to terminate all residential uses and certain agricultural uses from their dimethoate product registrations. The indoor uses and agricultural uses subject to cancellation are identified in the list below:

List—Uses Requested for Termination

- *Residential and public area uses.* Any use in or around a structure used as a residence or domestic dwelling, or on any articles or areas associated with such structures (including household contents, home gardens, and home greenhouses).
- Any use in public or private building or structure (including recreational facilities, theaters, hotels, resorts, or other buildings used for public accommodation, or in any other commercial, industrial, or institutional building), or on any articles or areas associated with such structures, including refuse areas, building contents and landscaping and playgrounds.
- *Agricultural uses.* Housefly treatments on farm buildings and structures, farm animals, and manure piles.

In today's Cancellation Order, EPA is approving the registrants' requested cancellations and amendments of their dimethoate end-use products registrations to terminate all uses identified in the list above.

B. Requests for Voluntary Cancellation of End-Use Products

The end-use product registrations for which cancellation was requested are identified in the following Table 1.

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration No	Product
Bonide Products, Inc.	4–256	Bonide Systemic Insecticide
Value Garden Supply, LLC	70–113	Kill-Ko Cygon 2-E Systemic Insecticide
Value Garden Supply, LLC	192–134	Drexol Cygon Systemic Insecticide
Value Garden Supply, LLC	5887–128	Black Leaf Cygon 2-E
Rockland Corporation	572–224	Rockland Residual Fly Spray
Universal Cooperatives Inc.	1386–449	Cygon 2E Systemic Insecticide
AMVAC Chemical Corporation	5481–54	ALCO Cygon 2 E
Celaflor GMBH	69129–3	Celaflor Rose Patch

EPA did not receive any comments on the requests for cancellation of dimethoate products for residential use and the agricultural uses described above. Accordingly, the Agency is issuing an order in this notice canceling the registrations identified in Table 1, as requested by the EUP registrants.

C. Requests for Voluntary Amendments of End-Use Product Registrations to Terminate Certain Uses

Pursuant to section 6(f)(1)(A) of FIFRA, many EUP Registrants submitted requests to amend a number of their dimethoate end-use product registrations to terminate the uses identified in the List above or any other uses as specified for each product in the January 10, 2002, Dimethoate 6(f) Notice and reiterated in Table 2 below. EPA did not receive any comments expressing a need for any of the uses for which termination was requested. The registrations for which amendments to terminate specific uses were requested are identified in the following Table 2:

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration No	Product Name:Use Deletions
Dragon Chemical Corporation	16–160	Dragon Cygon 2E Systemic Insecticide

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS—Continued

Company	Registration No	Product Name:Use Deletions
Value Gardens Supply, LLC	769–948	Pratt Cygon 2-E Systemic Insecticide
Uniroyal Chemical Company Inc.	400–278	De-Fend E267 Dimethoate Systemic Insecticide
Southern Agricultural Insecticides,	829–251	SA-50 Brand Cygon 2 E Dimethoate Inc. Systemic Insecticide
Universal Cooperatives Inc.	1386–449	Cygon 2-E Systemic Insecticide
Universal Cooperatives Inc.	1386–618	Dimethoate 267 EC Systemic Insecticide
Helena Chemical Company	5905–493	Dimethoate 4EC
Helena Chemical Company	5905–497	5 LB Dimethoate Systemic Insecticide
Voluntary Purchasing Group Inc.	7401–338	Hi-Yield Cygon
BASF Corporation	7969–38	Rebelate 2E Insecticide
Agriliance, LLC	9779–273	Dimate 4E
Platte Chemical Company, Inc.	34704–207 34704–762	Clean Crop Dimethoate 400 Flygon 2-E
Haco, Inc.	2393–377	Cygon 2-E Systemic Insecticide
Micro-Flo Company LLC	51036–110 51036–198	Dimethoate 4E Cymate 267
Cheminova Agro F/S	67760–36 67760–44	Chemathoate 267 E.C. Systemic Insecticide Dimethoate 4W

III. Cancellation Order

Pursuant to section 6(f) of FIFRA, EPA hereby approves the requested cancellations of dimethoate product and use registrations identified in Tables 1 and 2 of this Notice. Accordingly, the Agency orders that the dimethoate end-use product registrations identified in Table 1 are hereby canceled. The Agency also orders that all of the end-use product registrations identified in Table 2 are amended to cancel those uses identified in List 1. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit IV of this Notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provisions

For purposes of this Order, the term ''existing stocks'' is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation. The existing stocks provisions of this Cancellation Order are as follows:

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on the agricultural crops identified in List 1 will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 2 that bears instructions for any of the agricultural uses identified in List 1 after the effective date of the cancellation order.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order.

3. *Distribution or sale by the registrant of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites(except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

4. *Distribution or sale by persons other than the registrant of existing stock of products for indoor use.* The distribution or sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

Lists of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: March 4, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–6090 Filed 3–12–02; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30509B; FRL–6827–3]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30509B, must be received on or before April 12, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30509B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9354, and e-mail address: mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30509B. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30509B in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30509B. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be

submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received an application as follows to register a pesticide product containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of the application does not imply a decision by the Agency on the application.

Product Containing Active Ingredients Not Included in Any Previously Registered Products

File symbol: 524–LEI. On March 19, 2001 (66 FR 15435) (FRL–6771–5), EPA announced receipt of a seed increase registration application from Monsanto Company (700 Chesterfield Parkway N., St. Louis, MO 63198) to register the product Event MON 863: Corn Rootworm Protected Corn (ZMIR13L) containing the plant-incorporated protectant *Bacillus thuringiensis Cry3Bb* protein and the genetic material (Vector ZMIR13L) necessary for its production in corn. Monsanto has subsequently modified their application for full commercial use. Proposed classification/Use: None. For full commercial use.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 27, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 02–5869 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7156–8]

Gulf States Steel Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), the United States Environmental Protection Agency (''EPA'') proposes to enter into a Prospective Purchaser Agreement (''PPA'') regarding a portion of the Gulf States Steel Superfund Site in Gadsden, Etowah County, Alabama. EPA proposes to enter into the PPA with Alabama Structural Products, Inc. (ASP). The PPA provides for the payment of $100,000 from ASP and obligates ASP to fully cooperate with any response actions EPA may take on the property. Further, the PPA provides ASP with a covenant not to sue from the United States for Existing Contamination on the property. The covenant is conditioned upon ASP's fulfilling its obligations under the PPA. EPA will consider comments on the proposed PPA for thirty (30) days.

EPA may withdraw from or modify the proposed PPA should such comments disclose facts or considerations which indicate the proposed PPA is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, 404/562–8887.

Written comments may be submitted to Ms. Batchelor at the above address within 30 days of the date of publication.

Dated: March 5, 2002.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–6065 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Technological Advisory Council; Meeting

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the fourth meeting of the Technological Advisory Council (''Council'') under its new charter.

DATES: Friday, April 26, 2002 at 10:00 a.m.

ADDRESSES: Federal Communications Commission, 445 12th St. SW, Room TW–C305 Washington, DC 20554.

SUPPLEMENTARY INFORMATION: Continuously accelerating technological changes in telecommunications design, manufacturing, and deployment require that the Commission be promptly informed of those changes to fulfill its statutory mandate effectively. The Council was established by the Federal Communications Commission to provide a means by which a diverse array of recognized technical experts from a variety of interests such as industry, academia, government, citizens groups, etc., can provide advice to the FCC on innovation in the communications industry. The purpose of, and agenda for, the fourth meeting under the Council's new charter will be to review the progress that has been made and organize the Council's efforts to fulfill its responsibilities under its new charter. The Council will also consider such questions as the Commission may put before it. Members of the public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many persons as possible. Admittance, however, will be limited to the seating available. Unless so requested by the Council's Chair, there will be no public oral participation, but the public may submit written comments to Jeffery Goldthorp, the Federal Communications Commission's Designated Federal Officer for the Technological Advisory Council, before the meeting. Mr. Goldthorp's e-mail address is *jgoldtho@fcc.gov.* His United States mail

delivery address is Jeffery Goldthorp, Chief, Network Technology Division, Office of Engineering and Technology, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–6032 Filed 3–12–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

DATE & TIME: Tuesday, March 19, 2002 at 10:00 a.m.

PLACE: 999 E Street, N.W., 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: Wednesday, March 20, 2002 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC. (Ninth Floor).

STATUS: This hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Use of the Internet for campaign-related activities.

DATE & TIME: Thursday, March 21, 2002 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

New Rulemaking on Administrative Fines (11 CFR part 111, subpart B).

Statement of Policy Regarding Party Committee Coordinated Expenditures.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–6185 Filed 3–11–02; 3:04 pm]

BILLING CODE 6715–01–M

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.: 011657–005.

Title: Zim/Italia U.S. West Coast Space Charter Agreement.

Parties: Zim Israel Navigation Co., Ltd., Italia di Navigazione, S.p.A.

Synopsis: The proposed agreement amendment changes the geographic scope to eliminate France and Greece and reduces Zim's basic allocation from 65 to 50 TEUs. It also makes changes in the provision regarding further sales of slots to Zim under the agreement.

Agreement No.: 011745–004.

Title: Evergreen/Lloyd Triestino/Hatsu Alliance Agreement.

Parties: Evergreen Marine Corp. (Taiwan) Ltd., Hatsu Marine Limited, Lloyd Triestino di Navigazione S.p.A.

Synopsis: The proposed agreement modification increases the number of vessels to be deployed under the agreement and revises the parties' various vessel strings. The parties request expedited review.

Agreement No.: 011789–001.

Title: Contship/Zim Indian Subcontinent Space Charter Agreement.

Parties: Contship Container Lines, Zim Israel Navigation Company, Ltd.

Synopsis: The proposed agreement modification would add ports in Egypt to the geographic scope of the agreement. The parties request expedited review.

Agreement No.: 011792.

Title: NYK/WWL/CSAV South America Space Charter Agreement.

Parties: Nippon Yusen Kaisha, Wallenius Wilhelmsen Lines AS, Compania Sud Americana de Vapores S.A.

Synopsis: The proposed agreement authorizes the parties to share vessel space in the trade between the ports of New York and Miami, on the one hand, and ports in Venezuela, Ecuador, Colombia, Chile, and Peru, on the other hand. The parties request expedited review.

Agreement No.: 201130.

Title: Broward-Discovery Cruise Agreement.

Parties: Broward County, Discovery Cruise Services, Inc.

Synopsis: The agreement is a wharfage agreement covering rates, port charges, and services. The agreement runs through March 5, 2012.

Dated: March 8, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6079 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection or the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Carnival Corporation, 3655 N.W. 87th Avenue, Miami, FL 33178–2193, Vessel: CARNIVAL PRIDE

Discovery Sun Partnership, Discovery Sun Cruises, Inc., and Discovery Sun Tours, Inc., 1775 N.W. 70th Avenue, Miami, FL 33126–1341, Vessel: DISCOVERY SUN

Holland America Line-Westours Inc. (d/b/a Windstar Cruises), Wind Spirit Limited, and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, WA 98119, Vessel: WIND SURF

Norwegian Cruise Line Limited and Norwegian Star, Ltd., 7665 Corporate Center Drive, Miami, FL 33126,Vessel: NORWEGIAN STAR

Princess Cruise Lines, Ltd., P & O Princess Cruises International Limited, GP3, Ltd., and P & O Princess Cruises plc, 24305 Town Center Drive, Santa Clarita, CA 91355–4999, Vessel: STAR PRINCESS

Royal Caribbean Cruises Ltd., and Adventure of the Seas Inc., 1050 Caribbean Way, Miami, FL 33132–

2096, Vessel: ADVENTURE OF THE SEAS

Sea Cloud Cruises GmbH, Schiffahrts-Gesellschaft Hansa Columbus mbH & Co., KG, Hansa Shipmanagement GmbH & Co., Hansa Columbus Sailing Ltd., Valletta, and Hapag-Lloyd Kreuzfahrten GmbH, Ballindamm 17, 20095 Hamburg, Germany, Vessel: SEA CLOUD II

Star Clippers, Ltd., Star Clipper N.V., and Luxembourg Shipping Services S.A. (d/b/a Star Clippers), 4101 Salzedo Street, Coral Gables, FL 33146, Vessel: STAR CLIPPER

Dated: March 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6081 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817 (e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

The Delta Queen Steamboat Co., and Great River Cruise Line, L.L.C., 1380 Port of New Orleans Place, New Orleans, LA 70130, Vessel: DELTA QUEEN

The Delta Queen Steamboat Co., and Great Ocean Cruise Line, L.L.C., 1380 Port of New Orleans Place, New Orleans, LA 70130, Vessel: MISSISSIPPI QUEEN

Holland America Line-Westours Inc. (d/b/a Holland America Line), HAL Cruises Limited, Holland America Line N.V., and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, WA 98119, Vessels: OOSTERDAM, PRINSENDAM and ZUIDERDAM

Holland America Line-Westours Inc. (d/b/a Windstar Cruises), Wind Spirit Limited, and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, WA 98119, Vessel: WIND SURF

Luxumbourg Shipping Services S.A. (d/b/a Star Clippers), 4101 Salzedo Street, Coral Gables, FL 33146, Vessel: STAR CLIPPER

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line), 7665 Corporate Center Drive, Miami, FL 33126, Vessel: NORWEGIAN DAWN

Sea Cloud Cruises GmbH, Schiffahrts-Gesellschaft Hansa Columbus mbH & Co., KG, and Hapag-Lloyd Kreuzfahrten GmbH Ballindamm 17, 20095 Hamburg, Germany, Vessel: SEA CLOUD II

Dated: March 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6082 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 02–03]

Exclusive Tug Arrangements in Port Canaveral, FL; Notice of Investigation and Hearing

Notice is given that, on February 25, 2002, the Federal Maritime Commission (''Commission'') served an Order of Investigation and Hearing (''Order'') on the Canaveral Port Authority (''Port'').

The Port requires prospective suppliers of various services, including tug services, to obtain a franchise from the port. Tugz International, LLC (''Tugz'') filed an application for a tug and towing franchise in June 2000. At its July 21, 2000 hearing, the Port determined not to consider Tugz/ application. Tugz' application was updated in September 2001, and is still pending. On April 1, 2001, the Port extended the right of Seabulk Towing, Inc., dba Port Canaveral Towing (''Seabulk'') to perform towing services for another ten years.

This proceeding therefore seeks to determine whether the Port is in violation of sections 10(d)(1) and/or 10(d)(4) of the 1984 Act by its actions resulting in the continuation of Seabulk's monopoly. If so, this proceeding also shall determine whether civil penalties should be assessed and, if so, in what amount, and whether a cease and desist order should be issued.

Any person having an interest in participating in this proceeding may file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure, 46 CFR 502.72.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6077 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 02–02]

Canaveral Port Authority—Possible Violations of Section 10(b)(10), Unreasonable Refusal to Deal or Negotiate; Notice of Show Cause Proceeding

Notice is given that, on February 25, 2002, the Federal Maritime Commission (''Commission'') served an Order to Show Cause (''Order'') on the Canaveral Port Authority (''Port'').

It appears that the Port has refused to consider the application of Tugz International LLC (''Tugz'') for a franchise to perform tug and towing services. This refusal appears to have the effect of preventing competition and of maintaining a monopoly for the single tug company in the port.

The Order directs the Port to show cause why it should not be found in violation of section 10(b)(10) of the 1984 Act, 46 U.S.C. app. sec. 1709(b)(10), for its refusal to consider Tugz' application.

The Order's full text may be viewed on the Commission's homepage at *http://www.fmc.gov.* or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure, 46 CFR thnsp;502.72 and the procedural schedule set forth in the Commission's February 25 Order.

Bryant L. VanBrakle,

Secretary,

[FR Doc. 02–6078 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–M

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 part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Empire Container Line, Inc., 100 Route 37 East, Toms River, NJ 08753, Officer: Milton D'Souza, President (Qualifying Individual)

Multi-Link Container Line, LLC, 31–18 80th Street, E. Elmhurst, NY 11370, Officers: Tin Wai Chan, Vice President (Qualifying Individual), Alex K. F. Wu, President

MCL-Multi Container Line, Inc., dba Transpac Cargo Line, 3764 Oakhurst Way, Dublin, CA 94568, Officers: Harald Oechsner, Vice President (Qualifying Individual), Daniel Richner, President

Sea-Line Cargo, Inc., 135 Post Avenue, New York, NY 10034, Officer: Edickson Burgos, President (Qualifying Individual)

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Uni Logistics, Inc., 630 South Glasgow Avenue, Inglewood, CA 90301, Officers: John Park, President (Qualifying Individual) Soo Kim, Secretary

Washington Movers, Inc., 8210 Cinderhed Road, #3, Lorton, VA 22079, Officer: Sam Ghanem, President (Qualifying Individual)

U.S. Sea Wave Express, Inc., 2931 Plaza Del Amo, #74, Torrance, CA 90503, Officers: Xiaoman Hu, Vice President (Qualifying Individual) Weishan Hou, President

Seaspeed Overseas Shipping Co., Inc., 69 La Fante Lane, Bayonne, NJ 07002, Officer: John Trimarchi, Director

Japan Star America, 21906 Arnold Center Road, Carson, CA 90810, Yuni Kim Pearson, Director Sole Proprietor

Nationwide Forwarding, Inc., 48 Ridge Drive, Montville, NJ 07045, Officers: Charles A. Kadets, Vice President (Qualifying Individual) Michele Della Valle, President

Wice Logistics USA, Inc., 177–15 149th Road, Jamaica, NY 11434, Officers: Stan kwai-wah Chu, Vice President (Qualifying Individual) Paul Dunn, President

Trans Pacific Logistics LLC, 9911 Inglewood Avenue, Inglewood, CA 90301, Officers: Gary Dorian, Vice President (Qualifying Individual) Roscoe Jones, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Actionfreight Int'l Inc., 11034 La Cienega Blvd., Inglewood, CA 90304, Officer: Natalie Dix, Owner (Qualifying Individual)

Dated: March 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6080 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 27, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. David C. Harrison, as co-trustee of the Central Bancompany Voting Trust Agreement; to acquire voting shares of Central Bancompany, Jefferson City, Missouri, and thereby indirectly acquire voting shares of Bank of Jacomo, Blue Springs, Missouri; Boone County National Bank of Columbia, Columbia, Missouri; Central Bank Lake of the Ozarks, Osage Beach, Missouri; Central Trust Bank, Jefferson City, Missouri; City Bank and Trust Company of Moberly, Moberly, Missouri; Empire Bank, Springfield, Missouri; First Central Bank, Warrensburg, Missouri; First National Bank of Audrain County, Mexico, Missouri; First National Bank of Missouri, Lee's Summit, Missouri; First National Bank of St. Louis, Clayton, Missouri; Jefferson Bank of Missouri, Jefferson City, Missouri; Ozark Mountain Bank, Branson, Missouri; and Third National Bank of Sedalia, Sedalia, Missouri.

Board of Governors of the Federal Reserve System, March 7, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–5956 Filed 3–12–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 8, 2002.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Hoosac Financial Services, Inc., North Adams, Massachusetts; to merge with Williamstown Mutual Holding Company, and thereby indirectly acquire Williamstown Savings Bank, both of Williamstown, Massachusetts. The resulting bank holding company will be renamed MoutainOne Financial Partners, MHC.

2. Hoosac Financial Services, Inc., North Adams, Massachusetts; to acquire 100 percent of the voting shares of Williamstown Savings Bank, Williamstown, Massachusetts.

3. MountainOne Financial Partners, Inc., North Adams, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Williamstown Savings Bank,

Williamstown, Massachusetts, and Hoosac Bank, North Adams, Massachusetts.

C. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. First Citizens Bancorporation of South Carolina, Inc., Columbia, South Carolina, to acquire up to 10 percent of the voting shares of Bank of Wilmington, Wilmington, North Carolina.

Board of Governors of the Federal Reserve System, March 7, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–5957 Filed 3–12–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 012 3182]

Campbell Mithun LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Mary Engle or Richard Kelly, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3161 or 326–3304.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 6, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Campbell Mithun LLC (Campbell), an advertising agency.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves allegedly unsubstantiated representations made on television advertising about the effects of the calcium in Wonder Bread on children's memory and brain function. Campbell was the advertising agency that created these commercials. According to the FTC complaint, Campbell made unsubstantiated claims that as a good source of calcium, Wonder Bread helps children's minds work better and helps children remember things. The complaint further alleges that the ad agency knew or should have known that the claims were unsubstantiated.

The proposed consent order contains provisions designed to prevent Campbell from engaging in similar acts and practices in the future. Part I of the proposed order prohibits Campbell from making any unsubstantiated claim (a claim lacking competent and reliable scientific evidence) that as a good source of calcium, Wonder Bread helps children's minds work better, or as a good source of calcium, Wonder Bread helps children remember things.

Part II of the order requires Campbell to have competent and reliable scientific evidence for any claim that any bread, bread product, rolls or muffins or any of their ingredients, helps brain function or memory, or can treat, cure or prevent any disease or related health condition. Part II also provides that a mere statement that a product contains a particular vitamin or mineral will not, without more, be considered for purposes of this order a representation that the product can treat, cure or prevent any disease or related health condition.

Part III of the order notes that this order does not prohibit Campbell from making any claim that is specifically permitted in labeling pursuant to the Nutrition Labeling and Education Act of 1990. Parts IV through VII of the order require Campbell to keep copies of relevant advertisements and materials substantiating claims made in the advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file a compliance report with the Commission. Part VIII provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission, Commissioner Anthony recused.

Donald S. Clark,

Secretary.

[FR Doc. 02–5965 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 011 0117]

Deutsche Gelatine-Fabriken Stoess AG, et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: James Holden, Jr., Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2963.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 7, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from Deutsche Gelatine-Fabriken Stoess AG (''DGF Stoess'') and Goodman Fielder Limited (''Goodman Fielder'') which is designed to remedy the anticompetitive effects resulting from Goodman Fielder's sale of its gelatin business to DGF Stoess. Under the terms of the Consent Agreement, DGF Stoess will not be allowed to acquire Goodman Fielder's entire gelatin business as initially proposed; rather, Goodman Fielder will retain its United States and Argentine gelatin assets, which, collectively, represent approximately 40 percent of the original proposed acquisition. Moreover, Goodman Fielder will face limitations on any subsequent divestiture of those retained assets, including requirements that Goodman Fielder seek prior approval from the Commission or provide prior notice to the Commission, depending on certain relevant considerations.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make final the Decision and Order.

Pursuant to a purchase agreement dated February 14, 2001, DGF Stoess proposed to acquire Goodman Fielder's entire worldwide gelatin business (the ''Proposed Acquisition''). The total value of the Proposed Acquisition is approximately $170 million. The Commission's Complaint alleges that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the United States market for the manufacture and sale of pigskin and beef hide gelatin.

II. The Parties

Headquartered in Eberbach, Germany, DGF Stoess is the largest supplier of pigskin and beef hide gelatin in the United States and the world. DGF Stoess produces pigskin and beef hide gelatin at seven manufacturing plants worldwide. Two of the plants are located in the United States (Kind & Knox, in Sioux City, Iowa, and Dynagel, in Calumet City, Illinois), one plant is in Brazil, one plant is in Sweden, and three plants are in Germany.

Goodman Fielder is a diversified food products company based in Sydney, Australia. Through its Leiner Davis Gelatin subsidiary, and other related subsidiaries, Goodman Fielder is the second largest supplier of pigskin and beef hide gelatin in the United States and the world. Goodman Fielder owns and operates eight gelatin manufacturing plants of varying sizes worldwide—one each in the United States (Davenport, Iowa), Mexico, South Africa, Australia, New Zealand and Argentina, and two in Brazil. Of Goodman Fielder's gelatin manufacturing facilities, only the plants in the United States and South America compete for gelatin sales in the U.S. market.

III. The Pigskin and Beef Hide Gelatin Market

Pigskin and beef hide gelatins are versatile products obtained from the partial hydrolysis of collagen, a protein that is the principal constituent of pigskins and beef hides. Pigskin and beef hide gelatins have many functions and are a critical component of a wide variety of products, particularly in the food industry (in products such as gelatin desserts, marshmallows, gummy candies and other confections) and the pharmaceutical industry (in products such as soft and hard capsules and tablet coatings). Although other types of products (e.g., starch, carrageenan, pectin, etc.) can provide some of the qualities of gelatin, no other product provides the full range of performance of gelatin, or is sufficiently cost-effective to replace gelatin in edible and pharmaceutical applications.

If the Proposed Acquisition were to be consummated, DGF Stoess would have a U.S. market share of over 50 percent of pigskin and beef hide gelatin sales and would be more than two and one-half times the size of its nearest competitor. Prior to the acquisition, DGF Stoess and Goodman Fielder (through its Leiner Davis Gelatin subsidiary) competed vigorously against each other for gelatin business, and this competition benefitted gelatin customers. By eliminating competition between the two largest gelatin suppliers, and creating a firm with a market share of over 50 percent, the Proposed Acquisition would allow the combined firm to exercise market power unilaterally, as well as increasing the likelihood of coordinated interaction among gelatin manufacturers. As a result, the Proposed Acquisition would increase the likelihood that purchasers of pigskin and beef hide gelatin would be forced to pay higher prices and that innovation, service levels, and product quality in this market would decrease.

There are significant impediments to both expansion by existing manufacturers, as well as new entry, in the pigskin and beef hide gelatin market. First, the gelatin industry is operating at or very near full capacity, as is required for the efficient operation of gelatin manufacturing facilities. Second, even under normal conditions, the raw materials for pigskin and beef hide gelatin production are a finite resource often in short supply. Third, recent outbreaks of foot and mouth disease and ''mad cow'' disease around the world have further limited the normally tight supply of raw materials for the gelatin industry, thus diminishing the likelihood of significant and timely expansion. Finally, even if raw materials were available, significant capacity expansions (beyond the limited available excess capacity) can take years to complete, and more modest expansions are generally viewed as economically inefficient.

New entry is an even more remote possibility because a new entrant, beyond facing the same limited raw material supply, would need to build a plant—a difficult, expensive and time-consuming process. It would take a new entrant over two years to accomplish the necessary steps for entry and achieve a significant market impact. Indeed, because many gelatin customers impose stringent supplier qualification requirements that (even if all goes well) can take years to complete, a new entrant is highly unlikely to achieve a significant market impact within two years. New entry also is unlikely because the costs of building a new plant and entering the market are high relative to the limited sales opportunities available to new entrants.

IV. The Consent Agreement

The Commission initiated its investigation of the Proposed Acquisition shortly after being notified of the transaction in March 2001. In response to competitive concerns raised by the Commission which came to light during the course of the Commission's investigation, DGF Stoess and Goodman Fielder proposed to divest one of Goodman Fielder's gelatin plants—a large pigskin gelatin plant located in Davenport, Iowa. After careful consideration, that proposal was ultimately deemed insufficient to remedy the anticompetitive effects of the Proposed Acquisition. On January 15, 2002, the Commission authorized its staff to seek a preliminary injunction in federal district court preventing DGF Stoess and Goodman Fielder from consummating the Proposed Acquisition. The Consent Agreement arose out of subsequent discussions between the Commission, DGF Stoess and Goodman Fielder. In those discussions, the parties proposed to amend the Purchase Agreement such that Goodman Fielder would not sell its entire gelatin business to DGF Stoess, but rather would retain two of its plants—a pigskin gelatin manufacturing plant in Davenport, Iowa, and a beef hide gelatin plant located in Santa Fe, Argentina—along with all of the ancillary assets and infrastructure (*e.g.*, production personnel, sales operations, etc.) required to operate those plants together as an ongoing business.

The parties' proposal, as reflected in the Consent Agreement, effectively remedies the Proposed Acquisition's anticompetitive effects in the United States market for pigskin and beef hide gelatin. By retaining two substantial gelatin plants in Davenport and Santa Fe, Goodman Fielder will have virtually the same U.S. presence as did DGF Stoess before the acquisition, and the concentration level of the U.S. market for pigskin and beef hide gelatin will remain nearly unchanged by the transaction. In addition, the package of assets retained by Goodman Fielder, a pigskin gelatin plant in the United States and a beef hide gelatin plant in Argentina, provides geographic scope and product diversity characteristic of the most competitive market participants.

Although Goodman Fielder's retention of the U.S. and Argentine plants largely remedies the anticompetitive effects of the Proposed Acquisition, some competitive questions remain because Goodman Fielder has expressed a desire to exit the gelatin business. Accordingly, the Commission has required additional provisions in the Consent Agreement in case Goodman Fielder chooses to dispose of the retained assets, to address three specific concerns. First, and most obviously, a subsequent sale of the retained assets to DGF Stoess would be problematic because such a sale would simply effectuate a two-step version of the Proposed Acquisition—a transaction that the Commission already believes to be anticompetitive. Second, a subsequent sale of the retained assets to SKW, the third leading supplier worldwide of pigskin and beef hide gelatin, would raise many of the same competitive issues raised by a sale of those assets to DGF Stoess. Third, any sale by Goodman Fielder that would split up the retained assets would raise a competitive concern, because it would eliminate the product and geographic diversity of the gelatin business retained by Goodman Fielder and likely would diminish the competitive significance of those assets in the U.S. market.

To address these problems, the proposed Consent Agreement provides that: (1) DGF Stoess may not buy any of the gelatin assets retained by Goodman Fielder without prior approval from the Commission; (2) Goodman Fielder may not sell any of the retained gelatin assets to DGF or SKW, or sell less than the complete package of retained assets to anyone, without prior approval from the Commission; and (3) Goodman Fielder must provide the Commission with prior notice of any other sale of the retained assets. The prior approval requirements ensure that the Commission will be able to address the three specific issues raised above. The prior notice requirement guarantees the Commission the benefits of the Hart-Scott-Rodino framework in evaluating all other possible sales of the retained assets, including those that might otherwise be unreportable. In short, the Consent Agreement preserves the current competitive situation, allows DGF Stoess and Goodman Fielder to complete a modified version of their transaction that does not harm competition, and provides Goodman Fielder with ongoing flexibility with respect to a disposition of the retained assets, even if market conditions change in the near future.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.

By direction of the Commission, Chairman Muris not participating.

Donald S. Clark,

Secretary.

[FR Doc. 02–5966 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 012 3182]

Interstate Bakeries Corp.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Mary Engle or Richard Kelly, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3161 or 326–3304.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 6, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Interstate Bakeries Corporation (IBC).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves allegedly unsubstantiated representations made on television and in Internet advertising about the effects of the calcium in Wonder Bread on children's memory and brain function. According to the FTC complaint, IBC made unsubstantiated claims that as a good source of calcium, Wonder Bread helps children's minds work better and helps children remember things.

The proposed consent order contains provisions designed to prevent IBC from engaging in similar acts and practices in the future. Part I of the proposed order prohibits IBC from making any unsubstantiated claim (a claim lacking competent and reliable scientific evidence) that as a good source of calcium, Wonder Bread helps children's minds work better, or as a good source of calcium, Wonder Bread helps children remember things.

Part II of the order requires IBC to have competent and reliable scientific evidence for any claim that any of its breads, bread products, rolls or muffins or any of their ingredients, helps brain function or memory, or can treat, cure or prevent any disease or related health condition. Part II also provides that a mere statement that a product contains a particular vitamin or mineral will not, without more, be considered for purposes of this order a representation that the product can treat, cure or prevent any disease or related health condition.

Part IV of the order states that the order does not apply to any label or labeling printed before the order is served on IBC and shipped by IBC's bakeries to distributors or retailers within nine months after the order is issued.

Part III of the order notes that this order does not prohibit IBC from making any claim that is specifically permitted in labeling pursuant to the Nutrition Labeling and Education Act of 1990. Parts V through VIII of the order require IBC to keep copies of relevant advertisements and materials substantiating claims made in the advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file a compliance report with the Commission. Part IX provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission, Commissioner Anthony recused.

Donald S. Clark,

Secretary.

[FR Doc. 02–5967 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 002 3332]

Palm, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment

describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 5, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2699.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 6, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Palm, Inc. (''Palm'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged misleading representations about Palm handheld computers or personal digital assistants (''PDAs''). This matter concerns allegedly false and deceptive advertising claims made in advertisements regarding the ability of Palm devices to wirelessly access the Internet and e-mail accounts and to perform other functions.

According to the FTC complaint, Palm misrepresented that Palm PDAs, as sold, contain everything that consumers need to wirelessly access the Internet and their e-mail accounts. In fact, in order to wirelessly access the Internet and e-mail accounts using Palm PDAs, other than the Palm VII model line, consumers must purchase and carry a separate wireless modem or a device to connect the Palm to certain mobile telephones; and, moreover, many mobile telephones currently in use in the U.S. are not compatible with Palm PDAs. The complaint also alleges that in representing that consumers can use Palm PDAs, as sold, to access the Internet and their e-mail accounts wirelessly, Palm failed to disclose or failed to disclose adequately that in order to wirelessly access the Internet and their e-mail accounts, consumers must purchase and carry a separate wireless modem or a device to connect the Palm to certain mobile telephones. The complaint alleges that the failure to disclose this material fact is a deceptive practice.

The proposed complaint also challenges as false the claim that Palm PDAs, as sold, can perform common business functions such as data base management, custom form creation, and viewing Microsoft Word and Excel documents. To perform these functions using Palm PDAs, consumers must purchase and install additional software. The complaint also alleges that in representing that consumers can use Palm PDAs, as sold, to perform these functions, respondent failed to disclose or failed to disclose adequately that in order to perform these functions using Palm PDAs, consumers must purchase and install additional software. The complaint alleges that the failure to disclose this material fact is a deceptive practice.

Finally, the complaint alleges that in representing that consumers can use the Palm VII model line to access the Internet and their e-mail accounts wirelessly, Palm failed to disclose or failed to disclose adequately that consumers must subscribe to Palm.Net, a proprietary for-fee service. The complaint alleges that the failure to disclose this material fact is a deceptive practice.

The proposed consent order contains provisions designed to prevent Palm from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits respondent from making misrepresentations that any PDA or handheld Internet or e-mail access device can perform any common business function that it cannot perform without additional products or services that consumers must purchase. Part I also prohibits misrepresentations that wireless Internet or e-mail service coverage for the product is available everywhere or almost everywhere in the U.S.

Part II of the proposed order prohibits misrepresentations about performance characteristics relating to Internet or e-mail account access of any non-wireless PDA or handheld Internet or e-mail access device (*i.e.*, one that requires the use of an additional device in order to access the Internet or e-mail accounts wirelessly).

Part III requires that when respondent makes any claims about the ability of any PDA or handheld Internet or e-mail access device to perform any function that requires the purchase of additional products or services, it must make a clear and conspicuous disclosure, depending upon the function being discussed. When the function involves accessing the Internet or e-mail accounts, respondent must disclose any other products (such as a modem, mobile telephone, or adapter) or Internet or e-mail access services (other than general-purpose ISP service, as defined in the order), that consumers must purchase in order to access the Internet or e-mail accounts. When the function does not involve accessing the Internet or e-mail accounts, respondent must disclose that additional products must

be purchased in order to perform such function(s).

Part IV of the proposed order provides that, for up to 120 days after service of the order, respondent may continue to ship products from existing stock in packaging with nonconforming labeling, as long as the packaging was printed less than 30 days after the date respondent signed the consent agreement.

Parts VI through IX require Palm to keep copies of relevant advertisements and materials substantiating claims made in the advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file compliance reports with the Commission. Part X provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–5968 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Human Research Protections Advisory Committee (NHRPAC)

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office for Human Research Protections.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Human Research Protections Advisory Committee (NHRPAC).

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. Individuals planning on attending the meeting and who want to ask questions must submit their requests in writing in advance of the meeting to the contact person listed below.

DATES: The Committee will hold its next meeting on April 29–30, 2002. The meeting will convene EST from 8:30 a.m. to its recess at approximately 5:30 p.m. on April 29 and resume at 8:30 a.m. to 5 p.m. on April 30.

ADDRESSES: Hyatt Regency Bethesda Hotel, One Bethesda Metro, Bethesda, MD, (301) 657–1234.

FOR FURTHER INFORMATION CONTACT: Keisha Johnson, Program Assistant, National Human Research Protections Advisory Committee, Office for Human Research Protections, The Tower Building, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852, (301) 435–4917. The electronic mail address is: *kjohnson@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: The National Human Research Protections Advisory Committee was established on June 6, 2000, to provide expert advice and recommendations to the Secretary of HHS, Assistant Secretary for Health, the Director, Office for Human Research Protections, and other departmental officials on a broad range of issues and topics pertaining to or associated with the protection of human research subjects.

Information about NHRPAC, and the draft agenda for the Committee's April 2002 meeting, will be posted on the NHRPAC website at: *http://ohrp.osophs.dhhs.gov/nhrpac/nhrpac.htm.*

Dated: March 7, 2002.

Greg Koski,

Executive Secretary, National Human Research Protections Advisory Committee.

[FR Doc. 02–5925 Filed 3–12–02; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0437]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; New Animal Drugs for Investigational Use; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of January 14, 2002 (67 FR 1772). The document announced that a proposed collection of information had been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The document was published with an incorrect OMB control number. This document corrects that error.

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

SUPPLEMENTARY INFORMATION: In FR Doc. 02–855, appearing on page 1772 in the **Federal Register** of Monday, January 14, 2002, the following correction is made:

1. On page 1772, in the second column, in the fourteenth line, ''0910–0017'' is corrected to read ''0910–0117''.

Dated: March 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–5922 Filed 3–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0073]

''Guidance for Industry: Validation of Procedures for Processing of Human Tissues Intended for Transplantation;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance for Industry: Validation of Procedures for Processing of Human Tissues Intended for Transplantation'' dated March 2002. The guidance document is intended to remind all tissue establishments that the current requirement to prepare, validate, and follow procedures to prevent infectious disease contamination or cross-contamination during the processing of human tissues intended for transplantation includes such infectious disease agents as viruses, bacteria, fungi, and will include transmissible spongiform encephalopathy (TSE)-associated prions as technology progresses.

DATES: General comments on agency guidance documents are welcome at any time. The agency is soliciting public comment, but is implementing this guidance document immediately because of public health concerns. FDA is requesting that you submit with your comments any information on specific methods currently used by tissue establishments to prevent infectious disease contamination and cross-

contamination of tissue during processing.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.Submit written or electronic comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Validation of Procedures for Processing of Human Tissues Intended for Transplantation'' dated March 2002. The document is intended to remind all tissue establishments that the current requirement to prepare, validate, and follow procedures to prevent infectious disease contamination or cross-contamination during the processing of human tissues intended for transplantation (21 CFR 1270.31(d)) includes such infectious disease agents as viruses, bacteria, fungi, and will include TSE-associated prions as technology progresses. Current regulations for human tissue intended for transplantation are found in 21 CFR parts 1270 and 1271.

This guidance is being issued in accordance with FDA's good guidance practices regulation (21 CFR 10.115). This guidance document represents the agency's current thinking on the validation of procedures for processing of human tissues intended for transplantation. 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 requirement of the applicable statutes and regulations.

II. Comments

The agency is soliciting public comment, but is implementing this guidance document immediately because of the public health concerns related to the possible risk of infectious disease contamination or cross-contamination during tissue processing. In particular, FDA's concern is heightened by recent reports from the Centers for Disease Control and Prevention about bacterial contamination of musculoskeletal allografts associated with injury as well as death in recipients of these tissues [MMWR; 50(46): 1035–1036, November 23, 2001; 50(48): 1080–1083, December 7, 2001.] FDA is requesting that you submit with your comments any information on specific methods currently used by tissue establishments to prevent infectious disease contamination and cross-contamination of tissue during processing. FDA plans to have further public discussion on this issue and to develop additional guidance containing more specific recommendations on validation methods for tissues in the future.

Interested persons may, at any time, submit written or electronic comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: March 4, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–5963 Filed 3–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: October 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of October 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ABRANTE, HECTOR ..... HIALEAH, FL	02/20/2002
ADAMS, BILLY WAYNE ..... FEDERAL WAY, WA	02/20/2002
BINA, SHOKROLLAH ..... LOS ANGELES, CA	02/20/2002
CARING RESPIRATORY SVCS, INC ..... CORAL GABLES, FL	09/17/2001
CARROLL, MAXIE G ..... TALLAHASSEE, FL	02/20/2002
CORVO, RENE ..... JESSUP, GA	02/20/2002
DJGLYAN, ARUTYUN ..... ELOY, AZ	02/20/2002
DOUGHERTY, TERRENCE W CLAYTON, MO	02/20/2002
ENRIQUEZ, HONORIA ..... MIAMI, FL	02/20/2002
ESPINOZA, THELMA AUXILIADOR ..... SOUTHGATE, CA	02/20/2002
FAULKNER, THERESA ANN ... PHOENIX, AZ	02/20/2002
FRENZI, MICHELLE L ..... AURORA, CO	02/20/2002
FULLER, ALISHA ANN ..... SPRINGFIELD, OR	02/20/2002
HING, VAN DAN	02/20/2002

Subject, city, state	Effective date
LONG BEACH, CA	
JACKSON, ERNESTINE W ..... INDIANAPOLIS, IN	02/20/2002
JACKSON, ALYSSA JOYCE ... BATON ROUGE, LA	02/20/2002
JOHNSON, DOUGLAS A ..... ALTOONA, PA	02/20/2002
KATSNELSON, EDWARD ..... DENVER, CO	02/20/2002
KATSNELSON, LYUDMILA ..... DENVER, CO	02/20/2002
KILMER, CATHY P ..... TACOMA, WA	02/20/2002
LEVY, STEPHEN E ..... TRINIDAD W INDIES,	10/25/2000
MADDEN, EVA ..... DETROIT, MI	02/20/2002
MILLER, ROBERT ..... ARLINGTON, TX	02/09/2001
MOLSBEE, BRENDA M ..... TALLAHASSEE, FL	02/20/2002
PADILLA, CRISOLOGO L ..... BROOKLYN, NY	02/20/2002
PARONIAN, KAZAR ..... MISSION HILLS, CA	02/20/2002
PEREZ-ARYAN, ELIA ..... CORAL GABLES, FL	09/17/2001
PRICE, LESLIE E ..... CARY, NC	02/20/2002
SALUDO, EDUARDO DY ..... LOS ANGELES, CA	02/20/2002
SCHNEIDER-RUCINSKI, NOREEN ..... SAN DIEGO, CA	02/20/2002
SMOLKOVICH, REGAN ..... ARVADA, CO	02/20/2002
STUARDO, LUIS ARTEMIO .... BONITA, CA	02/20/2002
STUARDO, CAROL MARIE ..... BONITA, CA	02/20/2002
VILLARIZA, BEATRICE BURROLA ..... PALM DESERT, CA	02/20/2002
WILLIAMS-WARD, LORRAINE F ..... GREEN POND, SC	02/20/2002
WOODWORTH, LINDA LERENE ..... DANBURY, CT	02/20/2002

FELONY CONVICTION FOR HEALTH CARE FRAUD

AULT, ELLEN FRANCIS SCANLON ..... LEXINGTON, KY	02/20/2002
KOTANSKY, MICHELLE ..... HAZLETON, PA	02/20/2002
SMITH, LEE ALLEN ..... APPLE VALLEY, MN	02/20/2002
SULLIVAN, JENNIFER A ..... ROSLINDALE, MA	02/20/2002

FELONY CONTROL SUBSTANCE CONVICTION

AGER, ALAN LAWRENCE ..... SAN GERONIMO, CA	02/20/2002
BRIGGS, JOHN ..... KINGSPORT, TN	02/20/2002
DOUGLAS, NATALIE ..... BESSEMER, MI	02/20/2002
MARTINEZ, RICHARD FRANK SAFFORD, AZ	02/20/2002
RYAN, KAREN MARIE ..... COLORADO SPRNGS, CO	02/20/2002
SHOCKLEY, CHERONDA KIM ROGERSVILLE, TN	02/20/2002

PATIENT ABUSE/NEGLECT CONVICTIONS

ARMERO, JUAN ANTONIO ..... AZUSA, CA	02/20/2002
BRANCH, CURTIS ..... VICKSBURG, MS	02/20/2002
BULLIS, SHAWN R ..... DELAVAN, WI	02/20/2002
CONGER, EARLENE ..... ST ALBANS, VT	02/20/2002
GOMEZ, FRANCISCO JAVIER WILDOMAR, CA	02/20/2002
HART, SHANDER S ..... BATON ROUGE, LA	02/20/2002
HAYES, DON JOHN ..... MANSURA, LA	02/20/2002
HOWARD, WANDA E ..... WETUMKA, OK	02/20/2002
MATHIS, PATRICIA ..... BRENHAM, TX	02/20/2002
MCCOY, KIM MARIE ..... STOCKTON, AL	02/20/2002
MCKENNEY, BRIAN ..... JOHNSTOWN, NY	02/20/2002
NEWTON, VALERIA RILEY ..... MARION, LA	02/20/2002
RAY, CHARMAINE ..... QUEENS, NY	02/20/2002
ROBBINS, JAMES E ..... YOUNGSTOWN, OH	02/20/2002
SALAZAR-VILLAR, CIRO ALCIDES ..... ESCONDIDO, CA	02/20/2002
SANCHEZ-DE ARELLANO, NORA OLIV ..... VISTA, CA	02/20/2002
SIMPSON, VICKY D ..... SMITHVILLE, TN	02/20/2002
TRUDELL, SYLVIA MONTELL PINEVILLE, LA	02/20/2002
WOOD, LEIGH ANNE ..... TUCSON, AZ	02/20/2002

CONVICTION FOR HEALTH CARE FRAUD

DICKSON, TRINA KAY ..... ARKANSAS CITY, KS	02/20/2002

CONTROLLED SUBSTANCE CONVICTIONS

SKINNER, DAWN MICHELLE ESCONDIDO, CA	02/20/2002

LICENSE REVOCATION/SUSPENSION/SURRENDERED

ACKERMAN, SHARON R ..... AMES, IA	02/20/2002
ADAMS, STEPHANIE DIANN .. CHARLOTTE, NC	02/20/2002
ALCAIDE, KELLEY KAY ..... SOMMERVILLE, NJ	02/20/2002
BARBEE, DEBORAH S ..... CHICAGO, IL	02/20/2002
BAUERNFEIND, JOYCE ELLEN ..... ROCHESTER, MN	02/20/2002
BELT, HARRIET A ..... BLACK JACK, MO	02/20/2002
BENNINGFIELD, GAYLA ANN COURTW ..... BRADFORDSVILLE, KY	02/20/2002
BENTSON, KRISTA L ..... W DES MOINES, IA	02/20/2002
BERUK, DJUANA ..... GREENVILLE, MS	02/20/2002
BLANGIN, BARBARA B ..... LAGRANGE, IL	02/20/2002
BONNELL, STEPHANIE ..... MONROE, NJ	02/20/2002
BRISTOL, DAVID A ..... BRATTLEBORO, VT	02/20/2002
BROOKS, REENE F ..... MATTOON, IL	02/20/2002
BROWN, KAREN ANNETTE ... DENVER, CO	02/20/2002
BUNCH, LATITIA ..... CAMDEN, NJ	02/20/2002
CAIN, DANNY MICHAEL ..... ROCHESTER, MN	02/20/2002
CAPOUCH, ROBIN LYNN ..... BEMIDJI, MN	02/20/2002
CARRIERE, LAUREN L ..... WOONSOCKET, RI	02/20/2002
CARTER, MICHAEL ANSON ... CHATSWORTH, CA	02/20/2002
CHENG, HUNG HUI ..... SAN FRANCISCO, CA	02/20/2002
CLAPP, NIOKAH ..... LOUSIVILLE, KY	02/20/2002
COLLENBURG, SUSAN CATHERINE ..... LONGVIEW, TX	02/20/2002
CONDIT, TONI R ..... GRAND JUNCTION, CO	02/20/2002
COVARRUBIAS-MIER, JORGE A ..... PHOENIX, AZ	02/20/2002
CRESWELL, DAVID ..... BLENCOE, IA	02/20/2002
DICASTRO, STEVEN A ..... PRINCETON, MA	02/20/2002
DILL, CASEY ..... ROSWELL, GA	02/20/2002
DOTY, MARY T ..... STRASBURG, IL	02/20/2002
DRUPPEL, PAUL ROBERT ..... FORT MADISON, IA	02/20/2002
DUCHARME, NANCY LOUISE ST PAUL, MN	02/20/2002
EISEN, SARAH A ..... ELGIN, IL	02/20/2002
ESTERMAN, SIDNEY ..... E ORANGE, NJ	02/20/2002
FERGUSON, BONNIE S ..... MORRIS, IL	02/20/2002
FLIPPO, SANDRA KAY BYROM ..... BELL BUCKLE, TN	02/20/2002
FREEMAN, JENNIFER B ..... PHOENIZ, AZ	02/20/2002
GARNER, DAWN L ..... SESSER, IL	02/20/2002
GERGANS, GREGORY A ..... EVANSTON, IL	02/20/2002
GOMEZ, ROBERT ..... YUMA, AZ	02/20/2002
HAAKE, LISA A	02/20/2002

Subject, city, state	Effective date
DES MOINES, IA	
HACHMEISTER, SUZANNE PEARL	02/20/2002
WONDER LAKE, IL	
HADLICH, ELIZABETH MAY	02/20/2002
ST PAUL, MN	
HARLAN, CAROLYN L	02/20/2002
INDIANAPOLIS, IN	
HARTLEY, LAUREL SUTCH	02/20/2002
RICHEYVILLE, PA	
HASSER, CARRIE MARIE	02/20/2002
MORA, MN	
HASTAD, PATRICIA KAY	02/20/2002
BROOKLYN PARK, MN	
HICKMAN, DEWAYNE KEITH	02/20/2002
ANAHEIM, CA	
HILBURN, CHERYL LYNN	02/20/2002
WILMINGTON, NC	
HILL, CANDY RENEE	02/20/2002
BIRMINGHAM, AL	
HYRY, PHILLIP WADE	02/20/2002
ISHPEMING, MI	
ILOUNO, GEORGE ORANYELU	02/20/2002
HARBOR CITY, CA	
IORDAMOVA, ZOYA	02/20/2002
N HOLLYWOOD, CA	
JOHNSON, KATHLEEN RUTH	02/20/2002
MINNEAPOLIS, MN	
JONES, LUCRETIA ANN	02/20/2002
SALT LAKE CITY, UT	
KAPOOR, QUDRAT S	02/20/2002
ROSWELL, NM	
KEESEE, DIANE LYN	02/20/2002
CHICAGO, IL	
KELSEY, MARIANNE BREIER	02/20/2002
HIGH POINT, NC	
KIM, BYUNG CHANG	02/20/2002
DIAMOND BAR, CA	
KOENIG, NANCY LOUISE	02/20/2002
ROCHESTER, MN	
KUSHMER, JOHN V	02/20/2002
TAMPA, FL	
LANDPHAIR, GREGORY R	02/20/2002
STRYKERSVILLE, NY	
LARA, FRANK J	02/20/2002
MESA, AZ	
LAWSON, ALAN R	02/20/2002
FAYETTEVILLE, AR	
LEADER, WILLIAM O	02/20/2002
LOS ANGELES, CA	
LEHNERTZ, LINDA LEE	02/20/2002
OWATONNA, MN	
LEVY, KENNETH D II	02/20/2002
WINDSOR, CT	
LONNES, DEBORAH JOY	02/20/2002
ST PAUL, MN	
LOOP, JERRY R	02/20/2002
GRAND ISLAND, NE	
LYONS, DANA	02/20/2002
ROEBLING, NJ	
MCAULEY, DONALD	02/20/2002
PHOENIX, AZ	
MCCANN, JON SCOTT	02/20/2002
RED OAK, OK	
MCGEE, VICKIE W	02/20/2002
LA FAYETTE, GA	
MCGEE, ELIZABETH	02/20/2002
WAYNE, NJ	
MILLER, LORI E	02/20/2002
ALLEN, TX	
MOONEY, SHARON RENE	02/20/2002
FRANKVILLE, AL	
MORLEY, KIMBERLY LYNNE	02/20/2002
LITTLETON, CO	
MORSE, TERRY FURR	02/20/2002
WEXFORD, PA	
MUNCAN, PETAR	02/20/2002
HOWARD BEACH, NY	
NEMAZEE, MAHMOUD	02/20/2002
SANTA MONICA, CA	
NESTOR, TIA M	02/20/2002
HAY SPRINGS, NE	
NIMMO, ZWANNAH G	02/20/2002
PAWTUCKET, RI	
NOVICK, HOWARD ALAN	02/20/2002
BREINIGSVILLE, PA	
O'BRIEN, DANIEL PATRICK	02/20/2002
LEXINGTON, KY	
PATTY, KENNETH D	02/20/2002
BLAIRS, VA	
PETERSON, CHERYL RENEE	02/20/2002
BLOOMINGTON, MN	
PIER, LARRY VAUGHN	02/20/2002
PAYSON, AZ	
PLANT-MAU, MARY J	02/20/2002
CORPUS CHRISTI, TX	
POLLARD, WILLIAM W	02/20/2002
CORVALLIS, OR	
PORTER, COLETTE S THREATS	02/20/2002
NORFOLK, VA	
PRADO, ANGEL	02/20/2002
MANHASSET, NY	
PROCTOR, ROSALIND G	02/20/2002
PHOENIX, AZ	
RANTALA, MARILYN JEAN	02/20/2002
SPRINGFIELD, IL	
RAY, FRANCES F	02/20/2002
DENVER, CO	
RICHARDS, KAY ANN	02/20/2002
PHOENIX, AZ	
RYAN, GERALDINE	02/20/2002
BRICK, NJ	
SAMOY, GREGORIO DALUZ	02/20/2002
TUCSON, AZ	
SANDOVAL, MANUEL A	02/20/2002
NEW BRITAIN, CT	
SARRACCO, LORI ANN	02/20/2002
HAM LAKE, MN	
SCHLEIF, NANCY ANN	02/20/2002
PLYMOUTH, MN	
SCHULTE, CYNTHIA L	02/20/2002
KINGMAN, AZ	
SKORA, ALAN P	02/20/2002
DEWITT, IA	
SMITH, VEE LANDIS	02/20/2002
MINNEAPOLIS, MN	
SOLOMON, ABRAHAM	02/20/2002
LONG ISLAND CITY, NY	
STRUWVE, SUSAN LOUISE	02/20/2002
RAMSEY, MN	
STULL, AARON MYLES	02/20/2002
ROCHESTER, MN	
TAMAYO, RICKY M	02/20/2002
EL CENTRO, CA	
TAYLOR, CORA REBECCA	02/20/2002
TUCSON, AZ	
THORNTON, JUDY LYNN	02/20/2002
EL CAJON, CA	
TOTH, JEANINE MICHELLE	02/20/2002
HONOLULU, HI	
TULLY, ANN MENDELSON	02/20/2002
DOYLESTOWN, PA	
TUTT, KEITH E	02/20/2002
PROVIDENCE, RI	
UNDERWOOD, CLYDE HAMILTON	02/20/2002
CLARKSVILLE, AR	
VEJRASKA, EUGENE	02/20/2002
ALLIANCE, NE	
VISSER, SUSAN C	02/20/2002
KNOXVILLE, IA	
VISSER, MELINDA JAYNE	02/20/2002
SUSANVILLE, CA	
WAHL, REBECCA	02/20/2002
WESTERN, NE	
WAHLERS, KATHLEEN A	02/20/2002
MUNCIE, IN	
WARRICK, LYNETTE ANN	02/20/2002
ST CLOUD, MN	
WATKINS, DEBORAH ANN	02/20/2002
WINCHESTER, IL	
WAYNE, SYLVIA	02/20/2002
SUN CITY WEST, AZ	
WELCH, WENDY J	02/20/2002
DECORAH, IA	
WESTMORELAND, MEREDITH H	02/20/2002
COLUMBIA, TN	
WILLIAMSON, CHRIS E	02/20/2002
CAMP VERDE, AZ	
WILSON, CAMILLE SUE	02/20/2002
PENDLETON, OR	
WOOLDRIDGE, DOUGLAS W	02/20/2002
WELLESLEY, MA	
WRIGHT, PAMELA JEAN	02/20/2002
ROCHESTER, MN	
ZEMAN, LAURA MARIE	02/20/2002
KETCHIKAN, AK	
FEDERAL/STATE EXCLUSION/SUSPENSION	
KATZAP, IZEA	02/20/2002
JAMAICA, NY	
MCCASKILL, EDDIE	02/20/2002
ST LOUIS, MO	
SAUL, STEPHEN	02/20/2002
MARGATE, NJ	
FRAUD/KICKBACKS	
AMEX II	10/09/2001
PHOENIX, AZ	
SPRIGGS, ROBERT ALAN	11/24/2000
FAIRFIELD, CA	
OWNED/CONTROLLED BY CONVICTED ENTITIES	
ADVANCED HEALTH CLINIC	02/20/2002
MESA, AZ	
CHILD & ADOLESCENT INSTITUTE	02/20/2002
BEACHWOOD, OH	
CHIROPRACTIC PLUS	02/20/2002
LONGVIEW, TX	
CREATIVE CARE ENLIGHTENED	02/20/2002
FT MYERS, FL	
M & G HEALTH CARE, INC	02/20/2002
MIAMI, FL	
MAIN STREET DENTAL ASSOCIATES	12/18/2001
FARMINGTON, CT	
MICHAEL B AUSTIN, D O, P A	02/20/2002
TAMPA, FL	
PSYCHIATRIC PROFESSIONAL GROUP	02/20/2002

Subject, city, state	Effective date
N OLMSTED, OH	
DEFAULT ON HEAL LOAN	
ALEXANDER, MICHAEL A ALIQUIPPA, PA	02/20/2002
ARGUEDAS, WALTER G HIALEAH, FL	02/20/2002
BELLER, BRYAN D SOUTHGATE, MI	02/20/2002
CAFAGNA, MARK WILLIAM SR WEST HILLS, CA	02/20/2002
CAGLE, LARRY S AHOSKIE, NC	02/20/2002
CARR, GUY A HUTCHINSON, KS	02/20/2002
CONSTANTINESCU, SERBAN CRISTIA PHILADELPHIA, PA	02/20/2002
COOPER, SHIRLEY T LANSDALE, PA	02/20/2002
CRAIG, BRADLEY D SNOWFLAKE, AZ	02/20/2002
DE JESUS–MIRANDA, LUIS A SAN JUAN, PR	02/20/2002
DIENER, ROBERT B AUBURNDALE, MA	02/20/2002
DONELSON, RICHARD BARTON PHOENIX, AZ	02/20/2002
EATON, GARY D SPRINGFIELD, MO	02/20/2002
ELLZEY, PAUL D PRATTVILLE, AL	02/20/2002
FISHBOUGH, ROSS E BENSLAEM, PA	02/20/2002
FLOYD, THOMAS PARKER TRUFANT, MI	02/20/2002
GREETHONG, KITIMAN IRVINE, CA	02/20/2002
HAGEN, CALVIN P KANSAS CITY, MO	02/20/2002
HANSEN, KRIS T ST GEORGE, UT	02/20/2002
HORNIG–ROHAN, JAMES EDWARD SENECA, SC	02/20/2002
IBRIK, AMIR SYRACUSE, NY	02/20/2002
KALMAN, BETSY S RICHMOND HILL, NY	02/20/2002
KRUGMAN, LINDA L LEXINGTON, KY	02/20/2002
LE SAGE, SAHARA ADAMS LEAGUE CITY, TX	02/20/2002
LEONELLI, DAVID ROMAN SR LOS ANGELES, CA	02/20/2002
LEWIS, STEVEN R IRVING, TX	02/20/2002
LINSTEADT, ELIZABETH M DENISON, TX	02/20/2002
LUCEY, TIMOTHY D NEWBURGH, NY	02/20/2002
MARTINEZ, DANIEL A REDLANDS, CA	02/20/2002
MASSAKOWSKI, EDWARD A BENSALEM, PA	02/20/2002
MCGHEE, STEPHANIE Y HOUSTON, TX	02/20/2002
MCINNES, THOMAS K POOLESVILLE, MD	02/20/2002
MEINHOLD, STEVEN DALE OMAHA, NE	02/20/2002
MONICA, JULIANNE H SPRING LAKE, NJ	02/20/2002
NEWELL, DAVID CLIFFORD FORT BRAGG, CA	02/20/2002
OWCZAREK, KEITH VINCENT MARYSVILLE, WA	02/20/2002
PATT, RICHARD H NEW YORK, NY	02/20/2002
PEISS, STUART HOFFMAN ESTATES, IL	02/20/2002
PHILLIPS, THADDEUS HILLARD III SAN ANTONIO, TX	02/20/2002
PORTNOW, ROBERT THOMAS CLEVELAND, OH	02/20/2002
RAMU, NALAYA LOS ANGELES, CA	02/20/2002
RASHTI, KOUROS TARZANA, CA	02/20/2002
RICHBERG, MARK H PHILADELPHIA, PA	02/20/2002
RIGNEY, MARK EDWARD OKLAHOMA CITY, OK	02/20/2002
ROMERO, JOHN JOSEPH ALBURQUERQUE, NM	02/20/2002
RORRER, MARK TIMOTHY CLAYTON, OH	02/20/2002
ROZENBERG, RONALD L LEVITTOWN, NY	02/20/2002
RUSSELL, BILL ST LOUIS, MO	02/20/2002
SAID, SAED M DUNIONVILLE, CT	12/18/2001
SANDOR, GEORGE JOSEPH NEW YORK, NY	02/20/2002
SAUTMAN, SATPAL K PLANTATION, FL	02/20/2002
SCHWARTZ, FRANCIS XAVIER JR OAKLAND, CA	02/20/2002
SCHWARZ–MANDRACCHIA, DENISE MA WINTERSET, IA	02/20/2002
SLOTNICK, ROBIN T CLEVELAND, OH	02/20/2002
STOCK, ANN M BELLEVILLE, IL	02/20/2002
THOMPSON, JANETTE A SILVER SPRING, MD	02/20/2002
TOLIVER, EDWARD C CHICAGO, IL	02/20/2002
VESTICH, GEORGE T RICHMOND, OH	02/20/2002
VILLANO, GUY JOHN NISKAYUNA, NY	02/20/2002
WALCHER, KEVIN RAY BOOKER, TX	02/20/2002
WALTERS, BRIAN D JR SEATTLE, WA	02/20/2002
WAN, JAMES Y MOBILE, AL	02/20/2002
WHEDBEE, JOSEPH IRELAND REDLANDS, CA	02/20/2002
WILLIAMS, ERIC A TOWSON, MD	02/20/2002
WILSON, RONALD E DETROIT, MI	02/20/2002
YODER, KYLE JAY REDWOOD CITY, CA	02/20/2002
ZIMMERMAN, MARY L P OCONOMOWOL, WI	02/20/2002

Dated: March 4, 2002.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 02–5944 Filed 3–12–02; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Policies of Academic Institutions Regarding Tobacco Industry Research Funding

SUMMARY: 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 national Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Policies of Academic Institutions Regarding Tobacco Industry Research Funding.

Type of Information Collection Request: NEW.

Need and Use of Information Collection: This study will assess current administrative policies of medical schools and schools of public health regarding faculty acceptance of research funding from tobacco manufacturers and trade organizations. The primary objectives of the study are to assess how many institutions have a tobacco-specific research funding policy, their reasons for adopting or not adopting such a policy, and what the requirements of those policies are. The finding will provide valuable information concerning: (1) How academic institutions have responded to concerns about researchers' funding relationships in tobacco research, (2) administrators' attitudes towards research funding policies targeted at tobacco specifically; and (3) what types of requirements have been imposed on academic researchers regarding tobacco funding.

Frequency of Response: Once.

Affected Public: Individuals; academic institutions.

Type of Respondents: academic administrators.

The annual reporting burden is as follows:

Estimated Number of Respondents: 156.

Estimated Number of Responses per Respondent: 1.

Average Burden Hours Per Response: .5.

Estimated Total Annual Burden Hours Requested: 78.

The annualized cost to respondents is estimated at: $780. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Mark Parascandola, Cancer Prevention Fellow, OPO, DCP, NCI, NIH, 6130 Executive Boulevard, Suite 3109, Bethesda, MD 20892, or call non-toll-free number (301) 594–1576 or E-mail your request, including your address to: *paramark@mail.nih.gov.*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before May 13, 2002.

Dated: February 19, 2002.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–5930 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Artificial Chromosomes That Can Shuttle Between Bacteria, Yeast, and Mammalian Cells

Larionov et al. (NCI)

DHHS Reference No. E–253–00/0 filed April 6, 2001

Licensing Contact: Pradeep Ghosh; 301/496–7736 ext. 211; e-mail *ghoshp@od.nih.gov*.

Development of a novel cloning system in mammalian cells based on Mammalian Artificial Chromosome (MAC) may have profound effects on human gene therapy. The technology described in invention pertains to methods and compositions that allow for the selective isolation of centromeric regions from mammalian chromosomes, including those of humans. Also included in the invention are cloned and characterized centromeric regions of humans and other mammalian chromosomes. The isolation of these centromeric regions provides a material for engineering of MACs that are capable of being shuttled between bacterial, yeast and mammalian cells, such as human cells. These MACs may serve as effective tools for the characterization of cis-active loci controlling transmission of mammalian chromosomes. The present invention has broad utilities in studies related to genetic diseases. It can be used for studying of expression of entire copies of human genes. Gene therapy may have therapeutic and preventative applications and a range of gene therapy approaches are currently being evaluated for treatment of cancer and a large number of autoimmune and genetic disorders. Gene therapy necessitates an efficient system for gene delivery. The MACs constructed in this invention provide useful vehicles for the delivery and expression of transgenes within cells. Thus, the present invention provides a novel method allowing a direct isolation of mammalian centromeres and efficient system for gene delivery associated with gene therapy.

Treatment of Pain Based on Parathyroid Hormone-2 (PTH2) Receptors

Ted B. Usdin (NIMH)

DHHS Reference No. E–079–01/0 filed Jun 13 2001

Licensing Contact: Norbert Pontzer; 301/496–7736 ext. 284; e-mail: *np59n@nih.gov.*

Current medications for pain, especially chronic pain, are only partially effective and can involve unacceptable side effects. A unique receptor (PTH2) and an endogenous ligand (TIP39) which binds to the receptor were previously discovered by this inventor. The PTH2 receptor and the endogenous ligand were found to have an anatomical distribution suggesting a role in nociception. The PTH2 receptor is present at relatively high levels in nerve terminals within the outer layers of the dorsal horn of the spinal cord where it is primarily coupled to generation of cAMP (Usdin, T.B., et al., 1999, *Nature Neurosci.* 2: 941–943; Wang, T., et al, 2000, *Neuroscience* 100: 629–49; Usdin, T.B., et al, 2000, *Front Neuroendocrinol* 21: 349–83) The DRG neurons that project to this area are largely nociceptors and this region contains the central nervous system neurons they activate. Most receptors present in the central terminals of DRG neurons are also found in their peripheral terminals. Thus, activation of the PTH2 receptor could modulate peripheral excitation of nociceptors, neurotransmitter release from their central terminals in the spinal cord, and some of their postsynaptic effects.

This inventor has now shown the PTH2 receptor system to have very potent actions in animal tests of nociception. Both peripheral and

intrathecal administration of TIP39 cause nocifensive responses. Intrathecal delivery of an antibody that sequesters TIP39 decreases sensitivity in several acute nociceptive assays, and administration of TIP39 potentiates responses in these same tests. Neurochemical changes that occur in neurons in outer layers of the dorsal horn in response to intense pain or injury may lead to manifestations of chronic pain, including hyperalgesia and allodynia. As TIP39 potentiates pain perception and increases cAMP, the PTH2 receptor system may be involved in the transition from acute to chronic pain. Novel drugs which block this system could thus be useful in treating acute or chronic pain. The invention described and claimed in the pending patent application provides novel methods of treating pain and methods of screening to find new and useful drugs acting on this newly discovered pain modulation system.

Development of a Plant Derived Recombinant Subunit Vaccine Candidate Against Hepatitis C

Lev G. Nemchinov and Jerry M. Keith (NIDCR)

DHHS Reference No. E–249–01/0

Licensing Contact: Carol Salata; 301/496–7735 ext. 232; *salatac@od.nih.gov.*

Hepatitis C virus (HCV) is a major cause of acute and chronic hepatitis with over 180 million cases worldwide. Development of a vaccine to combat HCV has been difficult. Presently, the virus cannot be grown in tissue culture and there is no vaccine or effective therapy against this virus. This technology relates to the development of an experimental plant-derived subunit vaccine against HCV. A tobamoviral vector was engineered to encode a consensus sequence of hypervariable region 1 (HVR1), a potential neutralizing epitope of HCV, which was genetically fused to the C-terminus of the B subunit of cholera toxin (CTB). This epitope was selected from the amino acid sequences of HVR1 ''mimotopes'' previously derived by phage display technology. The nucleotide sequence encoding this epitope was designed utilizing plant codons. This mimotope is capable of inducing cross-neutralizing antibodies against different variants of the virus. Plants infected with recombinant tobacco mosaic virus (TMV) engineered to express the HVR1/CTB chimeric protein, contained intact TMV particles and produced the HVR1 consensus peptide fused to the functionally active, pentameric B subunit of cholera toxin. Plant-derived HVR1/CTB reacted with HVR1-specific monoclonal antibodies and immune sera from individuals infected with virus from four of the major genotypes of HCV. Intranasal immunization of mice with a crude plant extract containing the recombinant HVR1/CTB protein elicited both anti-CTB serum antibody and anti-HVR1 serum antibody which specifically bound to HCV virus-like particles. Using plant-virus transient expression to produce this unique chimeric antigen will facilitate the development and production of an experimental HCV vaccine. A plant-derived recombinant HCV vaccine can potentially reduce expenses normally associated with production and delivery of conventional vaccines.

Endotracheal Tube Using Leak Hole to Lower Dead Space

Theodor Kolobow (NHLBI)

Serial No. 09/967,903 filed Sep 28, 2001

Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: *berkleyd@od.nih.gov.*

The invention is a tracheal tube ventilation apparatus which, through the use of one or more tube leak holes or connecting tubes positioned in the wall of the endotracheal tube above the larynx, is able to efficiently rid the patient of expired gases and promote healthier breathing. A first stage of the apparatus has a smaller diameter such that it fits within the confined area of the lower trachea and the second stage has a larger diameter, which fits properly within the larger diameter of the patient's pharynx. The endotracheal tube is preferably wire reinforced and ultra-thin walled so as to reduce airway resistance. The invention substantially reduces endotracheal dead space and is expected to benefit those patients with both early and late stage acute respiratory failure, and reduce or obviate the need for mechanical pulmonary ventilation in many patients.

Dated: March 5, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–5931 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Method and Apparatus to Improve an MRI Image

Peter Kellman and Elliot McVeigh (NHLBI)

DHHS Reference No. E–361–01/0 filed Oct 19, 2001

Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: *berkleyd@od.nih.gov*

The invention is a method for improving image quality in MR imaging methods using the SENSE (SENSitivity Encoding) method, which is known to have degraded image quality due to numerical ill-conditioning (so called g-factor loss). The invention improves the numerical conditioning by means of an adaptive regularization (matrix conditioning), thereby improving image quality for a given scan time. This is accomplished by adaptively adjusting the regularization parameter for each pixel position to achieve a target ghost artifact suppression. In this manner, a higher degree of matrix conditioning is used in regions which have less artifact, thus improving the SNR in these regions.

Use of CpG Oligodeoxynucleotides to Encourage Angiogenesis

Dennis M. Klinman (FDA), Mei Zheng (EM), Barry T. Rouse (EM)

DHHS Reference No. E–328–01/0 filed Dec 20, 2001
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: *soukasp@od.nih.gov*

This invention relates to the field of angiogenesis, more specifically to the use of CpG oligonucleotides to promote angiogenesis. Angiogenesis, the process of developing a hemovascular network, is essential for the growth of solid tumors and is a component of normal wound healing and growth processes. It has also been implicated in the pathophysiology of atherogenesis, arthritis, corneal neovascularization, and diabetic retinopathy. Angiogenesis factors play an important role in wound healing and likely play a role in the development of malignancies; hence, it would clearly be advantageous to identify new angiogenic agents.

CpG oligodeoxynucleotides (ODNs) express a wide range of biological activities. They are potent vaccine adjuvants, anti-allergens, and trigger a protective innate immune response. Several recent reports indicate that CpG ODN also stimulate cells of the central nervous system. Although CpG ODN have many potential uses, their potential to induce angiogenesis has not been previously recognized. The inventors have shown that bioactive CpG motifs induce dose-dependent neovascularization in the corneas of mice. The invention claims methods for stimulating angiogenesis using CpG ODNs, methods for inducing the production of VEGF (Vascular Endothelial Growth Factor) using CpG ODN, and a model system for screening potential anti-angiogenic agents.

Vaccine for Protection Against Shigella sonnei Disease

Dennis J. Kopecko, De-Qi Xu, John O. Cisar (FDA)
DHHS Reference No. E–210–01/0 filed Jan 16, 2002
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: *soukasp@od.nih.gov*

Shigellosis is a global human health problem. Transmission usually occurs by contaminated food and water or through person-to-person contact. The bacterium is highly infectious by the oral route, and ingestion of as few as 10 organisms can cause an infection in volunteers. An estimated 200 million people worldwide suffer from shigellosis, with more than 650,000 associated deaths annually. A recent CDC estimate indicates the occurrence of over 440,000 annual shigellosis cases in the United States alone, approximately eighty percent (80%) of which are caused by *Shigella sonnei. Shigella sonnei* is more active in developed countries. *Shigella* infections are typically treated with a course of antibiotics. However, due to the emergence of multidrug resistant *Shigella* strains, a safe and effective vaccine is highly desirable. No vaccines against *Shigella* infection currently exist. Immunity to *Shigellae* is mediated largely by immune responses directed against the serotype specific O-polysaccharide. Claimed in the invention are compositions and methods for inducing an immunoprotective response against *S. sonnei.* Specifically, an attenuated bacteria capable of expressing an *S. sonnei antigen* comprised of the *S. sonnei* form I O-polysaccharide expressed from the *S. sonnei* rfb/rfc gene cluster is claimed. The inventors have shown that the claimed vaccine compositions showed one hundred percent (100 %) protection against parenteral challenge with virulent *S. sonnei* in mice.

Method for Determining Sensitivity to a Bacteriophage

Carl R. Merril (NIMH), Sankar Adhya (NCI), Dean M. Scholl (NIMH)
DHHS Reference No. E–318–00/0 filed Jan 22, 2002
Licensing Contact: Peter Soukas; 301/496–7056, ext. 268; e-mail: *soukasp@od.nih.gov*

Traditionally, chemical antibiotics have been used to treat a variety of bacterial infections. However, bacterial resistance to current antibiotics is an increasingly serious problem in human and veterinary health as well as agriculture. Many experts believe that strains of disease-causing bacteria resistant to all common antibiotics will arise in the next ten to twenty years. Bacteriophages offer a promising therapeutic alternative to antibiotics for these antibiotic resistant bacteria. There are also situations in which bacteriophage may be more suitable than antibiotics to treat infections caused by against antibiotic-sensitive bacteria. Bacteriophages are highly host-specific, thus determining whether a phage would be therapeutically useful against a particular bacterium or strain of bacteria is very important but can be a time-consuming and labor-intensive process.

The current invention claims a method for selecting a therapeutic bacteriophage that would be effective against a particular disease-causing bacteria, comprising a number of bacteriophages containing reporter nucleic acids capable of being expressed when the bacteriophage infects a bacterial cell. These bacteriophages are separately contacted with a sample contaminated by a bacterium. Expression of the reporter is then detected, indicating which bacteriophage has infected a bacterial cell and is thus a potential therapeutic phage against the particular bacteria. Also claimed in the application are kits allowing for the rapid identification of potentially therapeutic bacteriophages.

Dated: March 5, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–5934 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Kai Chen, Ph.D., M.B.A., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057 ext. 247; fax: 301/402–0220; e-mail: *ChenK@od.nih.gov.* A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Antiproliferative Actions of Human IGF Binding Protein-3 Mutants That Do Not Bind IGF–I or IGF–II

M.M. Rechler (NIDDK)

[DHHS Reference No. E–048–02/0 filed 17 Dec 2001]

Recent epidemiological studies indicate that increased serum insulin-like growth factor binding protein-3 (IGFBP–3) is associated with decreased

risk of prostate, breast, lung and colorectal cancers, and childhood leukemia. IGFBP–3 can inhibit cell growth and stimulate death through formation of complexes with IGF–I and IGF–II that prevent activation of the IGF–I receptor to stimulate proliferation and survival.

The current invention embodies a novel mechanism of action for IGFBP–3: direct inhibition of cell growth and stimulation of cell death through a mechanism that is independent of IGF–I, IGF–II and the IGF–I receptor. In the current invention, human IGFBP–3 has been genetically modified so that its affinity for IGF-I and IGF-II is greatly reduced, and it can act only through this novel direct mechanism. These human IGFBP–3 mutants still can inhibit DNA synthesis and stimulate apoptosis, and have been shown to induce apoptosis in human prostate cancer cells. The current invention could selectively exert antiproliferative action without interfering with IGF actions, and may have therapeutic uses as an antitumor agent.

A Novel DNA Methyltransferase Assay System With High Throughput/Automation Potential

K. Robertson, T. Yokochi (NCI)

[DHHS Reference No. E–030–02/0 filed 14 Jan 2002]

It is now believed that unregulated cell growth is due to aberrant gene expression in cells caused by deletion, mutation, or silencing of one or more critical growth regulatory proteins. The latter method, gene silencing, is mediated by DNA methylation, or the addition of methyl groups to cytosine residues at critical gene expression control regions.

The current invention embodies a novel and highly sensitive assay for detecting DNA methyltransferase activity, which catalyzes the addition of methyl groups to DNA. Treatment with DNA methyltransferase inhibitors in a clinical setting might lead to expression of silenced gene(s) and restoration of controlled cell growth. Huge numbers of compounds must be screened to identify ones that are active against DNA methyltransferases. The assay embodied in the current invention represents the first such assay adaptable for high-throughput and/or automated screening of potential DNA methyltransferase inhibitors. This assay also is fast, easy, reproducible, and highly sensitive.

Generation and Use of Tc1 and Tc2 Cells

D. Fowler (NCI), U. Jung (NCI), J. Medin (NINDS), R. Gress (NCI), A. Erdmann (NCI), B. Levine, and C. June

[U.S. Provisional Patent Application 60/336,473 filed 31 Oct 2001]

Allogeneic stem cell transplantation represents a potentially curative treatment option for patients with both hematologic and solid cancers, and for patients with other non-malignant conditions. However, the clinical application of allogeneic stem cell transplantation is limited by T cell immune reactions.

The current invention embodies a method for enrichment of donor T cells of Tc1 and Tc2 phenotypes by in vitro culture. This method represents a significant advance in terms of T cell numbers produced, level of cytokine polarization, and efficacy of in vivo effects. In murine transplantation models, this method greatly reduces graft-versus-host disease (GVHD) associated with donor CD8 cell administration. Murine Tc2 cells generated by this method are particularly potent in abrogating graft rejection by a mechanism that does not involve GVHD. In addition, this method can generate Tc1 and Tc2 cells that mediate graft-versus-tumor (GVT) effects against murine breast cancer and murine leukemia. The Tc1 and Tc2 cells produced by this method are also amenable to insertion of a suicide gene, which represents a potential strategy for mediating potent allogeneic GVT effects, with subsequent reversal of T cell mediated GVHD. Allogeneic transplantation using Tc1 and Tc2 cells generated via this method may therefore represent an approach to increase the anti-tumor efficacy and reduce the GVHD-toxicity of allogeneic stem cell transplantation, and to extend allogeneic transplantation to those patients lacking an HLA-matched sibling.

Dated: March 7, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–6062 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

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 7, 2002.[1]

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892. (301) 435–1249.

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 7, 2002.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Betty Hayden, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892. (301) 435–1223. *haydenb@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 Institutes of Health, HHS)

[1] **Editorial Note:** This document was received at the Office of the Federal Register on March 8, 2002.

Dated: March 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6059 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Gems Phase II Review.

Date: April 2, 2002.

Time: 9:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: Hilton—Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Zoe E. Huang, MD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Bethesda, MD 20892–7924. 301–435–0314.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6058 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National institute of Environmental Health Sciences; 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 of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 2, 2002.

Time: 2:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 3, 2002.

Time: 11:30 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 3, 2002.

Time: 1:00 PM to 1:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 3, 2002.

Time: 2:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 4, 2002.

Time: 1:00 PM to 1:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS).

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6052 Filed 3–12–02; 8:45 am]

BILLING CODE 4410–01–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: March 13, 2002.

Time: 2:30 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd 5th Floor, Rockville, MD 20852. (Telephone Conference Call).

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.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS).

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6053 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel.

Date: April 3, 2002.

Time: 8:30 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Richard E. Weise, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, *rweise@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6056 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel.

Date: March 27, 2002.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606. 301–443–1513. *psherida@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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6057 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 of Mental Health Special Emphasis Panel.

Date: March 8, 2002 [1]

[1] **Editorial Note:** This document was received at the Office of the Federal Register on March 8, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Martha Ann Carey, PHD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608. 301–443–1606.

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 of Mental Health Special Emphasis Panel.

Date: March 18, 2002

Time: 2:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Susan M. Matthews, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6134, MSC 9607, Bethesda, MD 20892–9607. 301–443–5047.

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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6060 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Library of Medicine,Board of Scientific Counselors, Lister Hill Center.

Date: May 9–10, 2002.

Open: May 9, 2002, 9:00 AM to 1:00 PM.

Agenda: Review or research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: May 9, 2002, 1:00 PM to 2:00 PM.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: May 9, 2002, 2:00 PM to 5:00 PM.

Agenda: Review or research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: May 10, 2002, 9:00 AM to 12:00 PM.

Agenda: Review or research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Contact Person: Jackie Duley, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Bldg 38A, Rm 7N–705, Bethesda, MD. 301–496–4441.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons with 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 Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 7, 2002.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6055 Filed 3–12–02; 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 13, 2002.

Time: 12:00 PM to 12:30 PM.

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 14, 2002.

Time: 9:30 AM to 10:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Gloria B. Levin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892. (301) 435–1017. *leving@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 14, 2002.
Time: 1:30 PM to 2:30 PM.
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 18, 2002.
Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Anshumali Chaudhari, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892. (301) 435–1210.
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: 10:00 AM to 11:00 AM.
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.
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 25, 2002.
Time: 8:00 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
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 25, 2002.
Time: 8:30 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
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 25–26, 2002.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Ronald J. Dubois, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892. (301) 435–1722.
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 25, 2002.
Time: 9:30 AM to 11:30 AM.
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, (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.
Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 25, 2002.
Time: 10:00 AM to 11:30 AM.
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 25, 2002.
Time: 10:00 AM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, 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@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 25, 2002.
Time: 1:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
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 25, 2002.
Time: 1:30 PM to 2:45 PM.
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.
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 25–26, 2002.
Time: 2:00 PM to 5:30 PM.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Central, 1143 New Hampshire Avenue, Washington, DC 20037.
Contact Person: George W. Chacko, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room: 4202, MSC: 7812, Bethesda, MD 20892. 301–435–1220. *chackoge@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 25, 2002.
Time: 2:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
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 25, 2002.

Time: 2:30 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Everett E. Sinnett, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892. (301) 435–1016. *sinnett@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 25, 2002.

Time: 12:45 PM to 1:30 PM.

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.

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 26, 2002.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: David L. Simpson, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892. (301) 435–1278. *simpsod@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jim Bishop, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 1:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 27, 2002.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 3:00 PM to 5:00 PM.

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 3:15 PM to 5:45 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Everett E. Sinnett, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892. (301) 435–1016. *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 12 PM to 1:30 PM.

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.*

(Catalog 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: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6054 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Co-Exclusive License: Human Derived Monocyte Attracting Purified Peptide Products for Treating Human Infections and Neoplasms in a Human Body

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a co-exclusive license to practice the inventions embodied in the U.S. Patent Applications and issued Patents listed below to Centocor Corporation, having a place of business in Malvern, Pennsylvania. The patent rights of these inventions have been assigned to the United States of America.

- USPA 07/330,446 filed March 30, 1989 and entitled ''Human Derived Monocyte Attracting Purified Peptide Products Useful in a Method of Treating Infections and Neoplasms in a Human Body and the Cloning of Full Length cDNA Thereof''
- USPA 07/686,264 filed April 15, 1991 now USPN 6,090,795 issued July 18, 2000
- USPA 08/449,552 filed May 24, 1995 now USPN 5,532,144 issued July 2, 1996
- USPA 08/466,288 filed June 6, 1995 now USPN 5,714,578 issued February 3, 1998
- PCT/US90/00040 filed January 2, 1990

The prospective co-exclusive license territory will be worldwide and the field of use may be limited to the treatment of asthma, restenosis, hepatitis B and cancer. This announcement serves as a modification of a notice previously published in the **Federal Register**, 66 FR 59450–59451, Nov. 28, 2001.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before May 13, 2002, will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comment and other materials relating to the contemplated co-exclusive license should be directed to: Percy S. Pan, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone

301–496–7736 x256; Facsimile 301–402–0220; e-mail *panp@od.nih.gov.*

SUPPLEMENTARY INFORMATION: The invention relates to a human derived purified peptide product that exhibits monocytic chemotactic activity (MCA). A method of preparing the peptide is disclosed as well as a method of treating neoplasms and infections by administering the peptides. A pharmaceutical composition of the peptide is also claimed. The peptide may be useful in the treatment of various disorders including autoimmune disease, chronic inflammatory diseases, and cancer. This peptide, also known as MCP–1, is a b chemokine. Chemokines are multipotent cytokines that localize and enhance inflammation by inducting chemotaxis and activation of different types of inflammatory cells. This peptide is a chemotactic factor for monocytes. It stimulates histamine release and regulates cytokine production in monocytes.

The prospective co-exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective co-exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated co-exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 7, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–6061 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Uses of Cyanovirin-N for HIV Vaccines

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive worldwide license to practice the inventions embodied in patents under ''Supplementary Information'' to OmniViral Therapeutics LLC, having a place of business in Gaithersburg, Maryland. The patent rights in these inventions have been assigned to the Government of the United States of America.

The field of use may be limited to four vaccine strategies based on:

1. Conjugate consisting of HIV virions inactivated with Cyanovirin–N or homolog thereof
2. Conjugate consisting of gp120, an HIV envelope protein, and Cyanovirin–N or homolog thereof
3. Native Cyanovirin–N or homolog thereof to stimulate a virus neutralizing response via endogenous anti-idiotypic antibodies
4. Identification of Cyanovirin-N-binding-site anti-idiotypic monoclonal antibodies, and use thereof as a primary antigen

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before May 13, 2002, will be considered.

ADDRESSES: Requests for a copy of this patent application, inquiries, comments and other materials relating to the contemplated license should be directed to Cristina Thalhammer-Reyero, Ph.D., M.B.A., Technology Transfer Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852; Telephone: (301) 496–7056 extension 263; Facsimile: (301) 402–0220; E-mail: thalhamc@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The patents and patent applications to be licensed are:

Patent No 6,245,737, issued 06/12/2001, entitled ''Conjugates of Antiviral Proteins or Peptides and Virus or Viral Envelope Glycoproteins'', (E–117–95/7);

PCT/US99/18975 (WO00/11036), filed Aug. 19, 1998, allowed, entitled ''An Anti-Cyanovirin Antibody with an Internal Image of gp120, a Method of Use Thereof, and a Method of Using a Cyanovirin to Induce an Immune Response to gp120'' (E–117–95/8);

PCT/US00/06247 (WO00/53213) filed March 10 2000, pending, entitled ''Cyanovirin Conjugates, Matrix-Anchored Cyanovirin And Anti-Cyanovirin Antibody, And Related Compositions And Methods of Use'' (E–074–99/2);

US Patent No. 6,015,876, issued 01/18/2000, entitled ''Methods Of Using Cyanovirins'' (E–074–99/3);

USSN 09/428,275 filed 10/27/1999, pending, entitled ''Methods of Using Cyanovirins to Inhibit Viral Infection'' (E–074–99/5);

USSN 09/714,884 filed 03/22/2001, pending, entitled ''Conjugates of Antiviral Proteins or Peptides and Virus or Viral Envelope Glycoproteins'' (E–074–99/8);

US Patent No. 5,843,882, issued Dec. 01, 1998, entitled ''Antiviral Proteins and Peptides'' (E–117–95/0);

US Patent No. 5,821,081, issued Oct. 13, 1998, entitled ''Nucleic Acids Encoding Antiviral Proteins and Peptides, Vectors and Host Cells Comprising Same, and Methods of Producing the Antiviral Proteins and Peptides'' (E–117–95/1);

US Patent No. 6,015,876, issued Jan. 18, 2000, entitled ''Method of Using Cyanovirins (E–117–95/3);

US Patent No. 5,998,587, issued Dec. 7, 1999, entitled ''Anti-Cyanovirin Antibody'' (E–117–95/6);

And related U.S. and foreign cognates of the PCT patent applications.

The inventors have found that Cyanovirin-N, a naturally occurring anti-HIV protein originally isolated from *Nostoc ellipipsosporum*, a blue-green algae, has potent neutralizing activity against HIV 1 and 2 by blocking the fusion reaction between HIV and CD4 cells. Cyanovirin-N is now expressed in a DNA coding sequence in *E. coli.* New information on the nature of the interaction of the HIV envelope with the cell surface during the binding, entry and fusion process has led to new ideas about how to improve envelope immunogenicity. Among these ideas are the various ways of using Cyanovirin-N in preparing reagents for use in a potential HIV vaccine.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. This prospective exclusive license may be granted unless within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections submitted in response to this notice will not be made available for

public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 5, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–5933 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences; Notice of Establishment; Scientific Advisory Committee on Alternative Toxicological Methods

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the Director of the National Institute of Environmental Health Sciences (NIEHS) announces the establishment of the Scientific Advisory Committee for Alternative Toxicological Methods (SACATM).

SACATM

The SACATM was chartered January 9, 2002, to fulfill section 3(d) of Pub. L. 106–545, the ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3(d)). The committee will function as an advisory committee in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2). The charter is posted on the web (*http://iccvam.niehs.nih.gov*) or is available in hard copy upon request from the National Toxicology Program (NTP) Liaison and Scientific Review Office, NIEHS, PO Box 12233, Research Triangle Park, NC 27709; telephone: 919–541–3971; facsimile: 919–541–0295 or *liason@starbase.niehs.nih.gov*.

The SACATM will provide advice to the Director of the NIEHS, the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), and the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) regarding statutorily mandated duties of ICCVAM. The duties of the ICCVAM include:

(1) Review and evaluate new or revised or alternative test methods, including batteries of tests and test screens, that may be acceptable for specific regulatory uses, including the coordination of technical reviews of proposed new or revised or alternative test methods of interagency interest.

(2) Facilitate appropriate interagency and international harmonization of acute or chronic toxicological test protocols that encourage the reduction, refinement, or replacement of animal test methods.

(3) Facilitate and provide guidance on the development of validation criteria, validation studies, and processes for new or revised or alternative test methods and help facilitate the acceptance of such scientifically valid test methods and awareness of accepted test methods by Federal agencies and other stakeholders.

(4) Submit ICCVAM test recommendations for the test methods reviewed by the ICCVAM, through expeditious transmittal by the Secretary of Health and Human Services (Secretary) (or the designee of the Secretary), to each appropriate Federal agency, along with the identification of specific agency guidelines, recommendations, or regulations for a test methods, including batteries of tests and test screens, for chemicals or class of chemicals within a regulatory framework that may be appropriate for scientific improvement, while seeking to reduce, refine, or replace animal test methods.

(5) Consider for review and evaluation, petitions received from the public that—(A) identify a specific regulation, recommendation, or guideline regarding a regulatory mandate; and (B) recommend new or revised or alternative test methods and provide valid scientific evidence of the potential of the test method.

(6) Make available to the public final ICCVAM test recommendations to appropriate Federal agencies and the response from the agencies regarding these recommendations.

(7) Prepare reports to be made available to the public on its progress under the Act.

The SACATM will also provide advice to the Director of the NIEHS and the NICEATM on activities and directives relating to the NICEATM in three areas:

(1) Priorities and opportunities for alternative test methods that may provide improved prediction of adverse health effects compared to currently used methods or advantages in terms of reduced expense and time, reduced animal use, and reduced animal pain and distress;

(2) Development and implementation of more effective and efficient processes for determining the scientific validity and acceptability of proposed new test methods; and

(3) Ways to foster more effective and productive interactions between Federal agencies and other involved stakeholders, including test method developers.

Future meetings of the SACATM will be posted on the NICEATM/ICCVAM web site (*http://iccvam.niehs.nih.gov*) and announced in the **Federal Register**. Additional information about the ICCVAM and the NICEATM is also available on the web.

Dated: March 1, 2002.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences.

[FR Doc. 02–5932 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–080–1210–PG]

Resource Advisory Council Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: In accordance with Section 309 of the Federal Land Policy and Management Act of October 21, 1976, (Pub. L. 94–579, 90 Stat. 2767, 43 U.S.C. 1739), as amended, and the Federal Advisory Committee Act of 1972 (FACA), as amended (Pub. L. 92–463, 5 U.S.C., App.), the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia-Salmon Clearwater District Resource Advisory Council (Council) on Wednesday, March 27, 2002 and Thursday, March 28, 2002, in Missoula, Montana.

The Council's responsibilities include providing recommendations concerning long-range planning and establishing resource management priorities. Agenda items will include: Introduction of new members, election of officers, review of past accomplishments, Idaho BLM table of organization, and identification of future issues.

DATES: Wednesday, March 27, 2002 from 8:00 a.m. (MST) to 4:30 p.m. and Thursday, March 28, 2002 from 8 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the C'mon Inn, 2775 Expo Parkway, Missoula, Montana.

FOR FURTHER INFORMATION CONTACT: Stephanie Snook, BLM Coeur d'Alene District Office, 1808 N. Third Street, Coeur d'Alene, Idaho 83814. Phone (208) 769–5004.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are

open to the public. The public may address the Council during the public comment period from 3:00–3:30 p.m. on March 27, 2002. Interested persons may make oral statements to the Council during this time, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Dated: January 25, 2002.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 02–6167 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–5853–EU]

Notice of Realty Action: Competitive Sale of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: The following lands have been designated for disposal under Public Law 105–263, the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343); they will be sold competitively in accordance with section 203 and section 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719) at not less than the appraised fair market value (FMV).

Mount Diablo Meridian, Nevada

T. 20 S., R. 59 E.,
Sec. 1, NE¼NW¼SW¼, E½SE¼NW¼SW¼, E½E½SW¼SW¼, W½NW¼SE¼SW¼, W½SE¼SW¼SE¼;
Sec. 12, W½NW¼NE¼NE¼, W½NE¼NW¼NE¼, NW¼SE¼NW¼, W½SW¼SE¼NW¼, E½SW¼NE¼SW¼, W½SE¼NE¼SW¼, SE¼SE¼NW¼.
T. 19 S., R. 60 E.,
Sec. 18, Lots 5, 6, 9, 11, 17, W½NW¼NE¼NW¼, E½NW¼SE¼NW¼, E½SE¼SE¼NW¼.
T. 22 S., R. 60 E.,
Sec. 13, SW¼NE¼SE¼NE¼;
Sec. 14, SW¼NE¼NE¼SW¼, W½SW¼SW¼NW¼SE¼, NW¼NE¼NW¼SE¼, SE¼NE¼NW¼SE¼, NW¼NW¼NE¼SE¼;
Sec. 15, N½NE¼NE¼NE¼SW¼, S½NE¼NE¼NE¼SW¼, SE¼NE¼NE¼SW¼, E½SE¼SE¼NE¼;
Sec. 18, SE¼SW¼SE¼;
Sec. 20, N½NW¼SE¼SW¼NE¼, S½NE¼NE¼NW¼, SE¼NW¼NE¼NW¼;
Sec. 23, NE¼NE¼SE¼NW¼;
Sec. 24, SE¼SW¼NE¼NE¼, SW¼SE¼NE¼NE¼;
Sec. 26, E½NW¼NW¼SE¼, W½SW¼NW¼SE¼, NW¼NE¼SE¼, W½SW¼NE¼SE¼.
T. 22 S., R. 61 E.,
Sec. 28, Lots 65, 66;
Sec. 29, SE¼SE¼SW¼NE¼, W½NE¼SW¼SE¼, E½NE¼NW¼SW¼SE¼, NE¼SE¼SW¼SE¼;
Sec. 33, SW¼SW¼NW¼NE¼, NW¼NW¼SW¼NE¼.
Totaling 216.25 gross acres.

In addition to the lands described herein, parcels that have been published in a previous Notice of Realty Action (NORA), and were previously offered but did not sell, may be re-offered at this sale.

When the land is sold, conveyance of the locatable mineral interests will occur simultaneously with the sale of the land. The locatable mineral interests being offered have no known mineral value. Acceptance of a sale offer will constitute an application for conveyance of those mineral interests. In conjunction with the final payment, the applicant will be required to pay a $50.00 non-refundable filing fee for processing the conveyance of the locatable mineral interests.

The terms and conditions applicable to the sale are as follows:

All Parcels Subject to the Following

1. All leaseable and saleable mineral deposits are reserved on land sold; permittees, licensees, and lessees retain the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. All land parcels are subject to all valid existing rights. Parcels may also be subject to applications received prior to publication of this Notice if processing the application would have no adverse affect on the appraised FMV. Encumbrances of record are available for review during business hours, 7:30 AM to 4:15 PM, PDT, Monday through Friday, at the Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, NV.

4. All land parcels are subject to reservations for roads, public utilities and flood control purposes, both existing and proposed, in accordance with the local governing entities' Transportation Plans.

5. All purchasers/patentees, by accepting a patent, agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgements of any kind or nature arising from the past, present, and future acts or omissions of the patentee or their employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of federal, state, and local laws and regulations that are now or may in the future become, applicable to the real property; (2) Judgements, claims or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by federal or state environmental laws; off, on, into or under land, property and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by federal and state environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by federal and state law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Maps delineating the individual sale parcels will be available for public review at the BLM Las Vegas Field Office on or about February 14, 2002. Appraisals for each parcel will be available for public review at the Las Vegas Field Office on or about March 14, 2002.

Each parcel will be offered by sealed bid, and at oral auction. All sealed bids must be received at the BLM Las Vegas Field Office (LVFO), 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, no later than 4:15 PM, PDT, May 10, 2002. Sealed bid envelopes must be marked

on the lower front left corner with the parcel number and sale date. Bids must be for not less than the appraised FMV and a separate bid must be submitted for each parcel.

Each sealed bid shall be accompanied by a certified check, money order, bank draft, or cashier's check made payable to the Bureau of Land Management, for not less than 10 percent of the amount bid.

The highest qualified sealed bid for each parcel will become the starting bid for oral bidding. If no sealed bids are received, oral bidding will begin at the appraised FMV.

All parcels will be offered for competitive sale by oral auction beginning at 10:00 AM, PDT, May 14, 2002, at the Clark County Commission Chambers, Clark County Government Center, 500 S. Grand Central Parkway, Las Vegas, Nevada. Registration for oral bidding will begin at 8:30 AM the day of sale and will continue throughout the auction. All oral bidders are required to register.

The highest qualifying bid for any parcel, whether sealed or oral, will be declared the high bid. The apparent high bidder, if an oral bidder, must submit the required bid deposit immediately following the close of the sale in the form of cash, personal check, bank draft, cashiers check, money order or any combination thereof, made payable to the Bureau of Land Management, for not less than 20 percent of the amount bid.

The remainder of the full bid price, whether sealed or oral, must be paid within 180 calendar days of the sale date. Failure to pay the full price within the 180 days will disqualify the apparent high bidder and cause the entire bid deposit to be forfeited to the BLM. Unsold parcels may be offered on the Internet beginning on or about May 28, 2002. Internet auction procedures will also be available at *www.auctionrp.com* at that time. If unsold on the Internet, parcels may be offered at future auctions without additional legal notice. Upon publication of this notice and until the completion of the sale, the BLM is no longer accepting land use applications affecting any parcel being offered for sale, including parcels being offered for sale that have been published in a previous Notice of Realty Action. However, land use applications may be considered after the completion of the sale within parcels that are not sold through sealed, oral, or on-line Internet auction procedures.

Federal law requires bidders to be U.S. citizens 18 years of age or older; a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property; or an entity including, but not limited to, associations or partnerships capable of holding property or interests therein under the law of the State of Nevada. Certification of qualification, including citizenship or corporation or partnership, must accompany the bid deposit.

In order to determine the fair market value of the subject public lands through appraisal, certain assumptions have been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the Bureau of Land Management gives notice that these assumptions may not be endorsed or approved by units of local government. Furthermore, no warranty of any kind shall be given or implied by the United States as to the potential uses of the lands offered for sale, and conveyance of the subject lands will not be on a contingency basis. It is the buyers' responsibility to be aware of all applicable local government policies and regulations that would affect the subject lands. It is also the buyers' responsibility to be aware of existing or projected use of nearby properties. When conveyed out of federal ownership, the lands will be subject to any applicable reviews and approvals by the respective unit of local government for proposed future uses, and any such reviews and approvals would be the responsibility of the buyer. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Detailed information concerning the sale, including the reservations, sale procedures and conditions, planning and environmental documents is available for review at the Bureau of Land Management, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, or by calling (702) 515–5114. Much of this information will also be available on the Internet at *http://propdisp.gsa.gov.* Click on NV for Nevada.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, the general public and interested parties may submit comments to the Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of any adverse comments, this realty action will become the final determination of the Department of Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws or is determined to not be in the public interest. Any comments received during this process, as well as the commentor's name and address, will be available to the public in the administrative record and/or pursuant to a Freedom of Information Act request. You may indicate for the record that you do not wish your name and/or address be made available to the public. Any determination by the Bureau of Land Management to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A commentor's request to have their name and/or address withheld from public release will be honored to the extent permissible by law.

Lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Dated: February 6, 2002.

Mark T. Morse,

Field Manager.

[FR Doc. 02–6083 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a General Management Plan, Final Environmental Impact Statement for Mary McLeod Bethune Council House National Historic Site, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Pursuant to section 102 (2) (c) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a final Environmental Impact Statement and General Management Plan (FEIS/GMP) for Mary McLeod Bethune Council House National Historic Site, Washington, DC.

DATES: The Draft EIS/GMP was on public review from August 3, 2001 through October 15, 2001. Responses to public comment are addressed in the FEIS/GMP. A 30-day no-action period will follow the Environmental Protection Agency's Notice of Availability of the FEIS/GMP. After the 30-day period, a Record of Decision will be signed that will document NPS approval of the final EIS/GMP and

identify the selected alternative for implementation.

ADDRESSES: The final EIS/GMP will be mailed to agencies, organizations, and individuals requesting the document. Copies of the document are available from Terri Urbanowski, PSD, National Park Service, P.O. Box 25287, Denver, CO 80225–0287 or requests may be mailed to: *MAMC_GMP@nps.gov.* Public reading copies of the document will also be available for review at the following locations:

- Mary McLeod Bethune Council House National Historic Site, 1318 Vermont Avenue, NW, Washington, DC 20020.
- National Capital Parks East, 1900 Anacostia Drive, SE, Washington, DC 20020.
- National Capital Region Office of Lands, Resources and Planning Attention: Gail Cain, 1100 Ohio Drive, NW, Washington, DC 20242.
- Frederick Douglass National Historic Site Visitor Center, 1411 W Street, SE, Washington, DC 20020.
- In addition the document will be posted on the National Park Service Planning site under Mary McLeod Bethune Council House Site, *http://www.nps.gov/mamc/pphtml/facts.html.*

SUPPLEMENTARY INFORMATION: Consistent with the park's purpose, significance, and mission goals, 4 alternatives were evaluated for guiding the management of the park over the next 15 to 20 years. The alternatives incorporate various management provisions to ensure resource protection and quality visitor experience conditions. The environmental consequences anticipated from implementation of the various alternatives are addressed in the document. Impact topics include cultural resources, visitor use and experience, socioeconomic environment, and site administration and facilities. The following management alternatives were evaluated in the EIS/GMP:

Alternative 1, the no-action alternative, would maintain current management direction. The Council House would continue to operate as a visitor center and administrative office area; archival collections and archive staff offices would remain in the carriage house. Conflicts would continue to occur between visitor and administrative functions in the limited space of the Council House resulting in a less than desirable visitor experience and operational inefficiency. Storage space for archival collections would remain inadequate.

Alternative 2, the preferred action, would place dual emphasis on the Council House, which would be used as a museum, and on the archives. Under this alternative new space would be acquired to accommodate some visitor services and most administrative offices. The visitor experience would be enhanced with adequate space to provide broad and comprehensive interpretative opportunities and exhibits in the Council House. The primary storage for archival collections would be in an offsite state-of-the-art facility that would provide enhanced preservation and protection of stored items. The carriage house would be renovated and would house a research room, offices for archival staff, an area for some processing of collections, and space for frequently accessed collections.

Alternative 3 would commemorate the site through the establishment of the Bethune Center for Human Rights. The Council House would be used for interpretation and also would provide a place for groups to meet and engage in activities, workshops and programs. Materials related to social justice and human rights would be emphasized in the archival collections. Additional property would be leased or acquired for administrative offices and would be the primary space for meetings and workshops. This space would be the main contact point for visitors, and access and programmatic interpretation would be provided for visitors with mobility disabilities at this site. Offsite interpretation would be expanded with traveling exhibits. The carriage house would be renovated and expanded to include the archival collections, archival staff offices, and research space.

Under alternative 4, the Council House would be used as a traditional National Park Service museum commemorating the life and times of Mary McLeod Bethune. The Council House would have expanded exhibit space and an orientation area for visitors. Period furnishings would be in the Council House and archival collections would illustrate the highlights of Dr. Bethune's life and activities. Educational materials would focus on the life contributions and legacy of Dr. Bethune. Space would be leased offsite to accommodate current archival collections that would be managed through a contract with others. The carriage house would be torn down and replaced with a new building that would house a bookstore, visitor restrooms and administrative offices.

FOR FURTHER INFORMATION CONTACT: Site Manager Diann Jacox, Mary McLeod Bethune National Historic Site, 1318 Vermont Avenue, NW, Washington, DC 20005, (202) 673–2402; FAX (202) 673–2414; e-mail *Diann_Jacox@nps.gov.*

Dated: January 23, 2002.

Terry R. Carlstrom,

Regional Director, National Capital Region, National Park Service.

[FR Doc. 02–6039 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement for the General Management Plan for the Blue Ridge Parkway

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the General Management Plan for the Blue Ridge Parkway

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the U.S. Department of the Interior, National Park Service will prepare an Environmental Impact Statement on the General Management Plan for the Blue Ridge Parkway. The statement will assess potential environmental impacts associated with various types and levels of visitor use and resources management within the parkway boundary. Specific issues to be addressed include appropriate levels and types of visitor use along the parkway and at various developed areas, and the protection of natural, cultural, and scenic resources. Adjacent land uses and transportation improvements, their effect on parkway resources and visitors, and strategies for cooperation among public and private land managers will also be explored.

DATES: To determine the scope of issues to be addressed in the GMP and EIS and identify significant issues related to the project, a series of planning newsletters with public response forms will be distributed to the public and public scoping meetings will be held in the summer, 2002. When these meetings have been scheduled, public notice will be provided. Representatives of the National Park Service will be available to discuss issues, resource concerns, and the planning process at each of the public meetings.

ADDRESSES: Any comments or requests for information should be addressed to Superintendent, Blue Ridge Parkway, 1999 Hemphill Knob Road, Asheville, North Carolina 28803.

FOR FURTHER INFORMATION CONTACT: Superintendent, Blue Ridge Parkway,

1999 Hemphill Knob Road, Asheville, North Carolina 28803, (828) 271–4779.

SUPPLEMENTARY INFORMATION: The Blue Ridge Parkway is located in southwestern Virginia and northwestern North Carolina in the Central and Southern Appalachian Mountains. The parkway is 469 miles long, connecting Shenandoah National Park in the north with Great Smoky Mountains National Park to the south. Created in 1936 as a national rural parkway, the parkway is designed for recreational driving free from commercial traffic and with limited access. The parkway traverses the crests, ridges, and valleys of five major mountain ranges, encompassing several geographic and vegetative zones ranging from 500 to over 6,000 feet above sea level. It provides visitors with many varied vistas of scenic Appalachian landscapes ranging from forested ridge tops and mountain slopes to rural farm lands to urban areas. Although most of the parkway has a very narrow right of way, it includes several large recreational and natural history areas and Appalachian cultural sites along its length.

Today, the parkway encompasses 82,000 acres of federally owned land. The parkway has over 1000 miles of boundary to manage, 4000 adjacent land owners, 29 county and several city governments to interact with, and has 500,000 acres of scenic viewshed outside of its boundary. There are 191 public access points on the parkway from the regional road systems. This planning effort will evaluate a range of alternative methods to provide a quality visitor experience while maximizing protection of resources and operational efficiency.

Public documents associated with the planning effort, including all newsletters, will be posted on the Internet through the Info Zone at *www.nps.gov.*

Our practice is to make the public comments we receive in response to planning documents, including names and home addresses of respondents, available for public review during regular business hours. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. Anonymous comments will be included in the public record. However, the National Park Service is not legally required to consider or respond to anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The draft and final environmental impact statement will be distributed to all known interested parties and appropriate agencies. Full public participation by federal, state, and local agencies as well as other concerned organizations and private citizens is invited throughout the preparation process of this document.

The responsible official for this environmental impact statement is Jerry Belson, Regional Director, National Park Service, Southeast Region, 100 Alabama Street, SW., Atlanta, Georgia 30303.

Dated: November 5, 2002.

Wallace A. Hibbard,

Regional Director, Southeast Region.

[FR Doc. 02–6042 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan/ Environmental Impact Statement, Colorado National Monument, Colorado

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare an environmental impact statement for the general management plan, Colorado National Monument.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the general management plan for Colorado National Monument. The environmental impact statement will be approved by the Director, Intermountain Region.

Colorado National Monument was established May 24, 1911 by Presidential William H. Taft, under the authority of the Antiquities Act (1906), because ''[t]he extraordinary examples of erosion are of great scientific interest, and it appears that the public interest would be promoted by reserving these natural formations as a National Monument, together with as much public land as may be necessary for the proper protection thereof.'' Two later Presidential proclamations (1933 and 1959) added additional land to the Colorado National Monument, primarily for the protection of ''* * * features of historical and scientific interest and for the protection of the Rim Road * * *''

The general management plan will prescribe the resource conditions and visitor experiences that are to be achieved and maintained in the monument over time. The clarification of what must be achieved according to law and policy will be based on review of the park's purpose, significance, special mandates, and the body of laws and policies directing park management. Management decisions to be made where law, policy, or regulations do not provide clear guidance or limits will be based on the purposes of the monument, the range of public expectations and concerns, resource analysis, an evaluation of the natural, cultural, and social impacts of alternative courses of action, and consideration of long-term economic costs. Based on determinations of desired conditions, the general management plan will outline the kinds of resource management activities, visitor activities, and development that would be appropriate in the monument in the future. Alternatives will be developed through this planning process and will include, at a minimum, no-action and the preferred alternative. Major issues include protection of natural and cultural resources; the adequacy of interpretive programs; potential partnerships with other agencies, organizations, and local interests; and boundary concerns.

The National Park Service is planning to begin public scoping in January 2002, via a newsletter to state and Federal agencies; associated American Indian tribes; neighboring communities; county commissioners; local organizations, researchers and institutions; the Congressional Delegation; and visitors who signed up to be on the mailing list. In addition, the National Park Service will hold public scoping meetings regarding the general management plan, beginning in January 2002. Specific dates, times, and locations will be announced in the local media and will also be available by contacting the Superintendent of Colorado National Monument. There will also be a web site for the general management plan, established at a later date. The purpose of the newsletter, public meetings, and web site is to explain the planning process and to obtain comments concerning appropriate resource management; desired visitor experience and use, and facilities; as well as any other issues that need to be addressed. In addition to attending the scoping meetings, people wishing to provide input to this initial phase of developing the general management plan may address comments to the superintendent. Scoping comments should be received no later that 60-days from the publication of this Notice of Intent.

FOR FURTHER INFORMATION CONTACT: Contact Superintendent Palma Wilson, Colorado National Monument, Fruita, CO, 81521–0001; Tel: (970) 858–3617; FAX: (970) 858–0372; e-mail: palma_wilson@nps.gov.

Dated: October 19, 2001.

Karen P. Wade,

Director, Intermountain Region.

[FR Doc. 02–6043 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent; Livestock Management Plan With Allotment Management Plans, Environmental Impact Statement, Dinosaur National Monument, Utah and Colorado

January 17, 2002.

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Livestock Management Plan and associated Allotment Management Plans, Dinosaur National Monument.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement for the Livestock Management Plan and associated allotment management plans for Dinosaur National Monument. This effort will result in a comprehensive livestock management plan that encompasses preservation of natural and cultural resources, meets current policies, and provides a framework for making grazing-related decisions, and serves as an operational manual. Development of these plans is compatible with the broader goals and objectives derived from the Monument mission that governs resources management. In cooperation with the Bureau of Land Management, attention will also be given to resources outside the boundaries that affect the integrity of Dinosaur National Monument resources. Alternatives will be developed through the scoping and planning process, and at a minimum will include a No Action Alternative and a Preferred Alternative. Major issues are: effects to soil and water resources, to proposed wilderness, presence of threatened, endangered and/or sensitive species, invasive nonnative species; conflicts with recreational uses; proposed Research Natural Areas; archaeological/historic resources; socioeconomic effects; and other sensitive natural resources such as riparian areas, A scoping letter as been prepared that details the issues identified to date. Copies of that information may be obtained from Nanci Regnier *SWCA, Inc., Environmental Consultants, 8461 Turnpike Drive, Suite 100, Westminster, CO 80031.* The scoping period will be 30 days from the date this notice is published in the **Federal Register**. In addition, NPS will hold public scoping meetings regarding the plans in April 2002; specific dates, times, and locations will be announced in local media and will also be available by contacting the Superintendent of Dinosaur National Monument at (970) 374–3001 or by contacting SWCA as above.

Comments: If you wish to comment on the scoping letter, you may submit your comments by any one of several methods. You may mail comments to SWCA, at the above address. You may also comment via the Internet to *nregnier@swca.com.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: DINO LMP'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Nanci Regnier at SWCA, Inc. directly at above address or at (303) 487–1183. Finally, you may hand-deliver comments to above address. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law.

If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Nanci Regnier, SWCA, Inc., Environmental Consultants (303) 487–1183.

Dated: January 22, 2002.

R. Everhart,

Director, Intermountain Region, National Park Service.

[FR Doc. 02–6040 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Northeast Region; Notice of Intent To Prepare an Environmental Impact Statement and Hold Public Meetings

In accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–109 Section 102(c)), the National Park Service is preparing an Environmental Impact Statement (EIS) for the resource study of the Upper Housatonic Valley National Heritage Area, as authorized by Public Law 106–470. The Upper Housatonic Valley study area encompasses a watershed area with eight municipalities (Litchfield County) in Connecticut and eighteen municipalities (Berkshire County) in Massachusetts. The purpose of the EIS/study is to determine if this region is eligible to become a National Heritage Area. If the National Park Service determines that the Upper Housatonic Valley has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, Congress could designate the region a National Heritage Area. The study will identify alternative management options to interpret and manage the heritage area. The alternatives will describe: proposed heritage area boundaries; evaluations of significance, suitability, and feasibility; characteristics of the proposed management entity; participation of State and local governments and private and public organizations; anticipated levels of public use; economic and social benefits of public use.

The National Park Service will hold three public meetings in September, 2002, that will provide opportunities for public input into the scoping for the EIS/study. The purpose of these meetings is to obtain both written and verbal comments concerning the future direction and development of the Upper Housatonic Valley National Heritage Area.

Additional information about the EIS/study will be available from the National Park Service Boston Support Office, James O'Connell, Project Manager, National Park Service Boston Support Office, 15 State Street, Boston, Massachusetts 02109–3572, (617) 223–5222. Those persons who wish to comment verbally or in writing, or who require further information, should contact Mr. James O'Connell, Project Manager.

The draft EIS/study is expected to be completed and available for public review in August, 2002. After public and interagency review of the draft document, comments will be considered and a final EIS followed by a Record of Decision will be prepared.

Dated: December 11, 2001.

Sandra Corbett,

Superintendent, Boston Support Office.

[FR Doc. 02–6041 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Increasing the Storage Capacity of Gerber Reservoir, Klamath Project, OR

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a draft environmental impact statement (EIS) on increasing the storage capacity of Gerber Reservoir, Klamath Project, Oregon.

Reclamation will develop several alternatives to increase the storage capacity of Gerber Reservoir while improving water quality, consistent with protecting fish and wildlife. This potential increase in water supply is needed to help meet the growing water needs in the Klamath River basin, to improve water quality, to facilitate the efforts of the State of Oregon to resolve water rights claims in the Upper Klamath River basin, including facilitation of Klamath tribal water rights claims, and to reduce conflicts over water between the Upper and Lower Klamath River basins.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Baker, Program Manager, Klamath Basin Area Office, 6600 Washburn Way, Klamath Falls, OR 97603; telephone (541) 883–6935.

SUPPLEMENTARY INFORMATION:

Background

Reclamation is studying the feasibility of increasing the storage capacity of Gerber Reservoir, a feature of the Klamath Project. The Klamath Project is a Federal reclamation project in southern Oregon and northern California. Reclamation is undertaking this feasibility study under the authority of Section 2 of the Klamath Basin Water Supply Enhancement Act of 2000 (Pub. L. 106–498) (hereafter referred to as the Enhancement Act). The Enhancement Act authorizes and directs the Secretary of the Interior to engage in feasibility studies of increasing the storage capacity and/or yield of Klamath Project facilities, including Gerber Reservoir.

Reclamation's Technical Service Center engineers in Denver, Colorado, completed a preliminary evaluation in May 1999 to increase the height of Gerber Dam to raise the maximum surface level of the reservoir by up to 3 feet. Reclamation then initiated an appraisal study in October 2000. After the Enhancement Act was enacted, Reclamation discontinued the appraisal study and proceeded directly to a feasibility study. The feasibility study now underway will evaluate the May 1999 study in detail and will consider a range of increased surface levels for the reservoir to increase the storage capacity. Alternatives will be bounded by engineering, economic, and/or environmental considerations.

Public Scoping Process

Scoping for this project began in June 2001 and continued into early fall. News releases and scoping information packets announced public open houses and invited public comments from individuals and groups throughout the Klamath Basin Project area. Later, other news releases and information packets cancelled the informal open houses and extended the date to provide written scoping comments. The extension would allow the written scoping comments to be included in a scoping summary. As a result of the comments received, Reclamation developed a report entitled, ''Scoping Summary, Feasibility Study of Increasing the Storage Capacity of Gerber Reservoir, Klamath Project, Oregon, January 2002.'' (Summary). During the spring of 2002, Reclamation will solicit public review and comments on the Summary to ensure that significant issues have not been overlooked.

Dated: February 25, 2002.

Frank Michny,

Environmental Officer.

[FR Doc. 02–6021 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendments to Consent Decree

Notice is hereby given that on February 21, 2002, amendments to the consent Decree filed in *United States* v. *Marine Shale Processors, Inc.,* Civ. No. CV90–1240, were lodged with the United States District Court for the Western District of Louisiana. The original Consent Decree was filed on February 19, 1998, and was modified by an Order of the Court dated February 23, 1999, and again on June 13, 2001.

In this action against Marine Shale Processors, Inc., (''MSP'') the United States sought to recover civil penalties and enjoin violations of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6901 *et seq.,* the Clean Water Act, 33 U.S.C. 1251 *et seq.,* and the Clean Air Act, 42 U.S.C. 7413. The United States also sought relief under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9604, 9606, and 9607. MSP operated a facility in Morgan City, Louisiana that treated hazardous waste by combustion.

These amendments would extend: (1) The date for the purchase of the facility from MSP, and (2) the date by which Earthlock may make a Continuation Election. Under these proposed amendments, on or before March 22, 2002, Earthlock must either make a Continuation Election, seek a Vacating Order, or seek an extension until April 22, 2002 in which to make its decision. If Earthlock seeks an extension until April 22, and subsequently seeks a Vacating Order, Earthlock would be required to pay the sum of $50,000 to Plaintiffs.

The Department of Justice will receive comments relating to these amendments until noon on March 21, 2002. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Marine Shale Processors, Inc.,* D.J. Ref. 90–11–2–204. Comments may be sent via telecopier to Darlene Lyons, fax number (202) 514–2583, phone confirmation no. (202) 514–1605.

The consent decree amendments may be examined at the Office of the United States Attorney, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130, at U.S. EPA Region VI, 1445 Ross Avenue Dallas, TX 75202–2733, and at the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. A copy of the consent decree amendments may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202)

616–6584; phone confirmation no. (202) 514–1547. There is a charge for the copy (25 cent per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury'', in the amount of $1.50 to: Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *United States* v. *Marine Shale Processors, Inc.,* D.J. Ref. 90–11–2–204.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–6045 Filed 3–12–02; 8:45 am]

BILLING CODE 4410–15–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–036)]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council, Task Force on International Space Station Operational Readiness.

DATES: Wednesday, April 3, 2002, 7 p.m.–8 p.m. Eastern Standard Time.

ADDRESSES: This meeting will be conducted via teleconference; hence participation will require contacting Mr. Philip Cleary (202/358–4461) before 12 noon Eastern, April 2, 2002, and leaving your name, affiliation, and phone number.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Cleary, Code IC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capability of the teleconferencing system. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support the new crew and the American and Russian flight team's preparedness to accomplish the Expedition Five mission.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–6025 Filed 3–12–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL INSTITUTE FOR LITERACY

Notice of Meeting; Correction

AGENCY: National Institute for Literacy (NIFL).

ACTION: Notice of meeting. Correction.

SUMMARY: For the notice published in the **Federal Register** dated March 4, 2002, Volume 67, Number 42, pages 9790–9791, make the following corrections:

On page 9791, under **DATE AND TIME,** the second day of the Board meeting, ''March 15, 2002,'' is cancelled. On page 9791, under **SUPPLEMENTARY INFORMATION**, the Advisory Board meeting on March 15, 2002, is cancelled.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, e-mail: *scoles@nifl.gov.*

Dated: March 8, 2002.

Sharyn M. Abbott,

Executive Officer.

[FR Doc. 02–6068 Filed 3–12–02; 8:45 am]

BILLING CODE 6055–01–P

NUCLEAR REGULATORY COMMISSION

Correction to Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration

On March 5, 2002 (67 FR 10006), the **Federal Register** published the ''Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations.'' On pages 10017 and 10018, for Duke Energy Corporation, et al., Catawba Nuclear Station, Units 1 and 2, ''Amendment Nos. 195 and 188'' should read ''Amendment Nos. 194 and 187.''

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 6th day of March 2002.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–6038 Filed 3–12–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45511; File No. SR–ISE–2002–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange LLC, Relating to Requirements for Joint Back Office Arrangements

March 6, 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 13, 2002, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to adopt Rule 1303, ''Joint Back Office Arrangements,'' to establish margin and net capital requirements for ISE members participating in joint back office (''JBO'') arrangements.[3] The text of the proposed rule change is available at the Office of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In February 2000, the Commission issued a single order approving substantially uniform requirements with respect to JBO arrangements submitted by the American Stock Exchange, the Chicago Board Options Exchange (''CBOE''), the Chicago Stock Exchange, the New York Stock Exchange (''NYSE''), the Pacific Exchange and the Philadelphia Stock Exchange. Securities Exchange Act Release No. 42453 (Feb. 24, 2000), 65 FR 11620 (Mar. 3, 2000). In May 2000, the Commission approved JBO requirements submitted by the National Association of Securities Dealers. Securities Exchange Act Release No. 42858 (May 30, 2000), 65 FR 36194 (June 7, 2000). There were only minor differences between the proposals adopted by each of these SROs. The proposed ISE Rule is identical to the requirements adopted by the NYSE.

the Secretary, ISE, and at the Commission.

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 ISE 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 ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt Exchange Rule 1303 to establish requirements for JBO arrangements.[4] The proposed rule would provide certain regulatory requirements for establishing and maintaining such JBO arrangements.[5] A broker-dealer that carries and clears, or carries JBO accounts would be required to: (i) Provide written notification to its Designated Examining Authority prior to establishing a JBO; (ii) maintain minimum tentative net capital[6] of $25 million, or maintain minimum net capital of $7 million if engaged in the primary business of clearing options market maker accounts;[7] (iii) provide prompt written notice when tentative net capital or net capital, whichever may apply, falls below the prescribed standard; (iv) take appropriate action within three business days to resolve any capital deficiency;[8] (v) maintain a written risk methodology for assessing the amount of credit extended to participating broker-dealers, and (vi) deduct from net capital, the ''haircut'' requirements pursuant to the Commission's Net Capital Rule (Rule 15c3–1)[9] in excess of the equity maintained in the accounts of participating broker-dealers.

Furthermore, under the proposal JBO participants must be registered broker-dealers subject to Rule 15c3–1, and will be required to maintain an ownership interest in the JBO pursuant to Regulation T. Exclusive of their ownership interest in the JBO arrangement, JBO participants must maintain a minimum liquidating equity of $1 million. If the liquidating equity falls below $1 million, the JBO participant must eliminate the deficiency within five business days or become subject to the margin requirements for customers in Regulation T, and the maintenance margin requirements pursuant to the provisions of Exchange Rule 1202.[10]

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5)[12] in particular, which requires that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Exchange also believes that the proposed rule is consistent with the rules and regulations promulgated by the FRB for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) of the Act.[13]

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.

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

The proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) by its terms does not become operative for 30 days after February 13, 2002, the date on which it was filed, or such shorter time as the Commission may designate, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A)(iii)[16] of the Act and Rule 19b–4(f)(6)[17] thereunder. At any time within 60 days of the filing of the proposed rule change, 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 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

[4] Regulation T, issued by the Board of Governors of the Federal Reserve System (''FRB''), permits a broker-dealer to ''effect or finance transactions of any of its owners if the [broker-dealer] is a clearing and servicing broker or dealer owned jointly or individually by other [broker-dealers].'' 12 CFR 220.7(c).

[5] Because all other SROs (other than the Cincinnati Stock Exchange) currently have the proposed requirements in their rules, and every ISE member is also a member of at least one of these SROs, the proposal will not place any requirements on ISE members to which they are not already subject.

[6] The term ''tentative net capital'' generally refers to net capital before the application of ''haircuts'' and undue concentration charges on securities and options positions.

[7] Under the proposed rule, clearance of options market maker accounts would be deemed a broker-dealers primary business if a minimum of 60% of the aggregate deductions in the ratio of gross options market maker deductions to net capital (including gross deductions for JBO participant accounts) are options market maker deductions.

[8] Under the proposed rule, failure to correct such deficiencies within the allotted period will preclude the JBO carrying and clearing, or carrying, member from accepting any new transactions pursuant to the JBO arrangement.

[9] 17 CFR 240.15c3–1 *et seq.,* ''Net Capital Requirements for Brokers or Dealers.'' Rule 15c3–1 requires a broker-dealer to reduce its net worth by certain percentages, known as ''haircuts,'' of the market value of its securities position.

[10] Rule 1202 permits Members to elect to be bound by the margin rules of either the CBOE or the NYSE.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78g(a).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–2002–05 and should be submitted by April 3, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–5929 Filed 3–12–02; 8:45 am]

BILLING CODE 8010–01–M

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 Program Announcement No. OWBO–99–012, as amended by OWBO–2000–015 issued 3/5/02, to correct the project period of the Women's Business Center (WBC) project that will replace a previous project in the State of Vermont. Whereas the Program Announcement states that the replacement WBC is to carry out a project for two years of a 5-year term, the correct project period for the replacement WBC will be for the remainder of the current term which is scheduled to end 6/30/02 and two additional years, 07/01/02–06/30/03 and 07/01/03–06/30/04. The Federal funds available to complete the current year is an amount not to exceed $100,000. The amount of Federal funds to be awarded for each of the two additional years will not exceed $150,000. The recipient must match each annual award at 100%.

A pre-proposal telephone conference will take place on March 12, 2002, at 10:00 a.m. to provide clarification pertaining to the budget period.

FOR FURTHER INFORMATION CONTACT: Sally S. Murrell at (202) 205–6673.

Wilma Goldstein,

Assistant Administrator, Small Business Administration/Office of Women's Business Ownership.

[FR Doc. 02–6071 Filed 3–12–02; 8:45 am]

BILLING CODE 8025–01–P

[18] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3943]

Determination Under Section 508 of the Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (Pub. L. 107–115) With Respect to the Gambia

Pursuant to the authority vested in me as Deputy Secretary of State, including by section 508 of the Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (Pub. L. 107–115), Executive Order 1318 of March 31, 1999, and State Department Delegation of Authority No. 245 of April 23, 2001, I hereby determine that, subsequent to the termination of assistance to the Government of The Gambia after that country's July 22, 1994 military coup, a democratically elected Government has taken office in The Gambia.

This Determination shall be reported to the Congress and published in the **Federal Register**.

Dated: March 5, 2002.

Richard D. Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 02–6073 Filed 3–12–02; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11688]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) and its Subcommittee on Prevention Through People will meet to discuss various issues relating to offshore safety. Both meetings will be open to the public.

DATES: NOSAC will meet on Thursday, April 25, 2002, from 9:30 a.m. to 3 p.m. The Subcommittee on Prevention Through People will meet on Wednesday, April 24, 2002, from 1:30 p.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 April 11, 2002. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before April 11, 2002.

ADDRESSES: NOSAC will meet in room 4618, of the Coast Guard Headquarters Bldg, 2100 Second Street, SW, Washington, DC. The Subcommittee on Prevention Through People will meet in room 6103 of the Coast Guard Headquarters Bldg, 2100 Second Street, SW, Washington, DC. Send written material and requests to make oral presentations to Captain M. W. Brown, Executive Director of NOSAC, Commandant (G–MSO), 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: Captain M. W. Brown, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone 202–267–0214, 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

National Offshore Safety Advisory Committee. The agenda includes the following:

(1) Report on issues concerning the International Maritime Organization and the International Organization for Standardization.

(2) Progress report from the Prevention Through People Subcommittee on ''Crew Alertness in the Offshore Industry.''

(3) Report from Subcommittee on Deepwater Activities.

(4) Report from Task Force on development and implementation of the Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Convention for offshore supply vessels (OSVs).

(5) Progress report from the Subcommittee on Pipeline-Free Anchorages.

(6) Revision of 33 CFR subchapter N.

(7) Status report on Coast Guard/Minerals Management Service rulemaking on Inspection of Fixed Facilities (final rule published February 7, 2002, 67 FR 5912).

(8) Update on Coast Guard Initiatives on Crew Fatigue. *Subcommittee on Prevention Through People.* The agenda includes the following:

(1) Review and discuss previous work.

(2) Work on outline of Draft Report.

Procedural

Both meetings are open to the public. Please note that the meetings may close early if all business is finished. At the

Chair's discretion, 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 no later than April 11, 2002. Written material for distribution at a meeting should reach the Coast Guard no later than April 11, 2002. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of the meeting, please submit 25 copies to the Executive Director (see **ADDRESSES**) no later than April 11, 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 meetings, telephone the Executive Director at 202 267–0214 as soon as possible.

Dated: February 26, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 02–6049 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–7514]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability and request for public comments.

SUMMARY: The U.S. Coast Guard, the Environmental Protection Agency, the Research and Special Programs Administration, and the Mineral Management Service, in concert with the States, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the availability of the revised PREP Guidelines for comment and announces the participating agencies' intent to hold a public meeting in 2002.

DATES: Comments and related material must reach the Docket Management Facility on or before May 13, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2000–7514), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket, including the PEA, on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice and general information regarding the National Preparedness for Response Exercise Program (PREP) and the schedule, contact Mr. Robert Pond, Office of Response, Plans and Preparedness Division (G–MOR–2), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593–0001, telephone: 202–267–6603, facsimile: 202–267–4065, or email: *rpond@comdt.uscg.mil.*

The PREP Area exercise schedule and exercise design manuals are available on the Internet at *http://www.uscg.mil/hq/g-m/gmhome.htm* (see index, then oil response). To obtain a hard copy of the exercise design manual, contact Ms. Melanie Barber at the Research and Special Programs Administration, Office of Pipeline Safety, at 202–366–4560. The 1994 PREP Guidelines can be found on the following Web site: *http://www.uscg.mil/hq/g-m/nmc/response/#PREP.* Hard copies of the PREP Guidelines are available at no cost by writing or faxing the TASC DEPT Warehouse, 33141Q 75th Avenue, Landover, MD 20785, fax: 301–386–5394. The stock number of the manual is USCG–X0191. Please indicate the quantity when ordering. Quantities are limited to 10 per order.

If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone: 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments and related material. If you do so, please include your name and address, identify the docket number for this notice (USCG–2000–7514) and give the reasons for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Background and Purpose

In 1994, the U.S. Coast Guard (USCG), the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA), and the Minerals Management Service (MMS) coordinated the development of the National Preparedness for Response Exercise Program (PREP) Guidelines. Through a series of public workshops involving representatives from many State governments, the regulated community, environmental interest groups, and the general public, the PREP Guidelines were crafted to reflect the consensus agreement of the entire oil spill response community regarding an appropriate exercise program, including exercise types, frequency, scope, and objectives. For their part, USCG, EPA, RSPA, and MMS agreed that while the PREP Guidelines are not regulatory, each agency would accept that an industry entity following the PREP Guidelines would be in compliance with the pollution response exercise requirements in 33 U.S.C. 1321(j). (For Coast Guard rules, see 33 CFR 154.1055(f) and 33 CFR 155.1060(h); for EPA rules, see 40 CFR 112.21; for RSPA rules, see 49 CFR 194; or for MMS rules, see 30 CFR 254).

Since 1994, USCG, EPA, RSPA, and MMS have hosted public workshops in 1995, 1997, and 2000, to review the PREP Guidelines and consider need for changes. The first two workshops endorsed preserving the 1994 PREP Guidelines without amendment. The 2000 workshop recommended consideration of amending the PREP Guidelines to clarify or amend certain exercise parameters and standards.

The National Schedule Coordination Committee (NSCC) requested comments to proposed changes to the 1994 PREP Guidelines that were posted on the Docket Management System Web site on July 3, 2001. Based on review of comments to those proposed changes, the NSCC has posted the proposed final draft changes to the PREP Guidelines to the docket and at the following Web sites: *http://www.uscg.mil/hq/g-m/nmc/response/#PREP* and *http://www.uscg.mil/hq/nsfcc/nsfweb.*

This proposed final draft is also available electronically or in hard copy from Mr. Robert Pond at the address indicated above. Based on the comments received in response to the July 3, 2001, draft, a public meeting to discuss proposed changes is not anticipated prior to publication of final revised PREP Guidelines in August 2002. The next public meeting to discuss PREP is scheduled on November 8, 2002, in Galveston, TX, in conjunction with Clean Gulf 2002.

Dated: February 28, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 02–6048 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Wayne County, Michigan

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed intermodal freight terminal in Wayne County, Michigan.

FOR FURTHER INFORMATION CONTACT: James A. Kirschensteiner, Assistant Division Administrator, Federal Highway Administration, 315 West Allegan Street, Room 207, Lansing, Michigan 48933, Telephone: (517) 702–1835, Fax: 377–1804, e-mail, *james.kirchensteiner@fhwa.dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to develop a complex of terminals operated by several railroads, which will provide consolidated and efficient intermodal freight service to business and industry. The project could include land acquisition, consolidation, roadway, and rail improvements to improve access and egress to the existing terminal site, known as the Detroit-Livernois Yard.

Improvements to the corridor are considered necessary to provide for improved intermodal efficiencies regionally and on an international scale. Alternatives under consideration include (1) taking no action and (2) refinements of Rail Strategy 3 as identified in the Detroit Intermodal Freight Terminal Project—Feasibility Study, Technical Report No. 4. The draft EIS will describe other alternatives that were considered during the feasibility phase.

The Detroit Intermodal Freight Terminal Project study area is bounded roughly by I–94 and U.S. 12 to the north, M–39 to the west, I–75 to the south, and M–10 to the east. Presently about 65 train movements occur daily at some point within the study area, with less than half being through movements. Rail Strategy 3, as it is now conceived, calls for expanding the existing railroad-controlled property in this area from about 500 acres to 840 acres (an increase of 340 acres). The freight terminal would be served by six entrance/exit gates. Daily *intermodal* train traffic is expected to grow by the year 2025 from fewer than a dozen today to 50-plus, and be associated with 16,000 intermodal truck movements per day into and out of the terminal in 2025 compared to 2000 truck trips today.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A series of public meetings were held during the Feasibility Study phase on March 13, April 24, May 23–24, July 25–26, October 24–25, and December 13, 2001. Additional meetings and a public hearing are planned. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: February 27, 2002.

James J. Steele,

Division Administrator, Lansing, Michigan.

[FR Doc. 02–5945 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2002–11507]

Alternative Physical Qualification Standards for the Loss or Impairment of Limbs; Exemption Application for Kevin Howell

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: This notice announces the FMCSA's receipt of an application from Mr. Kevin Howell for an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) alternative physical qualification standards for the loss or impairment of limbs. Mr. Howell's right arm was amputated at the shoulder. Mr. Howell is applying for an exemption to allow him to operate a commercial motor vehicle (CMV) in interstate commerce without a prosthesis. Mr. Howell believes his driving record indicates that a level of safety can be achieved that is equivalent to, or greater than, the level of safety that would be obtained by complying with the standards for the loss or impairment of limbs set forth in 49 CFR 391.41 (b)(1) and 391.49.

DATES: Comments must be received on or before April 12, 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 exemption in this notice, Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, (202) 366–2990; 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:

Background

Title 49 of the United States Code (U.S.C) sections 31315 and 31136, requires the FMCSA to publish a notice in the **Federal Register** for each exemption requested, explaining that the request has been filed; providing the public with an opportunity to inspect the safety analysis and any other relevant information known to the agency; and commenting on the request (49 U.S.C. 31315(b)(4)(A)). Prior to granting a request for an exemption, the agency must publish in the **Federal Register** the name of the person granted the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption (49 U.S.C. 31315 (b)(4)(B)). The terms and conditions established by FMCSA must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption (49 U.S.C. 31315(b)(6)).

The regulations at 49 CFR part 381 establish the procedures to be followed to request waivers and to apply for exemptions from the FMCSRs, and the procedures used to process them.

FMCSA is responsible for the administration and enforcement of the Federal Motor Carrier Safety Regulations (FMCSRs), including the physical qualifications of CMV drivers. Section 391.41(b)(1) of the FMCSRs states that a person is physically qualified to drive a CMV if he or she has, among other things, ''no loss of a foot, a leg, a hand or an arm, or has been granted a skill performance evaluation (SPE) certificate [previously called a 'waiver'] pursuant to section 391.49.'' The alternative physical qualification standards for the loss or impairment of limbs, at 49 CFR 391.49(d)(3)(i)(B), include a requirement that applicants for SPE certificates include with their applications a medical evaluation summary that, among other things, establishes that ''*–*–*the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) *with each upper limb separately''* [emphasis added].

Kevin Howell's Application for an Exemption

Mr. Kevin Howell is a commercial motor vehicle (CMV) driver whose right arm was amputated at the shoulder. He is an owner-operator motor carrier and his principal place of business is located in Hooper, Utah. On November 3, 2001, Mr. Howell applied for a SPE certification by filing an application with the FMCSA's Utah State Director. By letter dated November 19, 2001, Mr. Howell's SPE application was deferred until he obtained a prosthetic or orthotic device and could demonstrate the power grasp and precision prehension required under the alternative physical qualification standards of 49 CFR 391.49. On November 21, 2001, Mr. Howell applied for an exemption from the Federal alternative physical qualification standards for the loss or impairment of limbs and the use of a prosthetic device when operating CMVs in interstate commerce (49 CFR 391.41(b)(1) and 49 CFR 391.49). A copy of the application is in the docket.

Mr. Howell indicated in his application that he was granted a limb waiver in 1973 that allows him to operate without a prosthetic device when driving CMVs in interstate commerce. The agency has no record of the waiver. If a waiver had been issued, Mr. Howell would have been required to renew the waiver every 2 years in accordance with conditions applicable to waivers at the time. The FMCSA has records for other drivers who were granted limb waivers in the 1970's and who have renewed their waivers every 2 years, however, we find no record that Mr. Howell sought a renewal in the years following 1973.

Mr. Howell stated in his application for exemption that he has had his Class A CDL for 27 years, with no restrictions other than corrective lenses. He owns and operates a CMV with manual transmission on the right side of the steering column. He indicated that he transports cargo for various other motor carrier companies and that he will be the only driver affected if the FMCSA grants the exemption requested here. Mr. Howell stated that he does not anticipate any adverse safety impacts created by this exemption. As support for his contention, he cited his current motor vehicle driving record, with no current deficiencies, including no speeding tickets or accidents. Mr. Howell stated that he has driven over 1,000,000 miles and has never had an accident, injury or caused property damage as a result of driving without a right arm. He maintains that this clearly shows a very high level of safety and awareness, as well as excellent driving skills, ability and judgment.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA is requesting public comment from all interested persons on whether the exemption application from Mr. Kevin Howell should be granted. All comments received before the closing date will be considered and will be available for examination in the docket at the location listed under the address section of this notice.

Issued on: March 8, 2002.

Julie Anna Cirillo,

Assistant Administrator.

[FR Doc. 02–6047 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the quarterly meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), and the provisional meeting agenda.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, March 22, 2002, starting at 9:00 a.m., at the Port of New Orleans Office Building, Main Auditorium, 1350 Port of New Orleans Place, New Orleans, LA 70130. The duration of the meeting will be approximately four hours.

FOR FURTHER INFORMATION, CONTACT: Gordana S. Earp, Deputy Director, Tariff and Trade Affairs (Enforcement), Office of the Under Secretary (Enforcement), Telephone: (202) 622–0336.

At this meeting, the Advisory Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

Agenda

(1) Update on the COAC Report on Improving U.S. Border and Supply Chain Security, including report on the work of the Technology Technical Advisory Team

(2) Report of the Office of Rulings & Regulations

(3) Compliance Assessment Programs (Focused Assessment, ICMP)

(4) Issues Relating to Uniformity

(5) Other COAC Priorities

(6) Next Meetings

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to attend the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230.

Dated: March 7, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary, Regulatory, Tariff, and Trade (Enforcement).

[FR Doc. 02–5964 Filed 3–12–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Docket No. 940; ATF O 1130.12]

Delegation of the Director's Authorities in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer

To: All Bureau Supervisors

1. Purpose

This order delegates certain authorities of the Director to subordinate ATF officials and prescribes the subordinate ATF officials with whom persons file documents which are not ATF forms.

2. Background

Under current regulations, the Director has authority to take final action on matters relating to procedure and administration. The Bureau has determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

3. Cancellation

ATF O 1100.86A, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR part 251, Importation of Liquors, dated 4/12/84, is canceled.

4. Delegations

Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120–01 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR part 251 to subordinate officials. Also, this ATF order prescribes the subordinate officials with whom applications, notices, and reports required by 27 CFR part 251, which are not ATF forms, are filed. The attached table identifies the regulatory sections, authorities and documents to be filed, and the authorized ATF officials. The authorities in the table may not be redelegated.

5. Questions

If you have questions about this order, contact the Regulations Division (202–927–8210).

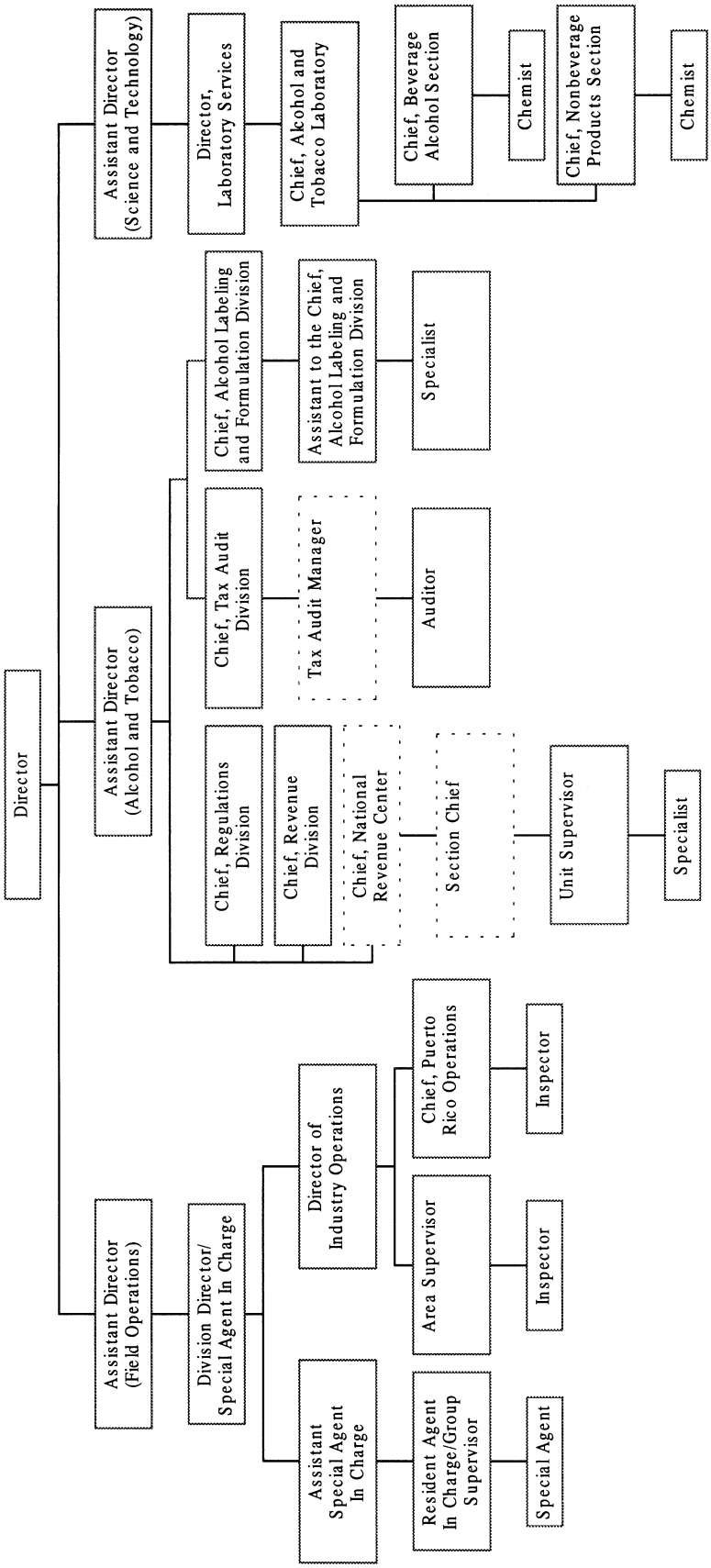
Bradley A. Buckles,

Director.

Regulatory section	Officer(s) authorized to act or receive document
§ 251.2(a)	Chief, Regulations Division.
§ 251.11—Liquor bottle definition	Specialist, Alcohol Labeling and Formulation Division (ALFD).
§ 251.77(d)	Section Chief, National Revenue Center (NRC).
§ 251.136(a)	Area Supervisor to approve alternate location. Inspector, Specialist, Auditor or Special Agent to examine documents.
§ 251.137	Inspector, Specialist, Auditor or Special Agent to examine and copy records. Director of Industry Operations to require additional retention.
§ 251.172	Unit Supervisor, NRC.
§ 251.181(a)	Unit Supervisor, NRC.
§ 251.182(b)(1) and (d)	Unit Supervisor, NRC.
§ 251.204	Specialist, ALFD.
§ 251.206	Specialist, ALFD.
§ 251.208	Area Supervisor.
§ 251.209	Unit Supervisor, NRC.
§ 251.221	Chief, Regulations Division to approve. If the alternate method or procedure does not affect an ATF approved formula, or import or export recordkeeping, Chief, National Revenue Center (NRC) may act upon the same alternate method that has been approved by the Chief, Regulations Division. Chief, Regulations Division, Chief, National Revenue Center or Area Supervisor to withdraw.

BILLING CODE 4810–31–P

ATF Organization



This is not a complete organizational chart of ATF.

[FR Doc. 02–5881 Filed 3–12–02; 8:45 am]

BILLING CODE 4810–31–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1028

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 1028, Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

DATES: Written comments should be received on or before May 13, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 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 6405–07, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

OMB Number: 1545–0058.

Form Number: 1028.

Abstract: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in Internal Revenue Code section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 50 hours, 54 minutes.

Estimated Total Annual Burden Hours: 2,545.

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: March 5, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–6086 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8329 and 8330

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 8329, Lender's Information Return for Mortgage Credit Certificates (MCCs) and Form 8330, Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

DATES: Written comments should be received on or before May 13, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (CAROL.A.SAVAGE@irs.gov.), Internal Revenue Service, room 6405–07, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Form 8329, Lender's Information Return for Mortgage Credit Certificates (MCCs) and Form 8330, Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

OMB Number: 1545–0922.

Form Number: Forms 8329 and 8330.

Abstract: Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to provide the IRS with information on the issuance of mortgage credit certificates (MCCs) authorized under Internal Revenue Code section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Responses: 10,000—Form 8329; 2,000—Form 8330.

Estimated Time Per Response: 5 hours, 41 minutes—Form 8329; 7 hours, 16 minutes—Form 8330.

Estimated Total Annual Burden Hours: 56,800—Form 8329; 14,520—Form 8330.

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: March 5, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–6088 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–21

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 Revenue Procedure 2001–21, Debt Roll-Ups.

DATES: Written comments should be received on or before May 13, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of Revenue Procedure should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.)*, Internal Revenue Service, room 6405–07, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Debt Roll-Ups.

OMB Number: 1545–1647.

Revenue Procedure Number: Revenue Procedure 2001–21.

Abstract: Revenue Procedure 2001–21 provides for an election that will facilitate the consolidation of two or more outstanding debt instruments into a single debt instrument. Under the election, taxpayers can treat certain exchanges of debt instruments as realization events for federal income tax purposes even though the exchanges do not result in significant modifications under section 1.1001–3 of the Income Tax Regulations.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 75.

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: March 5, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–6089 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending December 31, 2001.

Last	First	Middle
Griess	Kevin	Michael
Lind	Gary	C
Paul-Reynaud	Catherine	
Marchi	Andrea	Gino
Lustrup	Preben	Reinholt
O'Neil	Ruth	Elith
Hansen	Kirsten	Schnedler

Last	First	Middle
Bailey	Dennis	
Hara	Karen	Walseth
Stene	Roberta	Anne Huntley
Richards	William	Reese
Valenti	Malvin	J
Sassoon	Alexandria	Juana Rosetti
Krieble	Daniel	Coty
Mitchell	Keith	C
Silvera	Craig	Bruce Scott
Salamanca	Augusto	Ernesto
Phillips	Lorna	Jean
Delaney	Louanne	Claire
Mueller	Erik	Eduard
Klemenz	Deborah	Kay

Dated: February 20, 2002.

Samuel Brown,

Compliance, Correspondence Exam Operations, Unit O, Philadelphia Compliance Services.

[FR Doc. 02–6084 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending September 30, 2001.

Last	First	Middle
Di Frangia	Mark	Vincent
Joiner	Derald	Eugene
March	Duane	Abe
Ling	Charlene	
Pillai	Nirmala	Venugopal
Bonney	Charles	Compton
Lorentzen	Peer	
Rapoport	Jonathan	Dale
Grossmann	Evalie	Janette
Pierre	Sy	Coolidge
Wadsworth	George	
Holmin	Robert	Eric Ross
Schilling	Angela	Melanie
Eichinger	Maria	
Eichinger	Mary	Cordula
Ney II	Paul	Edward
Sreedharan	Sapna	Erat
Casas	Juan	Antonio
Karren	John	Daniel
Capizzi	Patricia	Louise
Bernhardt	Pauline	Elilzabeth
Crawford	Mark	Edward
Byung	Suk	Ahn
Chang	Howard	S
Kuo	Ching-Chiang	
Kuo	Mei	Shein
Bazzett	Ronald	Robert
Julienne		
Senapatiratne	Theodore	Samuel
Lii	Yu-Hwei	Eunice
Neumann	Jennifer	Nicole
McLaughlin	Frank	
Armenio	Peter	
Davis	Gregory	Robert
Barbara	Hansen	Ulrike
Wenigwieser	Karen	Ingrid
Keller	Bettina	Elizabeth
Bussoz	Catherine	Simone
Mueller-Zivy	Nancy	Theresa
Keller	Richard	Robert

Last	First	Middle
Balmer-Fischer	Sabina	Ann
Daverio	Stephen	Alfons
Nelson	Peter	George
Noone	David	Lee
Hufnagl	Caroline	Marie
Fleischman	Stewart	Jay
Dureau	Rachelle	Sian
Bischofberger	Willy	Franz
Chanderli	Selim	Reda
Endress	George	Alexander
Blocher	Michael	Charles
Mantel	Margrit	Elisabeth
Dimitriyevich-Dimitri	Peter	A
Perasso	Rolando	
Bisconti	Nicolo	
Appendino	John	Robert
Bickel	Tiffany	Jean
Mantel	Winfried	
Gooding	Arvenia	Ketrruah
Skipwith	Thomas	Grey
Burckhardt	Stephan	Andreas
Laurimore	Jill	Frances
Teitler	Eva	Maria
Lank	Elizabeth	Antoinette
Wells	Florence	Heyde
Goodman	Joel	Jay
Taghavi	Shohreh	
Caldwell	Robert	
Sakai	Kosuke	
Chang	Donald	Choy
Min	Wu	Shuh
Ryan	Janis	Blazy
Patton	Derek	Worley
Bolger	Chie	Saito
Kunimura	Tei	
Kakisu	Kengo	
Cano	Michael	Steven
Fischer	Michael	Christoph
Meile	Judith	
Luder	Peter	
Kuenzle	Donna	Mac Quarrie
Vorbrugg	Suzanne	Alice
Schoenbeck	Christoph	Richard
Schaechtle	Hilde	Mary
Dole	Robert	
Uhrich	Ervin	Edward
Hunt	John	Ft
Banks	James	Frank
Allard	Emogan	
Wavre	Patrick	Andre
Sarnefors	Michael	Sven Peter
Pierce	Karla	Gertrud Charlotte
Dimitriyevich-Dimitri	Peter	A
Bestle	Anna	Lynn
Morelle	Phillip	David
Charles	Blake	Sven
Palffy	Eugenia	Ines
Sudeck	Philip	Oliver
Wayman	Barbara	Margot Johanna
Rolfes	Tina	Maria
Robisch	Joseph	Anthony
Chan	Yuen	Foon
Kolb	David	Douglas
Pentony	Hae	Sook
Scott	Joanna	Youn
Wolf	Robert	Edward
Aiken	Barbara	Bartlett
Edney	Jonathan	Paul
Edney	Margaret	Gillian
Varianini	Vittoria	
Ulack Chiarizia	Anita	
Elkann	John	Philip Jacob Maria

Last	First	Middle
Croset	Gaston	Octave
March	Juan	J
Hayers	Erika	
Eichinger	Monika (Sister Mary Cordula)	
Schuster	Martin	
Pluczenik	Arie	
Kattan	Hamad	Fuad
Ruthkosky	Joseph	Henry
Goek	Denise	
Klein	Arturo	
Shao	Alice	Chien Yu

Dated: February 20, 2002.

Samuel Brown,

Compliance, Correspondence Exam Operations, Unit O, Philadelphia Compliance Services.

[FR Doc. 02–6085 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held April 11, 2002.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on April 11, 2002, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 694–1861 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a closed meeting of the Art Advisory Panel will be held on April 11, 2002, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Daniel L. Black, Jr.,

National Chief, Appeals.

[FR Doc. 02–6087 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

Notices

Federal Register

Vol. 67, No. 49

Wednesday, March 13, 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

Agricultural Marketing Service

[Docket No. LS–01–14]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension of a currently approved information collection for grain and molasses market news reports.

DATES: Comments on this notice must be received by May 13, 2002, to be assured of consideration.

Additional Information or Comments: Comments may be mailed to Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS, USDA; STOP 0252; 1400 Independence Avenue SW.; Washington, DC 20250–0252; Phone (202) 720–8054; Fax (202) 690–3732; or E-mail to *John.VanDyke@usda.gov.* All comments received will be available for public inspection at this address during the hours of 8 a.m. to 4 p.m. Monday through Friday, and on the Internet at *www.ams.usda.gov/lsg/mncs.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Grain Market News Reports and Molasses Market News Reports.

OMB Number: 0581–0005.

Expiration Date of Approval: 07–31–2002.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621), section 203(g) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and to bring about a balance between production and utilization.

The grain industry has requested that USDA continue to issue market news reports on grain and molasses. These reports are compiled by AMS in cooperation with the grain and feed industry. Market news reporting must be timely, accurate, and continuous if it is to be useful to producers, processors, and the trade in general. Industry traders can use market news information to make marketing decisions on when and where to buy and sell. For example, a producer could compare prices being paid at local, terminal, or export elevators to determine which location will provide the best return. Some traders might choose to chart prices over a period of time in order to determine the most advantageous day of the week to buy or sell, or to determine the most favorable season. In addition, the reports are used by other Government agencies to evaluate market conditions and calculate price levels, such as USDA's Farm Service Agency, that administers the Farmer-owned Reserve Program. Economists at most major agricultural colleges and universities use the grain and feed market news reports to make short and long-term market projections. Also, the Government is a large purchaser of grain and related products, a system to monitor the collection and reporting of data is needed.

The information must be collected, compiled, and disseminated by an impartial third-party, in a manner which protects the confidentiality of the reporting entity. AMS is in the best position to provide this service.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .108 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 202.

Estimated Number of Responses per Respondent: 19.

Estimated Total Annual Burden on Respondents: 420 hours.

Comments are invited on: (1) 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) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5935 Filed 3–12–02; 8:45 am]

BILLING CODE 3412–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–01–13]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension and revision of a currently approved information collection used to compile and generate the Federally Inspected Estimated Daily Slaughter Report for the Livestock and Grain Market News Program.

DATES: Comments on this notice must be received by May 13, 2002, to be assured of consideration.

Additional Information or Comments: Comments may be mailed to Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS, USDA; STOP 0252; 1400 Independence Avenue, SW.; Washington, DC 20250–0252; Phone (202) 720–8054; Fax (202) 690–3732; or e-mail to *John.VanDyke@usda.gov.* All comments received will be available for public inspection at this address during the hours of 8 a.m. to 4 p.m. Monday through Friday, and on the Internet at *www.ams.usda.gov/lsg/mncs*.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Plan for Estimating Daily Livestock Slaughter Under Federal Inspection.

OMB Number: 0581–0050.

Expiration Date of Approval: 07–31–2002.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621, *et seq*) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements aiding in the maintenance of farm income and to bring about a balance between production and utilization.

Under this market news program, USDA issues a market news report estimating daily livestock slaughter under Federal inspection. This report is compiled on a voluntary basis in cooperation with the livestock and meat industry. The information provided by respondents facilitates market news reporting, which must be timely, accurate, unbiased, and continuous if it is to be useful to the industry. The daily livestock slaughter estimates are provided at the request of industry and are used to make production and marketing decisions.

The Daily Estimated Livestock Slaughter Under Federal Inspection Report is used by a wide range of industry contacts, including packers, processors, producers, brokers, and retailers of meat and meat products. The livestock and meat industry requested that USDA issue slaughter estimates (daily and weekly), by species, for cattle, calves, hogs, and sheep in order to assist them in making immediate production and marketing decisions and as a guide to the volume of meat in the marketing channel. The information requested from respondents includes their estimation of the current day's slaughter at their plant(s) and the actual slaughter for the previous day. Also, the Government is a large purchaser of meat and related products and this report assists other Government agencies in providing timely information on the quantity of meat entering the processing channels.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .02 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 72.

Estimated Number of Responses per Respondent: 260.

Estimated Total Annual Burden on Respondents: 374 hours.

Comments are invited on: (1) 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) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5937 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–02–03]

Beef Promotion and Research: Certification and Nomination for the Cattlemen's Beef Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State cattle producer organizations or associations and general farm organizations, as well as cattle or beef importer organizations, who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

DATES: Applications for certification must be received by close of business April 12, 2002.

ADDRESSES: Certification forms as well as copies of the certification and nomination procedures may be requested from Marlene M. Betts, Acting Chief; Marketing Programs Branch, LS, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251.

FOR FURTHER INFORMATION CONTACT: Marlene M. Betts, Acting Chief, Marketing Programs Branch on 202/720–1115.

SUPPLEMENTARY INFORMATION: The Beef Promotion and Research Act of 1985 (Act) (7 U.S.C. 2901 *et seq.*), enacted December 23, 1985, authorizes the implementation of a Beef Promotion and Research Order (Order). The Order, as published in the July 18, 1986, **Federal Register** (51 FR 26132), provides for the establishment of a Board. The current Board consists of 100 cattle producers and 8 importers appointed by USDA. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that USDA shall either certify or otherwise determine the eligibility of State cattle producer organizations or associations and general farm organizations, as well as any importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Persons who are individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they

must establish to the satisfaction of USDA that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order (7 CFR 1260.143(b)(2)). Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process, including the beginning and ending dates of the established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, **Federal Register** (51 FR 11557) and currently appear at 7 CFR 1260.500 through 1260.640. Organizations which have previously been certified to nominate members to the Board do not need to reapply for certification to nominate producers and importers for the upcoming vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of 3 years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in early 2003:

State or unit	Number of vacancies
Arkansas	1
California	1
Colorado	1
Florida	1
Idaho	1
Kansas	3
Kentucky	1
Minnesota	1
Missouri	1
Montana	2
Nebraska	3
New Mexico	1
North Dakota	1
Oklahoma	2
Pennsylvania	1
South Dakota	1
Texas	5
Virginia	1
Wyoming	1
Importers	5

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northeast, Northwest, mid-Atlantic, and Southeast units, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations and general farm organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official ''Application for Certification of Organization or Association,'' which must be received by close of business April 12, 2002. Uncertified eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR 1260.540(b). Applications from States or units without vacant positions on the Board and other applications not received within the 30-day period after publication of this Notice in the **Federal Register** will be considered for eligibility to nominate producers or importers for subsequent vacancies on the Board.

Only those organizations or associations which meet the criteria for certification of eligibility promulgated at 7 CFR § 1260.530 are eligible for certification. Those criteria are:

(a) For State organizations or associations:

(1) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit,

(2) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit,

(3) There must be a history of stability and permanency, and

(4) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(b) For organizations or associations representing importers, the determination by USDA as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) The number and type of members represented (i.e., beef or cattle importers, etc.),

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle,

(3) The stability and permanency of the importer organization or association,

(4) The number of years in existence, and

(5) The names of the countries of origin for cattle, beef, or beef products imported.

All certified organizations and associations, including those that were previously certified in the States or units having vacant positions on the Board, will be notified simultaneously in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms and background information sheets.

The names of qualified nominees received by the established due date will be submitted to USDA for consideration as appointees to the Board.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C., Chapter 35 and have been assigned OMB No. 0581–0093, except Board member nominee information sheets are assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 2901 *et seq.*

Dated: March 7, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–5936 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hood/Willamette Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Meeting.

SUMMARY: The Hood/Willamette Resource Advisory Committee (RCA) will meet on Thursday, April 4, 2002. The meeting is scheduled to begin at 9 a.m. and will conclude at approximately 4 p.m. The meeting will be held at the South Salem Phoenix Inn; 4370 Commercial St. SE; Salem, Oregon; (503) 588–9220. The tentative agenda includes: (1) Complete review and Recommendation of Projects; (2) Process for Making Recommendations on 2003 Projects; (3) Public Forum.

The Public Forum is tentatively scheduled to begin at 1 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the April 4 meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–9220.

Dated: March 4, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–5926 Filed 3–12–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of final results of antidumping administrative review and rescission of new shipper review.

SUMMARY: On August 24, 2001, the Department of Commerce published the preliminary results of the new shipper review and the administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The periods of review are June 1, 2000, through November 30, 2000, and November 1, 1999, through October 31, 2000, respectively. The two reviews have been aligned at the request of the petitioner and the agreement of the new shipper. The new shipper review concerns one new shipper and the administrative review covers four producers/exporters of subject merchandise.

We invited interested parties to comment on our preliminary results. Based on our analysis of the comments received, we have made changes to our analysis for the new shipper review. We have made no changes to the margin determined for the administrative review. The final dumping margins for the administrative review are listed in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Mark Ross, Office of Antidumping/Countervailing Duty Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3477 or (202) 482–4794, respectively, for information concerning the new shipper review. For information concerning the administrative review, please contact Edythe Artman or Mark Ross at the same address; telephone (202) 482–3931 for Edythe Artman.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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

Background

On August 24, 2001, the Department published the preliminary results of the new shipper and administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (the PRC). See *Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping New Shipper Review, Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review,* 66 FR 44596 (August 24, 2001) *(Preliminary Results).* We invited parties to comment on our preliminary results. With respect to the new shipper review, we received comments from the petitioner and the new shipper, Clipper Manufacturing Ltd. (Clipper). We received comments from the petitioner and one of the respondents, Fook Huat Tong Kee Pte., Ltd., and Taian Fook Huat Tong Kee Foods Co., Ltd. (collectively FHTK), that pertained to the administrative review.

We have conducted these reviews in accordance with section 751 of the Act and 19 CFR 351.213 and 351.214.

Scope of the Order

The products covered by this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay.

The scope of this order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 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 order is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to the administrative review are addressed in the ''Issues and Decision Memorandum for the Administrative Review of Fresh Garlic from the People's Republic of China'' (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated March 6, 2002, which is hereby adopted by this notice. All issues raised by parties concerning the *bona fides* of Clipper's sale and the Department's decision to rescind the new shipper review are addressed in the ''Issues and Decision Memorandum: New Shipper Review of Clipper Manufacturing Ltd.'' (Clipper Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated March 6, 2002, which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Decision Memo and Clipper Decision Memo is attached to this notice as an Appendix. The Decision Memo and Clipper Decision Memo are public documents and are on file in the Central Records Unit (CRU), Main Commerce Building, Room B–099, and are accessible on the Web at ia.ita.doc.gov. The paper copies and electronic versions of both memoranda are identical in content.

Separate Rates

In our preliminary results, we found that Clipper and FHTK met the criteria for the application of separate antidumping duty rates. Because we are rescinding the new shipper review, we are not making a final determination as to whether Clipper is entitled to a separate rate at this time. With respect to FHTK, we have not received any

other information since our preliminary results that warrants reconsideration of our separate-rate determination (see the *Preliminary Results,* 66 FR at 44597). Therefore, we find that FHTK should be assigned an individual dumping margin.

Use of Facts Otherwise Available

In our preliminary results of the new shipper review, we applied adverse facts available to Clipper and assigned it a rate of 376.67 percent for shipments during the period of review. Because we are rescinding the review covering Clipper, the use of facts otherwise available for Clipper is no longer an issue. For a detailed description of our analysis, see the Clipper Decision Memo.

In our preliminary results of the administrative review, we assigned a rate of 376.67 percent, based on the use of adverse facts available, to FHTK, Rizhao Hanxi Fisheries and Comprehensive Development Co., Ltd., Zhejiang Materials Industry, and Wo Hing (H.K.) Trading Co. For a detailed discussion of our application of the facts otherwise available, see the *Preliminary Results,* 66 FR at 44599–600, and the ''Memorandum from Edythe Artman to Laurie Parkhill'' regarding the use of facts otherwise available and the corroboration of secondary information (August 14, 2001), on file in the CRU.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes concerning Clipper in the new shipper review. See ''Rescission of New Shipper Review'' below. We have not made revisions that changed our analysis for the administrative review.

Final Results of the Administrative Review

We determine that a margin of 376.67 percent exists for all shipments of subject merchandise produced or exported by FHTK for the period November 1, 1999, through October 31, 2000. For Rizhao Hanxi Fisheries and Comprehensive Development Co., Ltd., Zhejiang Materials Industry, Wo Hing (H.K.) Trading Co., and all other Chinese producers and exporters of the subject merchandise for the period November 1, 1999, through October 31, 2000, we determine that a PRC-wide margin of 376.67 percent exists. 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.

Rescission of New Shipper Review

For the reasons detailed in the Clipper Decision Memo, we determine that Clipper's sale was not a *bona fide* sale as required by 19 CFR 351.214(b)(2)(iv)(C), although there was indeed an ''entry'' of the merchandise, as referenced in 19 CFR 315.214(b)(2)(iv)(A) of the regulations. Because we have no *bona fide* sale upon which to base a margin calculation, we are hereby rescinding the new shipper review with respect to Clipper. With this rescission, the PRC-wide margin of 376.67 percent applies to Clipper's entries during the period of review.

In response to the preliminary results, we received comments from Clipper objecting to the use of facts otherwise available in the calculation of its rate for the preliminary results. Clipper argued that the Department should issue it a supplemental questionnaire to resolve the remaining issues regarding garlic growing costs.

Because we are rescinding the new shipper review, we have not addressed Clipper's comments concerning the use of facts otherwise available. Comments by the petitioner and Clipper concerning the *bona fides* of Clipper's transaction are addressed in the Clipper Decision Memo.

Cash-Deposit Requirements

The following deposit rates will be effective upon publication of this notice of final results of administrative review for all shipments of fresh garlic from the PRC 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 FHTK, the cash-deposit rate will be 376.67 percent; (2) for PRC exporters, including Clipper, which have not been found to be entitled to a separate rate, the cash-deposit rate will be 376.67 percent; and (3) for all non-PRC exporters of subject merchandise from the PRC, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final 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 these review periods. Failure to comply with this requirement, pursuant to 19 CFR 351.402(f)(3), could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: March 6, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

Decision Memo

1. Use of Facts Available for FHTK.
2. Miscellaneous.

Clipper Decision Memo

Bona Fides of the Sale.

[FR Doc. 02–6076 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

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

Assistant Secretarial Business Development Mission: Italy and Spain

Rome and Milan, Barcelona and Madrid

July 6–15, 2002

Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service Maria Cino will lead a senior-level business

development trade mission focusing on women or minority-owned and/or -managed businesses to Rome and Milan, Italy, and Barcelona and Madrid, Spain. This Business Development Mission is being organized to coincide with the Global Summit of Women, to be held July 11–13, in Barcelona, Spain. The Global Summit of Women will bring together many high-level female private and public sector participants from around the world. While the trade mission and summit focus on women or minority-owned and/or managed companies, participation in the mission is not limited to such businesses and all interested U.S. companies are encouraged to apply to this four-city, two country trade mission. Recruitment closes on May 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Selina Marquez, U.S. Department of Commerce. Telephone 202–482–4799, e-mail *Trade.Missions@mail.doc.gov.*

Dated: March 7, 2002.

Thomas H. Nisbet,

Director, Export Promotion Coordination, Office of Planning, Coordination and Management.

[FR Doc. 02–5946 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011701C]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Reopening of comment period; Notice of Availability and request for comments.

SUMMARY: Notice is hereby given that NMFS is reopening the comment period for the Routine Road Maintenance Program (RMP) submitted jointly by the State of Washington through Washington State Department of Transportation (WSDOT), King, Pierce, Snohomish, Clallam, Kitsap, Mason, and Thurston Counties, and the Cities of Bellevue, Bremerton, Burien, Covington, Edgewood, Everett, Kenmore, Kent, Lake Forest Park, Lakewood, Maple Valley, Newcastle, Renton, SeaTac, Sammamish, Shoreline, Tacoma, and University Place pursuant to protective regulations promulgated under the Endangered Species Act (ESA). NMFS is also modifying the list of Evolutionarily Significant Units (ESUs) in the **SUPPLEMENTARY INFORMATION** section. The RMP would affect 10 Evolutionarily Significant Units (ESUs) of threatened salmonids identified in the **SUPPLEMENTARY INFORMATION** section, not 12 as stated in the previous notice. The comment period is being reopened because there were delays in notifying the public about the availability of the RMP. This document serves to notify the public of the availability of the RMP for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft RMP must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on April 12, 2002.

ADDRESSES: Written comments should be sent to Laura Hamilton, Habitat Conservation Division, National Marine Fisheries Service, 510 Desmond Drive, Suite 103, Lacey, Washington 98503. Comments may also be faxed to 360–753–9517. Copies of the entire RMP are available on the Internet at *http://www.metrokc.gov/roadcon/bmp/pdfguide.htm*. Comments will not be accepted if submitted via email or the Internet.

FOR FURTHER INFORMATION CONTACT: Laura Hamilton at phone number 360–753–5820, or e-mail: *Laura.Hamilton@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the following 10 threatened salmonid ESUs: Puget Sound, Lower Columbia River, Upper Willamette River chinook salmon (*Oncorhynchus tshawytscha*); Hood Canal summer-run and Columbia River chum salmon (*O. Keta*); Ozette Lake sockeye salmon (*O. Nerka*); Snake River Basin, Lower Columbia River, Upper Willamette River, and Middle Columbia River steelhead (*O.mykiss*).

Background

WSDOT and the counties and cities named here, submitted the RMP for routine road maintenance activities that might affect certain salmonid ESUs listed as threatened in Washington State. The RMP was designed to be intentionally protective of salmonids and their habitat in the conduct of routine road maintenance activities.

In Part 1, the RMP describes the program framework including the 10 program elements that comprise the program (Regional Forum, Program Review, Best Management Practices (BMPs) and Conservation Outcomes (element 3), Training, Compliance Monitoring, Research, Adaptive Management, Emergency Response, Biological Data Collection, and Reporting). In Part 2,the RMP elaborates on element 3, the BMPs, in much greater detail and provides detailed instructions to crews, supervisors, environmental support staff, design personnel and managers. Part 3 describes a process by which additional counties, cities, and ports in Washington State may develop routine road maintenance programs by adopting RMP parts 1 and 2, and then submit their RMP to NMFS for review, public comment, and approval or disapproval.

The RMP defines what activities are routine road maintenance. These consist of maintenance activities that are conducted on currently serviceable structures, facilities, and equipment, involve no expansion of or change in use, and do not result in significant negative hydrological impact.

Finally, the RMP includes a biological review of the RMP prepared by WSDOT and the other entities named above. The biological review analyzes the effects of the RMP on listed salmonids and their habitat statewide. The biological review concludes that the identified routine road maintenance activities conducted throughout Washington State under the RMP will neither impair properly functioning habitat, nor appreciably reduce the functioning of already impaired habitat, nor retard the long-term progress of impaired habitat toward PFC. Approval or disapproval of the RMP will depend on NMFS' findings after public review and comment.

As specified in the July 10, 2000, ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve a routine road maintenance program of any state, city, county, or port, provided that NMFS finds the activities to be consistent with the conservation of listed salmonids' habitat by contributing to the attainment and maintenance of properly functioning condition. Prior to final approval of a routine road maintenance program, NMFS must publish notification in the **Federal Register** announcing the program's availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and

sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with routine road maintenance provided that a state or local program has been approved by NMFS to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: March 8, 2002.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–6069 Filed 3–12–02; 8:45am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

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

March 8, 2002.

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

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

EFFECTIVE DATE: March 13, 2002.

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

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 54983, published on October 31, 2001.

William J. Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 8, 2002.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 25, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the period which began onJanuary 1, 2002 and extends through December 31, 2002.

Effective on March 13, 2002, you are directed to increase the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
340/640	2,235,436 dozen.
347/348	2,676,676 dozen.
351/651	471,552 dozen.
443	76,980 numbers.
448	52,943 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

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

Sincerely,
William J. Dulka,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–6075 Filed 3–12–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange's Proposal To Permit Exchange of Futures for, or in Connection With, Futures Transactions in Brent Crude Oil Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for public comment on a proposed exchange rule to permit Exchange of Futures for Futures (''EFF'') transactions.

SUMMARY: The New York Mercantile Exchange (''NYMEX'' or ''Exchange'') has requested that the Commission approve proposed new Rule 6.21D to permit EFF transactions in the Exchange's Brent Crude Oil (''Brent'') futures contract. The proposed new rule would establish a non-competitive trading procedure that would operate in a manner that is analogous in some respects to block trading rules and in other respects to exchange of futures for physicals (''EFP'') rules currently in operation at some exchanges. NYMEX intends for the proposal to enable ''eligible contract participants,'' as that term is defined by section 1a(12) of the Commodity Exchange Act, to liquidate open positions in Exchange-specified substantially equivalent contracts at another exchange and to establish comparable positions in the Exchange's Brent contract. The proposed rule essentially provides a mechanism to transfer Brent futures positions from another exchange to NYMEX. NYMEX proposes to implement the rule on a one-year pilot program basis.

Acting pursuant to the authority delegated by Commission Regulation 140.96(b), the Division of Trading and Markets, in concurrence with the Division of Economic Analysis and the Office of General Counsel, has determined to publish NYMEX's proposal for public comment. The Division believes that publication of the proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before April 12, 2002.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418–5521 or by electronic mail to *secretary@cftc.gov.* Reference should be made to the NYMEX proposal to adopt EFF procedures for the Brent Crude Oil futures contract.

FOR FURTHER INFORMATION, CONTACT: Please contact Jane H. Croessmann, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5433. Electronic mail: *jcroessmann@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NYMEX began trading its Brent futures contract on September 5, 2001. NYMEX represents that a number of market participants have expressed

interest in the Exchange establishing a mechanism whereby positions in Brent futures contracts at another exchange could be transferred to NYMEX. NYMEX represents that it has designed proposed Rule 6.21D to address those needs.

II. Summary Description of Proposed EFF Procedure

Under proposed Rule 6.21D, eligible contract participants would be permitted to execute away from the central marketplace transactions of 50 or more NYMEX Brent futures contracts. As a condition precedent to the NYMEX transaction, the parties must have liquidated a position in a substantially equivalent contract at another exchange, although they would not be required to execute those liquidating transactions against each other.[1] Regardless of whether the parties executed a single liquidating transaction with each other or two separate liquidating transaction with other parties, the quantities of the liquidating transactions would have to be substantially equivalent to the quantity covered by the later NYMEX transaction.

NYMEX states that its proposal would provide a means for sophisticated market participants to liquidate open Brent positions at another exchange and to individually negotiate transactions that would essentially result in the transfer of those positions to NYMEX. NYMEX further states that Rule 6.21D's various restrictions should permit parties to make those transfers, while avoiding exposure to the possibility of significant price slippage in a thinly traded market. NYMEX believes that by facilitating the transfer of positions between markets, its proposal would serve to increase competition between markets and, thus, benefit their users.

III. Text of Proposed NYMEX Rule 6.21D

Below is the text of proposed new NYMEX Rule 6.21D.

Rule 6.21D. Exchange of Futures for, or in Connection With, Futures Transactions

(A) General Requirements. (1) An exchange of futures for, or in connection with, futures (EFF) consists of two discrete, but related, transactions; one initial futures transaction effected on another regulated futures exchange (Underlying Transaction) and a subsequent futures transaction in an eligible NYMEX contract that is reported at the Exchange pursuant to the procedures specified in this rule (NYMEX Transaction).

(2) Liquidating Transactions. As a condition precedent to the NYMEX Transaction, the parties to the NYMEX Transaction must have engaged in a transaction on the other regulated futures exchange pursuant to the procedures of such other exchange that resulted in liquidating an existing position at such other exchange.

(3) Quantity. The quantity covered by the Underlying Transaction must be substantially equivalent to the quantity covered by the NYMEX Transaction. The contract specifications for the futures contract traded in the Underlying Transaction must be substantially equivalent, as determined by the Exchange, to the contract specifications for the eligible futures contract comprising the NYMEX Transaction. In addition, the minimum transaction size for the NYMEX Transaction is 50 contracts.

(4) Report to Clearing Member. For each party to the NYMEX Transaction, that party, within two hours of its receipt of trade confirmation on the Underlying Transaction(s) at the other exchange, must submit to the NYMEX Clearing Member(s) carrying its account the details of the NYMEX Transaction. Upon receipt of such information, the NYMEX Clearing Member(s) must prepare a contemporaneous record of the information that also indicates the time of receipt of such information.

(5) Eligible Contracts and Transactions. EFF transactions may be effected only for transactions in the Exchange's Brent Crude Oil futures contract.

(6) Eligible Participants. This trading procedure is available only to a person or entity qualifying as an ''eligible contract participant'' as that term is defined by the Commodity Exchange Act and CFTC rules.

(7) Floor Reporting Requirements and Deadlines. A report of each EFF transaction shall be given, and notice thereof shall be posted on the Floor of the Exchange. The report of an EFF transaction shall be given on the Floor of the Exchange during the hours of futures trading on the day that the transaction thereto was made, or if such agreement was made after the close of trading, then on the next business day.

(8) EFF transactions shall be cleared through the Exchange in accordance with normal procedures, shall be clearly identified and marked in the manner provided by the Exchange, and shall be recorded by the Exchange and by the Clearing Members involved.

(9) EFF transactions are permitted until the close of trading on the last trading day in the expiring contract month of the Exchange's NYMEX Brent Crude Oil futures contract.

(B) Clearing Member Reporting Requirements. A report of such EFF transaction shall be submitted to the Exchange by each Clearing Member representing the buyer and/or seller. Such report shall identify the EFF as made under this Rule and shall contain the following information: a statement that the EFF has resulted or will result in a change of positions or other such change, the kind and quantity of the futures, the price at which the futures transaction is to be cleared, the names of the Clearing Members and customers and such other information as the Exchange may require. Such report (form) shall be submitted to the Compliance Department by 12:00 noon, no later than two (2) Exchange business days after the day of posting the EFF on the Floor of the Exchange.

(C) Exchange Request for Information. Each buyer and seller must satisfy the Exchange, at its request, that the transaction is a legitimate EFF transaction. Upon the request of the Exchange, all documentary evidence relating to the EFF, including documentation of the Underlying Transaction on the other futures exchange, shall be obtained by the Clearing Members from the buyer or seller and made available by the Clearing Members for examination by the Exchange.

(D) Omnibus Accounts and Foreign Brokers. All omnibus accounts and foreign brokers shall submit a signed EFF reporting agreement in the form prescribed by the Exchange to the Exchange's Compliance Department. Such Agreement shall provide that any omnibus account or foreign broker identified by a Clearing Member (or another omnibus account or foreign broker) as the buyer or seller of an EFF pursuant to this Rule 6.21D, shall supply the name of its customer and such other information as the Exchange may require. Such information shall be submitted to the Exchange's Compliance Department by 12:00 noon no later than two (2) Exchange business days after the day of posting the EFF on the Floor of the Exchange. Failure by an omnibus account or foreign broker to submit either the agreement or the particular EFF information to the Exchange may result in a hearing by the Business Conduct Committee to limit, condition or deny access of such omnibus account or foreign broker to the market.

IV. Request for Comment

The Commission requests comment from interested persons concerning any aspect of NYMEX's EFF proposal. The Commission would be particularly interested in comments responding to the following questions:

(1) NYMEX contends that its proposal would facilitate the transfer of positions from one futures market to another and, thus, would promote competition among markets that ultimately would benefit participants in both markets. Would such a procedure, in fact increase competition between the markets?

(2) Would a non-competitive trading procedure at one exchange designed to encourage the transfer of positions from another exchange affect the integrity of price discovery at either or both markets?

(3) Under NYMEX's proposal, the condition precedent liquidating transaction(s) at another exchange and the subsequent NYMEX transaction would not be a single, integrated transaction, as is the case with EFPs. Would this feature of EFFs create any incentives to engage in improper practices at either NYMEX or the other exchange?

(4) NYMEX analogizes its proposal to block trading rules that have been implemented at other futures exchanges. NYMEX represents that the proposed EFF minimum transaction

[1] Rule 6.21D(3) provides that NYMEX shall determine whether a contract at another exchange is substantially equivalent. NYMEX has indicated to the Commission that, at this time, the International Petroleum Exchange's (''IPE'') Brent futures contract appears to be the only contract that would meet this standard. The NYMEX EFF procedure would be implemented without any special arrangement with IPE or any corresponding IPE rule change.

size of 50 contracts exceeds in size more than 90% of the Brent futures contract transactions executed in recent months at NYMEX. The Commission has utilized the 90% minimum threshold test in evaluating previously approved block trading proposals. In applying this standard, however, the Commission has traditionally looked at trading activity not only at the exchange that proposed block trading procedures, but also at trading in related cash and futures markets. So, for example, in the case of the Cantor Exchange's proposal to establish minimum thresholds for block trades in Treasury securities futures, the Commission evaluated the thresholds based on both the light trading activity at Cantor and the much heavier activity in Treasury securities futures at the Chicago Board of Trade, as well as transactions in the cash market.

(a) How should the Commission evaluate the minimum threshold for Brent EFF transactions?

(b) Should the Commission also consider the size of transactions executed in Brent futures contract at another exchange?

(c) How should that information best be obtained if the other exchange is not subject to the Commission's jurisdiction?

(d) If volume and liquidity in the NYMEX Brent futures contract increase, should the minimum threshold be modified?

V. Miscellaneous

Other materials submitted by the NYMEX in support of the request for approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (2001)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Issued in Washington, DC on March 7, 2002.

John C. Lawton,

Acting Director.

[FR Doc. 02–6051 Filed 3–12–02; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0215]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–15 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: March 7, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

25 FEB 2002
In reply refer to:
I-02/000984

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-15, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to India for defense articles and services estimated to cost $146 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-15

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: India**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$123 million
Other	$ 23 million
TOTAL	$146 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Eight AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar sets with related equipment, 26 AN/VRC-90E SINCGAR radios, generators, trailers, communications equipment, Global Position Systems, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, U.S. Government Quality Assurance Team (QAT), spare and repair parts, support equipment, publications and other related elements of program support.**

(iv) **Military Department: Army (UMJ)**

(v) **Prior Related Cases, if any: None**

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: Yes. Consistent with FAR and DFARS.**

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.**

(viii) **Date Report Delivered to Congress: 25 FEB 2002**

*** as defined in Section 47(6) of the Arms Export Control Act.**

POLICY JUSTIFICATION

India – AN/TPQ-37(V)3 FIREFINDER Counter-Battery Artillery Radar Sets

The Government of India has requested a possible sale of eight AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar sets with related equipment, 26 AN/VRC-90E SINCGAR radios, generators, trailers, communications equipment, Global Position Systems, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, U.S. Government Quality Assurance Team (QAT), spare and repair parts, support equipment, publications and other related elements of program support. The estimated cost is $146 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a country which has been and continues to be an important force for political stability and economic progress in South Asia.

These radar sets will provide an increase in counter-battery artillery capability consistent with India's force planning and defense strategy. India needs these SINCGARS radio systems to fulfill their strategic commitments for complete communicative interoperability and standardization of equipment and to be able to communicate with their various vehicles and U.S. forces. India will have no difficulty absorbing these radar sets into their armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be the Raytheon Hughes Aircraft Corporation of El Segundo, California and ITT Company of Fort Wayne, Indiana. There are no offset agreements proposed in connection with this potential sale.

When the radar sets arrive, implementation of this proposed sale will require three U.S. contractor representatives for one month. Up to eight U.S. Government Quality Assurance representatives will be required for one week following delivery of the radar sets. The specific requirements for the support will be established during program definition between representatives of the United States Government and India.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-15

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. The major components of the AN/TPQ-37(V)3 FIREFINDER counter-battery artillery radar set containing sensitive technology are:

a. Operations Control Group/Signal Processor Unit and Software - contains critical technologies related to the computer and radar control card and signal processing capabilities. The signal processing algorithms are unclassified..

b. Antenna-Transceiver Group - contains critical technologies in the Antenna Array Group, the system receiver, transmitter/exciter, and waveguide components.

2. The AN/TPQ-37(V)3 system is moderately susceptible to the development of countermeasures. A potential adversary could develop electronic warfare and jamming countermeasures if the system hardware and related critical technologies were acquired.

3. A determination has been made that India can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02–5971 Filed 3–12–02; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Science Board (DSB) Task Force on Precision Compellence will meet in closed session on April 30-May 1, 2002; May 29–30, 2002; June 18–19, 2002; and July 23–24, 2002, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will conduct a comprehensive study of the ends and means of precision compellence, of the nuanced use of force, in concert with coalition partners, to achieve political, economic and moral change in countries affecting U.S. interests.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force on Precision Compellence will survey the focused use of force so as to alter regimes' behavior, and in ways that are most promising to isolate regimes of concern from their populations and supporting organs and bureaucracies. This will include the means to acquire a well-founded conceptual delineation of targets critically important to the diplomatic, economic and military dominance of the regime. A regime's values and vulnerabilities being highly idiosyncratic, the Task Force shall select some concrete case studies for exploration in depth. These might include current rogue states, terrorist organizations, and future potential adversaries. Of particular relevance are the cleavage planes, where the discriminating use of force might divide the interests of different strata, political, ethnic or religious groups, or even personal rivalries.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: March 7, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–5969 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee Meetings

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Science Board (DSB) Task Force on Aircraft Carriers of the Future will meet in closed session on April 8–9, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA 22201. The Task Force will assess how aircraft carriers should serve the nation's defense needs in the 21st Century and beyond.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will examine the expected naval environment and the role of the Navy for the next 20–50 years; the role of the carrier and the carrier battle group in a joint environment in which technology has progressed to an appropriate pace for both the U.S. and its potential adversaries; the effects of Unmanned Combat Air Vehicles on the role of the carrier and the carrier battle group; how the carrier should evolve or be transformed to best meet mission requirements in a joint environment; how the role of the aircraft carrier might change and the characteristics that might affect the change; and the technology improvement barriers that need to be overcome to significantly improve the ability of the carrier to execute its missions.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meeting will be closed to the public.

Dated: March 7, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 02–5970 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The Aerospace Command and Control will meet Langley Air Force Base. The purpose of this meeting is to allow the Advisory Group to learn and provide feedback on specific issues relating to the AC2ISRC. The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (10) and (4) thereof.

DATES: 13–14 March, 2002.

ADDRESSES: Langley Air Force Base, VA.

FOR FURTHER INFORMATION CONTACT: HQ USAF Scientific Advisory Board Secretariat, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–5941 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The Predictive Battlespace Awareness to Improve Military Effectiveness Study will meet at Ramstein Air Force Base on 18–19 March 2002, Spangdahlem Air Force Base on 20 March 2002, and Lakenheath Air Force Base on 21–22 March 2002. The purpose of this meeting is to allow the Scientific Advisory Board and study leadership of this CSAF-directed study to continue the ''data gathering'' phase of the ongoing study efforts. The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (10) and (4) thereof.

DATES: 18–22 March, 2002.

ADDRESSES: Ramstein AFB, Germany; Spangdahlem AFB, Germany; and Lakenheath AFB, United Kingdom.

FOR FURTHER INFORMATION CONTACT: HQ USAF Scientific Advisory Board Secretariat, (703) 697–8404.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–5942 Filed 3–12–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of closed meeting.

SUMMARY: The 2002 Spring General Board Meeting in support of the HQ USAF Scientific Advisory Board will meet at Hickam Air Force Base and the Hale Koa Hotel in Hawaii. The purpose of this meeting is to hear PACAF and PACOM-specific briefings and to complement the ''data gathering'' phase of ongoing study efforts. The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (10) and (4) thereof.

DATES: 15–19 April, 2002.

ADDRESSES: Hickam AFB, HI; and the Hale Koa Hotel, HI.

FOR FURTHER INFORMATION CONTACT: HQ USAF Scientific Advisory Board Secretariat, (703) 697–8404.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–5943 Filed 3–11–02; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the general availability of exclusive or partially exclusive licenses under the following pending patent. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing ability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; and (6) small business status.

Patent application Serial Number 10/060605 entitled ''Rapid and Non-Invasive Method to Evaluate Immunization Status of a Patient'' filed January 30, 2002. The present invention relates to an assay method and kit for detecting the presence of a pre-designated, target IgG antibody in a sample selected from one or more patient bodily fluids. The method comprises the following steps: (a) Contacting the sample of one or more patient bodily fluids with a membrane-bound recombinant protective antigen to bind to the target IgG antibody in the sample; (b) previously, simultaneously or subsequently to step a., binding the protective antigen (PA) with a conjugated label producing a detectable signal; and (c) detecting the signal whereby the presence of the target IgG antibody is determined in the sample by the intensity of the signal. The method can further comprise the step of evaluating immunization status of the patient from whom the sample came by comparing the signal or lack thereof with immunizations previously received by the patient. In a preferred embodiment, the recombinant protective antigen (PA) specifically binds to anthrax protective antigen-specific IgG antibodies. Preferably, the immunoassay of the present invention comprises a lateral-flow assay comprising a membrane, a conjugated label pad, and a recombinant protective antigen (PA) bound to the membrane.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice.

ADDRESSES: Submit applications to the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428 or e-mail at *schlagelc@nmrc.navy.mil.*

Dated: March 6, 2002.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–6019 Filed 3–12–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the general availability of exclusive or partially exclusive licenses under the following pending patent. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing ability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; and (6) small business status.

Patent application Serial Number 10/061036 entitled ''Rapid Lateral Flow Assay for Determining Exposure to Mycobacterium Tuberculosis and Other Mycobacteria'' filed January 30, 2002. The present invention relates to an assay method and kit for detecting the presence of at least one pre-designated, target antibody to a mycobacterium in a sample selected from one or more patient bodily fluids. The method comprises the following steps: (a) Contacting the sample of one or more patient bodily fluids with at least one mycobacterium antigen on a lateral-flow assay membrane to bind to the target antibody in the sample; (b) previously, simultaneously or subsequently to step a., binding at least one mycobacterium antigen with a conjugated label producing a detectable signal; and (c) detecting the signal whereby the presence of the target antibody is determined in the sample by the intensity or presence of the signal. The method can further comprise the step of evaluating immunization status of the patient from whom the sample came by comparing the signal or lack thereof with immunizations previously received by the patient and in comparison to a known standard control. In a preferred embodiment, the mycobacterium antigen specifically binds to Mycobacterium tuberculosis specific antibodies. Preferably, the immunoassay of the present invention comprises a lateral-flow assay comprising a membrane, a conjugated label pad, and at least one mycobacterium antigen bound to the membrane. In a preferred embodiment, at least one mycobacterium antigen is selected from the group consisting of 38kDa and 16kDa antigens.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice.

ADDRESSES: Submit applications to the Office of Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Schlagel, Director, Office of

Technology Transfer, Naval Medical Research Center, 503 Robert Grant Ave., Silver Spring, MD 20910–7500, telephone (301) 319–7428 or e-mail at *schlagelc@nmrc.navy.mil.*

Dated: March 6, 2002.

T.J. Welsh,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–6020 Filed 3–12–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 13, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 8, 2002.

John Tressler,

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

Office of Educational Research and Improvement

Type of Review: New.

Title: Integrated Postsecondary Education Data System (IPEDS), Minimum Data Set (MDS).

Frequency: One-time.

Affected Public: Businesses or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden: Responses: 9,924. Burden Hours: 2,232.

Abstract: IPEDS is a system of surveys designed to collect basic data from postsecondary institutions in the United States. To date, the main focus of IPEDS has been Title IV institutions, but institutions that do not participate in these federal student financial aid programs are becoming an increasingly important source of educational opportunity in the country. However, the scope and nature of this group of non-Title IV institutions is not well known. In order to arrive at a statistical estimate of the number of non-Title IV institutions nationwide, IPEDS proposes to conduct an area search to identify these institutions, and to collect a Minimum Data Set of items from them. These data will be made publicly available through a prototype Web-based data access system.

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

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

[FR Doc. 02–6050 Filed 3–12–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Impact Aid

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice extending the application deadline date for Impact Aid fiscal year 2003 section 8002 and 8003 grants.

SUMMARY: The Secretary extends the deadline date for the submission of applications for Impact Aid fiscal year 2003 section 8002 and 8003 grants to April 12, 2002. Impact Aid regulations at 34 CFR 222.3 specify that the annual application deadline is January 31. Due to changes in the applications that were necessitated by legislative amendments in the fiscal year 2001 reauthorization of the program and the subsequent revision, production, and distribution of the application packages, the Secretary extends the deadline for the potential applicants under sections 8002 and 8003 for Impact Aid assistance for fiscal year 2003. Section 8003 applicants must still use a survey date for their student counts that is at least three days after the start of the 2001–2002 school year and before the extended deadline of April 12, 2002.

DATES: *Effective Date:* This notice extending the application deadline date to April 12, 2002, for Impact Aid fiscal year 2003 section 8002 and 8003 grants is effective March 13, 2002. The deadline date for the transmittal of comments on those applications by State Educational Agencies is April 26, 2002. The Secretary will also accept and approve for payment any otherwise approvable application that is received on or before the 60th calendar day after April 12, 2002, which is June 11, 2002, or the 60th day after the Secretary provides written notice to a local educational agency. However, any applicant meeting the conditions of the preceding sentence will have its payment reduced by 10 percent of the amount it would have received had its application been filed by April 12, 2002.

For Applications or Information Contact: Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–6244. Telephone: (202) 260–3858.

If you use a telecommunications device for the deaf (TDD) you may call

the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape or computer diskett) on request to the Impact Aid Program under *For applications or information* contact. *Waiver of Rulemaking.* Section 222.3 of CFR Title 34, which establishes the annual January 31 Impact Aid application deadline, is currently in effect. However, due to changes in the applications that were necessitated by legislative amendments in the 2001 reauthorization of the program and the related revision, production, and distribution of the application packages, the Secretary extends the deadline for the potential applicants under sections 8002 and 8003. Because this amendment makes a procedural change for this year only as a result of unique circumstances, proposed rulemaking is not required under 5 U.S.C. 553(b)(A). In addition, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on this one-time suspension of the regulatory deadline date is impracticable, unnecessary, and contrary to the public interest.

Electronic Access to this Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1–888–293–6498; or in the Washington DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official version of the **Federal Register** and the Code of Federal Regulations is available on GPO access at:*www.access.gpo.gov/nara/index.html*

(Catalog of Federal Domestic Assistance Number 84.041)

Program Authority: 20 U.S.C. 7705.

Dated: March 8, 2002.

Rod Paige,

Secretary of Education.

[FR Doc. 02–6074 Filed 3–12–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration; Record of Decision of the Final Site-Wide Environmental Impact Statement for the Oak Ridge Y–12 National Security Complex

AGENCY: Department of Energy, National Nuclear Security Administration.

ACTION: Record of decision.

SUMMARY: The U.S. Department of Energy (DOE), is issuing this Record of Decision on the operation of the Y–12 National Security Complex (Y–12) in the State of Tennessee. This Record of Decision is based on the information and analysis contained in the Site-Wide Environmental Impact Statement (EIS) for the Y–12 National Security Complex (DOE/EIS–0309), and other factors, such as the mission responsibilities of the DOE. DOE has decided to implement the Preferred Alternative, which is Alternative 4 (No Action-Planning Basis Operations Plus Construct and Operate a Highly Enriched Uranium (HEU) Materials Facility and Special Materials Complex). This alternative includes the continued operations at Y–12 to meet the NNSA mission requirements and other DOE program activities, together with the construction and operation of two new facilities: HEU Storage Facility and the Special Materials Complex.

FOR FURTHER INFORMATION CONTACT: For further information on the Site-Wide EIS or Record of Decision, or to receive a copy of the Site-Wide EIS, contact: Gary Hartman, Document Manager, U.S. Department of Energy, Oak Ridge Operations Office, Post Office Box 2001, Oak Ridge, Tennessee 37831, (865) 576–0273. For information on the DOE National Environmental Policy Act (NEPA) process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (205) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

That National Nuclear Security Administration (NNSA), a separately organized agency within the DOE, prepared this Record of Decision pursuant to the regulations of the Council on Environmental Quality for implementing NEPA (40 CFR parts 1500–1508) and DOE's NEPA Implementing Procedures (10 CFR part 1021). This Record of Decision is based, in part, on DOE's Site-Wide EIS for the Oak Ridge Y–12 National Security Complex (DOE/EIS–0309).

The Y–12 National Security Complex is one of three primary installations on the Oak Ridge Reservation (ORR) in Oak Ridge, Tennessee. The ORR is in eastern Tennessee, approximately 40 km (25 miles) west of Knoxville. The Y–12 area on the ORR covers about 2,197 ha (5,428 acres). The main area of Y–12 is largely developed and encompasses 328 ha (811 acres) with approximately 580 buildings. The land surrounding the main area of Y–12 is used primarily for a buffer area as well as for environmental restoration and waste management activities. Approximately 8,900 workers, including DOE employees and contractors, are at Y–12.

As one of the DOE major production facilities, Y–12 has been the primary site for enriched uranium processing and storage, and one of the primary manufacturing facilities for maintaining the U.S. nuclear weapons stockpile. Y–12 also conducts, and/or supports, nondefense-related mission activities including environmental monitoring, remediation, and decontamination and decommissioning activities of the DOE Environmental Management Program; management of waste materials from past and current operations; research activities operated by other federal agencies through the Work-for-Others Program and the National Prototyping Center; and the transfer of highly specialized technologies to support the capabilities of the U.S. industrial base.

The Site-Wide EIS considers the environmental impacts of ongoing and proposed activities at Y–12. DOE expects to continue to support new projects and facilities for Y–12 (or consider Y–12 as an alternative site for such facilities or activities). Such new proposals will be considered in programmatic or project-specific NEPA reviews, as appropriate, as they become ripe for analysis. Subsequent NEPA reviews for projects or activities at Y–12 will make reference to, and be tiered from, the Site-Wide EIS.

Alternatives Considered

DOE analyzed two No Action alternatives and three ''action'' alternatives in the Y–12 Site-Wide EIS. The first No Action alternative (Alternative 1A, No Action-Status Quo) is basically a continuation of Y–12 activities (based on 1999 operations), but does not include some Defense Program activities that had not resumed following a 1994 stand-down at Y–12 for safety reasons. The second No Action alternative (Alternative 1B, No Action-Planning Basis Operations) reflects an increase in activities at Y–12 to account for the resumption of all required Defense Program missions. The

No Action–Status Quo Alternative (Alternative 1A) is not considered reasonable for future Y–12 operations because it does not meet Y–12 mission needs.

The ''action'' alternatives are as follows: Alternative 2 (No Action-Planning Basis Operations Alternative Plus HEU Storage Mission Alternative); Alternative 3 (No Action-Planning Basis Operations Alternative Plus Special Materials Mission Alternative); and Alternative 4 (No Action–Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and Special Materials Complex). For Alternative 2, DOE analyzed two sub-alternatives: Alternative 2A would construct and operate a new HEU Materials Facility and Alternative 2B would upgrade and expand Building 9215 for HEU storage. All reasonable alternatives are described in greater detail below.

Alternative 1B (No Action–Planning Basis Operations)

Under Alternative 1B (No Action—Planning Basis Operations Alternative), Y–12 would continue historic nuclear weapons program missions. This alternative reflects the implementation of the DOE decision in the Stockpile Stewardship and Management Programmatic Environmental Impact Statement Record of Decision (61 FR 68014, December 19, 1996) to maintain the Defense Programs national security mission at Y–12, but to downsize Y–12 consistent with reduced requirements. This includes: (1) Defense Programs capabilities to produce and assemble uranium and lithium weapons components, to recover uranium and lithium materials from the component fabrication process and disassembled weapons, to produce secondaries, cases, and related nonnuclear weapons components, to process and store enriched uranium, and to supply enriched uranium, lithium, and other products; (2) Environmental Management activities at Y–12 related to environmental monitoring, remediation, deactivation and decontamination, and management of waste materials from past and current operations; (3) Office of Science activities operated by Oak Ridge National Laboratory (ORNL); and (4) Defense Programs support of other federal agencies through the Work-for-Others Program, the National Prototype Center, and the transfer of highly specialized technologies to support the capabilities of the U.S. industrial base. The No Action–Planning Basis Operations Alternative also includes activities to store surplus enriched uranium pending disposition in accordance with the Storage and Disposition of Weapons–Usable Fission Materials Programmatic Environmental Impact Statement Record of Decision (62 FR 3014, January 14, 1997).

Alternative 2A (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility)

This alternative includes the No Action—Planning Basis Operations Alternative plus the construction and operation of a new HEU Materials Facility. The HEU Materials Facility would be a single-story concrete structure. It would enable Y–12 to safely and securely store: HEU Categories I and II, including canned subassemblies that contain HEU; and cans containing HEU in metal and oxide forms that are part of the strategic reserve or excess inventories. The HEU Materials Facility would replace the use of existing storage vaults and facilities located within existing Y–12 buildings.

Options for locating the new HEU Materials Facility include two candidate site locations: Site A (located on the west end of the Y–12 site in the West Portal Parking Lot area) and Site B (located on the west end of the Y–12 site in the area of the Y–12 Scrap Metal Yard south of Building 9114, west of the western-most portion of the Y–12 Perimeter Intrusion Detection and Assessment System (PIDAS) and north of Portal 33 and Second Street).

Alternative 2B (No Action—Planning Basis Operations Alternative Plus Upgrade Expansion of Building 9215)

This alternative is similar to Alternative 2A, except that the storage of HEU would be accommodated through the expansion of the existing Building 9215. The building would be expanded by approximately 160 by 300 feet, with two floors, and would be sized to handle all of the long-term storage requirements anticipated for Y–12 similar to those described for the HEU Materials Facility. The proposed site for construction of the Building 9215 expansion is a parcel of land approximately two acres in size located west of Building 9212 and 9998 and north of Building 9215.

Alternative 3 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New Special Materials Complex)

This alternative includes the No Action—Planning Basis Operations Alternative plus the construction and operation of a Special Materials Complex. The Special Materials Complex would house a number of separate processing operations and the support facilities to serve each. Included in the Special Materials Complex would be: (1) Beryllium production operations at Y–12; (2) a facility for purification of special materials; (3) a manufacturing/warehouse facility to produce special materials and provide for storage of new materials and parts; (4) an isostatic press for forming blanks for machining; and (5) a core support structure to house common support functions for the complex.

Options for locating the new Special Materials Complex include three candidate sites: Site 1 is approximately 20 acres and is located northwest of Building 9114 and on the north side of Bear Creek Road. Site 2 is approximately 10 acres and is located at the Y–12 Scrap Metal Yard area southeast of Building 9114 and east of the western-most portion of the Y–12 PIDAS; Site 3 is approximately 10 acres and is located on the west end of the Y–12 site in the area of the Y–12 Scrap Metal yard, south of Building 9114, west of the western-most portion of the Y–12 PIDAS and north of Portal 33 and Second Street.

Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and Special Materials Complex)

This alternative includes the No Action—Planning Basis Operations Alternative plus the construction and operations of a new HEU Materials Facility at one of two candidate sites (Site A or Site B described above under Alternative 2A), and the construction and operation of a Special Materials Complex at one of three candidate sites (Site 1, 2, or 3 described above under Alternative 3).

Preferred Alternative

DOE's Preferred Alternative is Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and a Special Materials Complex). The Preferred Alternative includes the continued maintenance of existing Defense Programs capabilities and other DOE programs, continued support/infrastructure activities, and implementation of new facility construction projects for the Y–12 HEU Storage Mission and Special Materials Mission (*i.e.,* the HEU Materials Facility, and the Special Materials Complex). The preferred site for the HEU Materials Facility is Site A.

Environmentally Preferable Alternative

Ordinarily, the environmentally preferable alternative is the alternative that causes the least damage to the biological and physical environment; it is also the alternative that best protects, preserves, and enhances historic, cultural, and natural resources. After considering impacts to each resource area by alternative, DOE has identified Alternative 1A (No Action—Status Quo Alternative) as having the fewest direct impacts to the biological and physical environment because operations would not resume to full levels and fewer new construction projects would be implemented. Although DOE does not consider Alternative 1A to be reasonable for future Y–12 operations because it does not meet Y–12 mission needs, it is the environmentally preferable alternative. With respect to the ''reasonable'' alternatives, the analyses indicate that there would be very little difference in the environmental impacts among the alternatives analyzed and also that any impacts would be small. Of the reasonable alternatives, Alternative 1B (No Action—Planning Basis Operations) would have the fewest impacts, and thus, is environmentally preferable.

Environmental Impacts of Alternatives

DOE weighed environmental impacts as one factor in its decision-making. DOE analyzed existing environmental impacts and the potential impacts that might occur for each reasonable alternative, including the irreversible or irretrievable commitments of resources.

Land Use

There is a small difference in the impacts on land use between the No Action—Planning Basis Operations Alternative and Alternatives 2, 3, and 4, which include the HEU Storage Mission and Special Materials Mission projects. Differences among the alternatives are primarily associated with facility construction. Potential land disturbance would range from 35–51 ha (No Action—Planning Basis) to 45–64 ha (Preferred Alternative). The permanent land disturbance would range from 18–29 ha (No Action—Planning Basis Operations) to 26–37 ha (Preferred Alternative). No land use change would result from implementing any of the alternatives, except for Alternatives 3 and 4 if the Special Materials Complex is constructed at Site 1.

Transportation

There would be a small increase in vehicle traffic on Oak Ridge area roads due to construction activities under each of the Site-Wide EIS alternatives. The construction traffic increase during peak construction periods would range from 85 vehicles per day (No Action—Planning Basis Operations) to 420 vehicles per day (Preferred Alternative). The additional traffic would have a negligible impact on Y–12 site traffic and level-of-service on area roads.

The overall maximum lifetime fatalities from Y–12 annual shipments over the next ten years of all types of materials and waste due to Y–12 operations were estimated to be 2.8 fatalities under each of the Site-Wide EIS alternatives. Of these estimates, 1.8 fatalities would be due to traffic accidents; 0.9 fatalities would be due to incident-free transport of radiological materials and waste; and 0.006 fatalities would be due to vehicle emissions. There is little variation in impacts between alternatives because effects are small, and any projected increased transport of radioactive materials is not enough to make a significant change in the small effects.

Socioeconomics

Y–12 employment changes would be very small (less than 100) under all the alternatives because operations, including operations associated with new facilities for the HEU Storage Mission and the Special Materials mission, would use existing workers. The employment changes would affect regional population, employment, personal income, and other socioeconomic measures in the region by less than one percent. Accordingly, no adverse socioeconomic impacts would be expected to result from any of the alternatives.

Geology and Soils

No impacts to geology or geological conditions are expected with any of the alternatives. Potential impacts on soil due to disturbance and/or erosion are related to the area of disturbance during construction. The smallest potential increase in soil erosion would result from the No Action—Planning Basis Operations Alternative, and the greatest potential would be with the Preferred Alternative. Standard construction soil erosion control measures would be used to minimize erosion and impacts. New facility site design and layout would address storm water runoff control. No significant impacts on soils are expected.

Soil contamination from past Y–12 operations and activities is being addressed through the Office of Environmental Management's Environmental Restoration Projects at Y–12. Environmental restoration activities or actions would not change the alternatives in the Site-Wide EIS and would continue to occur at the same rate for all the alternatives.

Water Resources

Water demand for Y–12 Site-Wide EIS alternatives ranges from 20.2 million liters per day of treated water (No Action—Planning Basis Operations) to 20.43 million liters per day of treated water (Preferred Alternative). The total treated water demand of ORR (including Y–12, ORNL, and East Tennessee Technology Park) is approximately 22,290 million liters per year, which is well within the ORR water supply system capacity of 44,347 million liters per year. All water for operations at ORR, including Y–12, is supplied by the Clinch River. Water usage among Y–12 alternatives does not vary appreciably.

Groundwater contamination attributed to Y–12 operations and other waste disposal operations is present in Bear Creek Valley, Upper East Fork Poplar Creek, and the Chestnut Ridge area of Y–12. The contamination is due primarily to past Y–12 operations and other waste management practices rather than current operations. Investigations and cleanup at locations with groundwater contamination would continue at the same rate under any of the Site-Wide EIS alternatives.

Biological Resources

Construction projects under all the alternatives would impact terrestrial resources due to the loss of small amounts of grassland, old-field habitat, and mixed hardwood/conifer forest habitat. The No Action—Planning Basis Operations Alternative would have the least impact, based on area disturbed (35–51 ha), and Alternative 4 (Preferred Alternative) would have the largest impact (45–64 ha). The variation among alternatives is not significant. The potential habitat loss is small compared to available similar habitat in the immediate Y–12 area. With appropriate design and construction best management practices, no significant adverse impacts to biological resources are projected under any of the Site-Wide EIS alternatives.

Potential impact to wetlands (both direct and indirect) would be least with the No Action—Planning Basis Operations Alternative (0.4ha) and greatest with Alternative 4 (1.2 ha). With appropriate site layout design and construction best management practices, significant adverse impacts would not be expected. In addition, no adverse impacts to aquatic resources are expected from any of the alternatives.

Potential impact to Tennessee-listed endangered and threatened plant

species may occur under the No Action—Planning Basis Operations Alternative due to construction of the Environmental Management Waste Management Facility, a separate *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA) project activity at Y–12. Prior to construction, DOE will survey the disposal facility construction site for the presence of listed species and consult with the US Fish and Wildlife Service and Tennessee Wildlife Resource Agency, as appropriate. No Federal or state-listed threatened or endangered species would be impacted by proposed new construction projects for the HEU Storage Mission or Special Materials Mission under the other Y–12 Site-Wide EIS alternatives.

Air Quality

Non-radioactive hazardous air pollutants would not be expected to significantly degrade air quality or affect human health under any of the alternatives. The alternatives do not result in large differences in chemical usage or steam from the Y–12 Steam Plant (the major source of criteria pollutants). No net increase in Y–12 building floor space is anticipated under the Preferred Alternative because any added new floor space is expected to be offset by other downsizing activities at Y–12 and the transfer of mission activities to the new facilities. Air emissions are, therefore, not expected to change by a magnitude that would trigger more stringent regulatory requirements or warrant additional continuous monitoring.

The radiological dose to the maximally exposed individual due to the annual radiological air emissions from Y–12 facilities during normal operations under each of the alternatives would be lower than the National Emissions Standards for Hazardous Air Pollutants limit of 10 millirem per year. The estimated radiological dose to a maximally exposed individual would be 4.5 millirem per year for each of the alternatives.

The calculated collective dose to the population within 80 kilometers (50-miles) of Y–12 for each alternative from the annual radiological air emissions due to Y–12 operations would be 33.7 person-rem per year. These doses were considered in the human health impact analysis.

Visual Resources

There would be no adverse impacts to visual resources that change the overall appearance of the existing landscape, obscure scenic views, or alter the off-site visibility of Y–12 structures under any of the alternatives.

Noise

There would be no change in the on-site noise levels (50 to 70 dBA) or off-site noise levels (35 to 50 dBA in rural locations and 53 to 62 dBA in city of Oak Ridge) due to normal Y–12 operations under any of the alternatives.

Site Infrastructure

Electrical consumption would range from 566,000 megawatt hours per year (No Action—Planning Basis Operations Alternative) to 602,000 megawatt hours per year (Preferred Alternative). There is little difference in projected water usage among the alternatives, approximately 5.3 million additional gallons per day. Annual projected utility demands for all alternatives would be well within system capabilities. Other infrastructure-related factors, including maintaining roads, communications, steam, natural gas, and facility decommissioning, would be similar for each alternative and would not pose adverse impacts.

Cultural Resources

No impact to historic and cultural resources is expected under the No Action-Planning Basis Operations Alternative. Alternatives 2, 3, and 4 would have a small potential to encounter buried cultural resources due to utility relocation associated with potential construction projects identified in the alternatives. Alternative 4 (Preferred Alternative) would have the largest potential to impact buried cultural resources, since it includes construction of new facilities for both the HEU Materials Storage Mission and the Special Materials Mission. Any potential adverse impacts are anticipated to be minor and able to be mitigated.

No historic properties would be affected by the No Action—Planning Basis Operations Alternative or alternatives 2A, 3, or 4. Alternative 2B includes the expansion of Building 9215 and would be a major alteration of a historic property. Consultation with the Tennessee Historical Commission would be conducted in accordance with procedures in the Y–12 Cultural Resource Management Plan to resolve any adverse effect.

Waste Management

The projected annual waste generation from Y–12 normal operations would not vary appreciably across alternatives from the No Action—Planning Basis Operations Alternative volumes. Liquid and solid low-level waste would increase the greatest under Alternative 4 (Preferred Alternative) by 757 liters (200 gallons) per year and 120 cubic meters (157 cubic yards) per year, respectively. There would be no additional mixed low-level waste (solid or liquid) under Alternatives 2, 3, or 4. Liquid and solid hazardous waste would increase the most under Alternative 4 (Preferred Alternative), by 14,998 liters (3,962 gallons) per year and 37 cubic meters (48 cubic yards) per year, respectively. Treatment and disposal of these wastes at on-site locations is projected to constitute a small portion of the existing capacity for treatment and disposal.

Worker and Public Health

During construction, yearly non-fatal occupational injuries/illnesses at Y–12 could increase by an estimated maximum of 15 above the No Action—Planning Basis Operations Alternative. During operations, the estimated total number of yearly non-fatal occupational injuries/illnesses for the Y–12 workforce would be the same (424) for all the alternatives.

The annual average dose to Y–12 workers of 11.6 millirem would be the same for all the alternatives and would result in an estimated 0.024 latent cancer fatalities per year. Under alternatives 2 and 4, the number of latent cancer fatalities expected from HEU storage operations workers would decrease due to a reduction in the workforce, but there would be no change in average worker dose compared to the No Action—Planning Basis Operations Alternative. There would be a one-time transfer of stored HEU to the new HEU storage facility under Alternatives 2 and 4. This transfer would result in a total worker dose of 150 person-millirem and 0.002 latent cancer fatalities. Because there are no radiological impacts associated with the Special Materials Complex, the radiological impacts associated with Alternative 3 are the same as the No Action—Planning Basis Operations Alternative. Under all of the Site-Wide EIS alternatives, the dose to the maximally exposed individual would be 4.5 millirem per year and result in an estimated 2.65×10^{-6} latent cancer fatalities per year of exposure. The 80 kilometer (50 mile) population dose under all of the alternatives would be 33.7 person-rem per year, and the corresponding estimated number of latent cancer fatalities would be 1.69×10^{-5} per year. Thus, no significant adverse health effects would be expected from any of the alternatives for Y–12.

Environmental Justice

Based on the analysis of all resource areas and demographic information on low-income and minority populations, DOE does not expect any environmental justice related issues (i.e., projected impacts are not disproportionately high and adverse for minority or low-income populations in the area) from the continued operation of Y–12 under any of the alternatives.

Facility Accidents

The accident analyses considered a variety of initiators (including natural and manmade phenomena), the range of activities at Y–12, and the range of radioactive and other hazardous materials at Y–12. The operational accident analysis included the following scenarios that would result in multiple source releases of hazardous materials: beyond evaluation-basis earthquake accident; criticality accident; fire involving radioactive materials; fire involving chemicals; and a chemical release due to loss of containment. The beyond evaluation-basis earthquake accident dominates the radiological risk due to accidents at Y–12 because it involves radiological releases at multiple facilities and is considered credible (that is, it would be expected to occur with a frequency of less than 5×10^{-4} per year but greater than 1×10^{-6} per year). It is noteworthy that the consequences of such a seismic event are dependent on the frequency of the earthquake event, the facility design, and the amount of materials that could be released due to the earthquake; such features do not change across the alternatives, so the impacts of these accidents are the same for all the Site-Wide EIS alternatives.

The risks were estimated conservatively in terms of both frequency of the event and the consequences of such events. (In particular, it is noteworthy that the analysis assumes the structural collapse of the building accompanied by the most significant internal events, including fire and explosions that create a path for release of material outside of the building.) The total risk of an accident is the product of the accident frequency and the consequences to the total population within 80 kilometers (50 miles). Risks of excess latent cancer fatalities per year of operation would not be expected to exceed 2.8×10^{-5} for the bounding accident analyzed. Statistically, this would equate to a maximum of one latent cancer fatality approximately every 35,700 years of operation.

The risk for release of chemicals, such as hydrogen fluoride, is calculated similarly as the product of the frequency and numbers of people exposed to greater than the selected guideline concentrations, Emergency Response Planning Guidelines (ERPG–2). (ERPG–2 is the maximum airborne concentration below which nearly all individuals could be exposed for up to 1 hour without irreversible or serious health effects or symptoms that could impair their abilities to take protective action). Under all alternatives, the risk for chemical releases ranges from between 80 and 190 workers exposed (fire involving chemicals accident scenario) to between 80 and 310 workers exposed (chemical release due to loss of containment accident scenario).

Comments on the Final Site-Wide EIS

DOE distributed approximately 500 copies of the Final Site-Wide EIS to appropriate Congressional members and committees, the states of Tennessee, Georgia, and North Carolina, local governments, other Federal agencies, and other interested stakeholders. Prior to the issuance of this ROD, DOE received two comment letters regarding the Final Y–12 Site-Wide Environmental Impact Statement. The first letter, from the Tennessee Department of Environment and Conservation (TDEC), provided clarifications and minor technical corrections to the ''Affected Environment'' chapter of the SWEIS (Chapter 4). The TDEC also reiterated their support of Alternative 4, the preferred alternative. The second letter, from the Citizens Advisory Committee of the Oak Ridge Reservation Local Oversight Committee, contained two comments and several technical corrections. The comments, which were consistent with comments this group previously submitted on the Draft Y–12 Site-Wide Environmental Impact, were responded to in the Final Y–12 Site-Wide Environmental Impact, and no additional response is necessary. The group also stated their preference that the Special Materials Complex be sited at a ''brownfield'' site. Although these comments, clarifications and minor technical corrections did not change any of the environmental impacts of the alternatives, they were considered by the Department in issuing this ROD.

Other Decision Factors

As directed by the President and Congress, the DOE/NNSA is responsible for maintaining the safety, security and reliability of the country's nuclear weapons stockpile. In addition, DOE has national security, energy resources, environmental quality, and science and technology mission lines, which it supports at a number of facilities across the United States. DOE/NNSA directs and funds Y–12 activities in support of its programs and missions. While protecting human health and the environment, DOE/NNSA needs to continue to fulfill its responsibilities as mandated by statutes, Presidential Decision Directives, and Congressional authorization and appropriations.

As noted in the Final Site-Wide EIS, Y–12 houses unique facilities and expertise that have been developed over the past 50 years. These capabilities have served national security and other national needs successfully in the past. Under current planning, the U.S. will maintain a nuclear weapons stockpile and require manufacturing capabilities to address issues of national importance for the maintenance of that stockpile and for other purposes, including assuring the safety and reliability of that stockpile. The unique facilities and expertise at Y–12 are needed to address these issues. These factors were also considered (in addition to the human health and environmental impact information discussed above) in reaching this Record of Decision.

Decision

DOE/NNSA has decided to continue to operate Y–12 for the foreseeable future at the planning basis operations level and to construct two new facilities to support Y–12 missions: HEU Storage Facility and Special Materials Complex. DOE/NNSA is implementing the Preferred Alternative, Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility (Site A location) and Special Materials Complex). This alternative includes the planned required operations of the NNSA mission at Y–12 and the continued operations/support at existing levels for other Y–12 activities conducted by other DOE offices (*e.g.,* Environmental Management; Nuclear Energy, Science and Technology; Nuclear Nonproliferation and National Security) and nondefense research and development programs conducted by ORNL, Work-for-Others, and Technology Transfer. In addition, this alternative includes the construction and operation of a new HEU Materials Facility and Special Materials Complex. This alternative also includes the continued maintenance of existing capabilities, and continues support and infrastructure activities. The following discussion describes the major actions that will be taken under Alternative 4,

with an emphasis on those areas that have had the most extensive programmatic or public interest. The decision in this Record of Decision will be reflected in DOE/NNSA budget requests and management practices. However, the actual implementation of these decisions is dependent on DOE/NNSA funding levels and allocations of DOE/NNSA budgets across competing priorities.

Planning Basis Operations

DOE/NNSA remains committed to meeting the NNSA Weapons Stockpile Management Program requirements assigned to Y–12, as described in the Final SWEIS. As part of its implementation of the Preferred Alternative, DOE will continue all activities associated with the resumption of remaining enriched uranium operations that were shut-down due to the Y–12 1994 stand-down. The planning basis operations level also includes continuing the current, planned, and weapons-directed activities associated with the major components of the Weapons Stockpile Management Program. Other DOE Program activities at Y–12 would continue at current levels for the foreseeable future, including those conducted by Environmental Management; Nuclear Nonproliferation and National Security; Nuclear Energy Science and Technology; and Nondefense Research and Development Program activities by ORNL, the Work-for-Other Program, and Technology Transfer Program.

The Department has decided that under the Preferred Alternative, operations at Y–12 associated with long-term storage of HEU, including transport and receiving, would be transferred to the new HEU Materials Facility, when completed. In addition, current special materials operations would be replaced by operations in the new Special Materials Complex, when completed.

HEU Storage Mission

The Department has decided to construct the new HEU Materials Facility at Site A as described in Section 3.2.3.2 of the Final Y–12 SWEIS. Site A is the Y–12 West Portal Parking Lot, located just north of Portal 16. Site A was selected over Site B based on overall cost, proximity to the major Y–12 production manufacturing facilities, construction phase security issues and impact on current production activities, and environmental impacts. The HEU Materials Facility would be used for long-term storage of Categories I and II HEU. The new facility would provide the capacity to store approximately 14,000 cans and 14,000 drums of HEU, a surge capacity area for an additional 4,000 drums, and a storage area for materials currently under international safeguards. Constructing the new facility would consolidate and modernize the HEU storage operations at Y–12. Consolidating HEU in the HEU Materials Facility would enable Y–12 to meet its HEU storage mission in a more safe and efficient manner; improve nuclear materials security and accountability; minimize the number of personnel required for operations and security; and enhance worker and public health and safety, and environmental protection.

Special Materials Mission

The Department has decided to construct the Special Materials Complex at Y–12. A location for construction of the Special Materials Complex has not been decided. Ongoing studies involving the Special Materials mission and project configuration and design needs must be completed before a decision on a location for these facilities can be made. The engineering design for this facility will proceed while the Department is completing the project review and additional studies. Once these studies are completed, DOE/NNSA intends to review the Site-Wide EIS for completeness and amend the Site-Wide and ROD, as appropriate, to announce the site selection. Constructing the Special Materials Complex would modernize special materials operations at Y–12, reduce the health risk to workers and the public, and ensure efficient production of adequate quantities of special materials (*e.g.,* beryllium) to meet projected nuclear weapons stockpile requirements for the next 50 years.

Mitigation Measures

The Site-Wide EIS includes a discussion of existing programs and plans and controls built into the operations at Y–12, including operating within applicable regulations, DOE Orders, contractual requirements and approved polices and procedures. No new mitigation measures were identified. It is unnecessary to prepare a Mitigation Action Plan under 10 CFR 1021.331.

Conclusion

DOE/NNSA has considered environmental impacts, stakeholders' concerns, and national policy in its decisions regarding the management and use of Y–12. The analysis contained in the Site-Wide EIS is both programmatic and site-specific in detail. It is programmatic from the perspective of broad, multi-use facility management and site-specific in the detailed project and program activity analysis. The impacts identified in the Site-Wide EIS were based on conservative estimates and assumptions. In this regard, the analyses bound the impacts of the alternatives evaluated in the Site-Wide EIS.

DOE has decided to implement Alternative 4 (No Action—Planning Basis Operations Alternative Plus Construct and Operate a New HEU Materials Facility and Special Materials Complex), i.e., the Preferred Alternative in the Final Site-Wide EIS. The location for the HEU Materials Facility construction is in the area identified as Site A (the Y–12 West Portal Parking Lot) in the Final Site-Wide EIS. A location for construction of the Special Materials Complex has not been decided. Ongoing studies involving the special materials mission and project configuration and design needs must be completed before a decision on a location for the Special Materials Complex can be made.

Issued in Washington, DC, this 4th day of February, 2002.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 02–6034 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Number DE–PS07–02ID14268]

Manufacture, Installation, and Testing of New Environmentally Friendly Hydropower Turbine Designs

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of availability of financial assistance solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is seeking applications from hydropower site developers who are currently planning or conducting the rehabilitation of an in-place hydroelectric unit or installation of a new hydroelectric unit(s) which will have a power output of 1 MW or greater; and are willing to use environmentally friendly technologies identified by DOE. DOE will only consider sites located in U.S. (50 states) and Canada.

DATES: The issuance date of Solicitation Number DE–PS07–02ID14268 will be on March 6, 2002. The deadline for receipt of applications will be approximately on June 4, 2002.

ADDRESSES: The solicitation in its full text will be available on the Internet at the following URL address: *http://e-*

center.doe.gov. The Industry Interactive Procurement System (IIPS) provides the medium for disseminating solicitations, receiving financial assistance applications and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. An IIPS ''User Guide for Contractors'' can be obtained on the IIPS Homepage and then clicking on the ''Help'' button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Layne Isom, Contract Specialist, (208) 526–5633, *isomla@id.doe.gov.*

SUPPLEMENTARY INFORMATION: The expected period of performance is 2–5 years. DOE prefers projects that can quickly meet the DOE Hydropower Program goals. The amount of funding available for award is approximately $1 million for 2002, and approximately $2.5 million for each year thereafter through 2006. Federal funding support during the out years may be less or more depending upon availability of funds and the satisfactory progress on individual projects. DOE anticipates awarding one or more cooperative agreements, in accordance with DOE Financial Assistance Regulations of Title 10 of the Code of Federal Regulations, Chapter II, Subchapter H, Part 600. Applicants who are selected will cost-share up to 50% of the project total cost. The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.087, Renewable Energy Research and Development.

Issued in Idaho Falls on March 6, 2002.

Cheryl A. Thompson,

Procurement Services Division.

[FR Doc. 02–6035 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 02–19: Innovations in Fusion Energy Confinement Systems

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving grant applications for innovative experiments in fusion energy confinement systems. Organizations with research projects funded under previous notices for this topic that are now due for continuation funding need not submit; however, those seeking renewal funding in Fiscal Year 2003, should submit a renewal application under this Notice. Successful applications will be funded early in Fiscal Year 2003.

The Office of Fusion Energy Sciences is interested in applications for innovative fusion energy experimental research. The specific areas of interest are:

1. Innovative Approaches to Understanding Plasmas.
2. Innovative Confinement Concepts.
3. Innovative Plasma Operations in Support of Proof of Principle (POP), Performance Extension (PE), and Burning Plasma Experiments.

More specific information on each area of interest is outlined in the general and program specific information section below.

The research should be aimed at experimentally elucidating the physics principles involved. Research projects are sought which are unique, first of a kind and which provide new scientific insights. Although the main thrust of this initiative is experimental, consideration will also be given to applications that are directed at scientific assessment of new concepts, approaches, and plasma operations that are not ready for experimental investigation. Applications for research on existing large experiments, or initiatives in Inertial Fusion Energy should not be submitted in response to this notice. Collaborative applications submitted from different institutions that are directed at a single proposed experiment will be ''bundled'' and reviewed collectively.

Due to the limited availability of funds, Principal Investigators with continuing grants may not submit a new application in the same area(s) of interest as their current grant(s). A Principal Investigator may submit only one application under each area of interest as listed above.

DATES: To permit timely consideration for awards in Fiscal Year 2003, applications submitted in response to this notice must be received by DOE no later than 4:30 p.m., E.D.T., May 15, 2002. No electronic submissions of formal applications will be accepted.

ADDRESSES: Completed formal applications referencing Program Notice 02–19 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 02–19. The above address must also be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Specific contacts for each area of interest, along with telephone numbers and Internet addresses, are listed below:

Innovative Approaches to Understanding Plasmas: Steve Eckstrand, Research Division, SC–55, Telephone: (301) 903–5546, or by Internet address: *steve.eckstrand@science.doe.gov*

Innovative Confinement Concepts: Dr. Curtis W. Bolton III, Research Division, SC–55, Telephone: (301) 903–4914, or by Internet address: *curt.bolton@science.doe.gov*

Innovative Plasma Operations in Support of POP, PE, and Burning Plasma Experiments: Chuck Finfgeld, Research Division, SC–55, Telephone: (301) 903–3423, or by Internet address: *charles.finfgeld@science.doe.gov*

SUPPLEMENTARY INFORMATION: General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to SC's Financial Assistance Guide and required forms is possible via the Internet using the following Web site address: *http://www.science.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of an application if an award is not made.

In selecting applications for funding, the DOE Office of Fusion Energy Sciences will give priority to applications that can produce experimental results within three to five years after grant initiation. Theoretical research will be accepted for consideration under this Notice when bundled with and in support of an experimental application. The detailed description of the proposed project should contain the following items: (1) A detailed experimental research plan, (2) The specific results or deliverable expected at the end of the project period, (3) Goal of the experiment, (4) Synopsis of the experimental program plan, (5) Adequacy of the facilities and budget, (6) Discussion of why this research would have an important

impact on the prospects for fusion energy, and (7) Discussion of how the experiment would elucidate the physics principles of the innovation.

Applications concerned with scientific assessment of new concepts, approaches, and plasma operations that are not ready for experimental investigation should have a well-defined scope and duration of no more than two years. These applications will be considered non-renewable. The product of such assessment would be a clear scientific description of the concept and its operation, its physics and engineering basis, critical analysis of major difficulties to be overcome in developing the concept as a net producer of energy through the fusion process, and an analysis of what would be achieved by moving to experimental research.

Program Funding

It is anticipated that up to $4,500,000 in Fiscal Year 2003, will be available to start new projects from applications received in response to this Notice. The number of awards and range of funding will depend on the number of applications received and selected for award. Future year funding is anticipated to be greater but will depend on the nature of the applications, suitable experimental progress and the availability of funds. The cost-effectiveness of the application will be considered when comparing applications with differing funding requirements. Applications for scientific assessment of new concepts will be limited to a maximum of $150,000 in any year. Applications requiring annual funding as low as $50,000 are welcome and encouraged.

To enable all reviewers to read all applications, the application must be limited to a maximum of twenty (20) pages (including text and figures) plus not more than one page each of biographical information and publications of the principal investigator, plus any additional forms required as a part of the standard grant application.

An original and seven copies of each application must be submitted. Due to the anticipated number of reviewers, it would be helpful for each applicant to submit an additional seven copies of each application. In lieu of the seven additional copies, applicants may provide a CD–ROM containing the application in Portable Document Format (PDF). The label on the CD must clearly identify the institution, principal investigator, and title of the application. (If the applicant elects to submit a CD, an original and seven copies of the application must still be submitted.)

Merit Review

Applications will be subjected to formal merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605:

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of the applicant's personnel and adequacy of the proposed resources;
4. Reasonableness and appropriateness of the proposed budget.

The Office of Fusion Energy Sciences shall also consider, as part of the evaluation, other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas and within the program areas, coupling to theory and computational support, and quality of previous performance. Strong preference will be given to proposals for work based in the United States. Selection of applications/proposals for award will be based upon the findings of the technical evaluations, the importance and relevance of the proposed research to the Office of Fusion Energy Sciences' mission, and funding availability.

Program Specific Supplementary Information

1. Innovative Approaches to Understanding Plasmas: These are innovative experiments aimed at understanding some key scientific issue of importance to fusion energy. This could include experiments aimed at understanding turbulence and zonal flows, understanding reconnection, or understanding other outstanding fusion energy sciences issues.
2. Innovative Confinement Concepts: This is innovative experimental research that has the possibility of leading to improved fusion energy power plants.
3. Innovative Plasma Operations in Support of POP, PE, and Burning Plasma Experiments: The fusion program has a number of confinement concepts that have passed beyond the exploratory stage to either the POP, PE, or the burning plasma stages. Innovative Plasma Operations is aimed at developing the science and understanding of new ways to enhance the performance of the POP, PE, or burning plasma experiments. This could include work on stabilizing resistive wall modes, new methods of turbulence suppression, methods to suppress neo-classical tearing modes, and novel methods to use fusion energetic particles.

The Catalog of Federal Domestic Assistance number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on March 4, 2002.

John Rodney Clark,

Associate Director for Resource Management.

[FR Doc. 02–6037 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–02–U

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 02–20: Theoretical Research in Plasma and Fusion Science

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting new and renewal grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy (DOE), announces its interest in receiving grant applications for theoretical research relevant to the U.S. program in magnetic fusion energy sciences. All individuals or groups planning to submit applications for new or renewal funding in Fiscal Year 2003, should submit in response to this Notice.

The specific areas of interest are:

1. Magnetohydrodynamics and Stability
2. Confinement and Transport
3. Edge and Divertor Physics
4. Plasma Heating and Non-inductive Current Drive
5. Innovative/Integrating Concepts
6. Atomic and Molecular Processes in Plasmas

More specific information on each area of interest is outlined in the general and program specific supplementary information section below. OFES may also solicit proposals from time to time under separate announcements of Initiatives to support coordinated, goal-directed community efforts. The Initiatives will be funded to achieve specific programmatic and scientific aims and will be subject to requirements that are different from those of this notice. Such grants, if funded, will be subject to periodic reviews of progress.

Due to the limited availability of funds, Principal Investigators with continuing grants may not submit a new application in the same area(s) of interest as their previous application(s), which received funding. A Principal Investigator may submit only one

application under each area of interest as listed above.

DATES: To permit timely consideration for awards in Fiscal Year 2003, applications submitted in response to this notice must be received by DOE no later than 4:30 p.m., E.D.T., June 4, 2002. Electronic submissions of formal applications will not be accepted.

Applicants are requested to submit a letter-of-intent by May 7, 2002, which includes the title of the application, the name of the Principal Investigator(s), the requested funding and a one-page abstract. These letters-of-intent will be used to organize and expedite review processes. Failure to submit a letter-of-intent will not negatively prejudice a responsive formal application submitted in a timely fashion. Electronic submissions of letters-of-intent are preferable.

ADDRESSES: Formal applications referencing Program Notice 02–20, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 02–20. The above address must also be used when submitting applications by U.S. Postal Service Express or any other commercial overnight delivery service, or when hand-carried by the applicant.

Letters-of-intent referencing Program Notice 02–20, sent by mail should be addressed to: U.S. Department of Energy, Office of Science, Office of Fusion Energy Sciences, SC–55, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: John Sauter. Letters-of-intent submitted via e-mail should be sent to the following e-mail address: *john.sauter@science.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Office of Fusion Energy Sciences, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Specific contacts for each area of interest, along with telephone numbers and Internet addresses, are listed below:

1. Magnetohydrodynamics and Stability:

Rostom Dagazian, Research Division, SC–55, Telephone: (301) 903–4926, or by Internet address: *rostom.dagazian@science.doe.gov.*

2. Confinement and Transport:

Curt Bolton, Research Division, SC–55, Telephone: (301) 903–4914, or by Internet address: *curt.bolton@science.doe.gov.*

3. Edge and Divertor Physics:

Mike Crisp, Research Division, SC–55, Telephone: (301) 903–4883, or by Internet address: *michael.crisp@science.doe.gov.*

4. Plasma Heating and Non-inductive Current Drive:

Rostom Dagazian, Research Division, SC–55, Telephone: (301) 903–4926, or by Internet address: *rostom.dagazian@science.doe.gov.*

5. Innovative/Integrating Concepts:

Steve Eckstrand, Research Division, SC–55, Telephone: (301) 903–5546, or by Internet address: *steve.eckstrand@science.doe.gov.*

6. Atomic and Molecular Processes in Plasmas:

Mike Crisp, Research Division, SC–55, Telephone: (301) 903–4883, or by Internet address: *michael.crisp@science.doe.gov.*

SUPPLEMENTARY INFORMATION: General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to SC's Financial Assistance Guide and required forms is possible via the Internet using the following Web site address: *http://www.science.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of an application if an award is not made.

Program Funding

It is anticipated that about $4,000,000 of Fiscal Year 2003, funding will be available to fund new work or renewals of existing work from applications received in response to this Notice. The number of awards and range of funding will depend on the number of applications received and selected for award. Since future year funding is not anticipated to increase, applications should propose constant effort in future years (allowing for inflation). Future year funding will depend upon suitable progress and the availability of funds. The cost-effectiveness of the application will be considered when comparing applications with differing funding requirements. Applications requiring annual funding as low as $50,000 are welcomed and encouraged.

Collaborative research projects involving more than one institution, as well as basic work in support of the Scientific Discovery through Advanced Computing initiative, are encouraged. Applications submitted from different institutions, which are directed at a common research activity, should clearly indicate they are part of a proposed collaboration and contain a brief description of the overall research project. However, each application must have a distinct scope of work and a qualified principal investigator, who is responsible for the research effort being performed at his or her institution. Synergistic collaborations with researchers in federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories are also encouraged, though no funds will be provided to these organizations under this Notice. Further information on preparation of collaborative applications may be accessed via the Internet at: *http://www.science.doe.gov/production/grants/Colab.html.*

Since we expect that reviewers will be asked to review several applications, those applications from individual PIs or small groups (1–4 people) should be limited to a maximum of twenty (20) pages (including text and figures), while applications from theory groups should be limited to thirty (30) pages. A few selected publications may be included in an Appendix as background information. In addition, please limit biographical and publication information for the principal investigator and senior personnel to no more than two pages each. A minimum of a signed original and seven copies of each application must be submitted as stated in the Application Guide. However, due to anticipated number of reviewers, each applicant is requested to submit twelve (12) copies of his/her application. In addition, each principal investigator should provide an e-mail address.

In addition to the information required by 10 CFR part 605 each application should contain the following items: (1) A succinct statement of the goal of the research, (2) a detailed research plan, (3) the specific results expected at the end of the project period, (4) an analysis of the adequacy of the budget, (5) a discussion of the impact of the proposed research on other fields of science, and (6) for projects requiring significant computational resources (e.g. at the National Energy Research Scientific Computing Center), the application should contain an estimate and justification of the resources that will be required.

Merit Review

Applications will be subjected to formal merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR part

605. *(http://www.science.doe.gov/production/grants/605index.html)*

1. Scientific and/or technical merit of the project;

2. Appropriateness of the proposed method or approach;

3. Competency of the applicant's personnel and adequacy of the proposed resources; and

4. Reasonableness and appropriateness of the proposed budget.

Scientific and technical merit also includes the importance and relevance of the proposed research to the U.S. fusion program. Accordingly, preference will be given to work based in the U.S.

In addition, proposals from theory groups will also be rated on the synergy of the group and the management of the group. With respect to synergy, the criteria are:

(1) Clear evidence of collaborative work.

(2) The extent to which the group addresses difficult problems requiring a team effort.

With respect to management the criteria are:

(1) Clear evidence of scientific leadership.

(2) The extent to which the management evaluates the relevance and scientific impact of the group's work.

The Office of Fusion Energy Sciences shall also consider, as part of the evaluation, other available advice or information as well as program policy factors such as ensuring an appropriate balance among the program areas and within the program areas, ensuring support for major computational efforts, ensuring support for experiments, and quality of previous performance. Selection of applications/proposals for award will be based upon the findings of the technical evaluations, the importance and relevance of the proposed research to the Office of Fusion Energy Sciences' mission, and funding availability.

Program Specific Information

1. Magnetohydrodynamics and Stability

Grant applications are solicited for new research or continuation of past efforts in magnetohydrodynamics (MHD) theory in support of work on magnetically confined fusion plasmas. Current areas of interest include advanced tokamak (AT), innovative confinement concepts (ICC), burning plasma physics and steady state, high-beta plasma issues. Both analytical and computational approaches will be considered. Additional work is needed on nonlinear MHD codes to include new physics, such as extended MHD (including flows and various non-ideal MHD effects), resistive wall modes, and particularly neoclassical tearing modes. Finally, basic work in support of the Scientific Discovery through Advanced Computing initiative that involves the development of large-scale MHD codes will also be considered.

2. Confinement and Transport

Applications will be considered in the area of confinement and transport in plasmas. This area covers plasma turbulence, energy, particle, momentum and radiation transport in the core of the plasma and theory based transport modeling. The work of interest includes work in support of tokamak as well as non-tokamak innovative concepts. Topics of interest include among others, electromagnetic effects on turbulence, shear flow generation and its impacts on transport, and understanding of the role of collisions in turbulent plasmas. Both analytical and computational work is of interest. Basic work in support of the Scientific Discovery through Advanced Computing initiative that involves the development of large-scale codes to explore turbulence will also be considered.

3. Edge and Divertor Physics

Applications will be considered in the area of edge physics theory. This area covers plasma turbulence, energy, particle and radiation transport in the edge of the plasma and in the neighborhood of the separatrix. The work of interest includes neutrals transport in divertors and plasma edge region, atomic physics processes affecting temperature, radiation and flame front propagation in divertors and pedestal and elm theory and modeling. Both analytical and numerical models are of interest. Techniques and algorithms for modeling fast particles in the edge region as well as adaptive grid methods and their application to modeling of plasma turbulence and transport in the edge region will be considered.

4. Plasma Heating and Non-inductive Current Drive

Applications will be considered in the area of radio frequency (RF) physics in plasmas. This includes RF propagation, heating and current drive. Of interest are both analytical and numerical treatments of interaction of plasmas with radio frequency waves. These include electron cyclotron, ion cyclotron, lower hybrid and Bernstein waves. Topics of interest include, among others, physical processes involved in conversion layers, power deposition for temperature profile control and interaction of waves of different frequencies to produce specific effects on the plasma. Applications for modeling radio frequency launchers and their coupling to the edge plasma will also be considered.

5. Innovative/Integrating Concepts

Grant applications are desired for theoretical and computational research on innovative concepts that have the possibility of leading to improved magnetic fusion systems. Increased theoretical and computational research is needed to make optimal use of innovative fusion related experiments. Applications are also desired for theoretical and computational research on integrated studies that include multiple topics.

6. Atomic and Molecular Processes in Plasmas

Grant applications will be considered for theoretical research relevant to the description of atomic processes in plasmas. In addition to overall scientific merit, emphasis will be given to work that promises to aid the understanding of the basic atomic processes that are important for modeling of magnetically confined plasmas and high-density plasmas found in inertial confinement fusion experiments. The program has found understanding electron-atom and electron-ion collisions and the radiation emitted by atoms and ions to be of importance for the modeling of plasma behavior in experiments. Some current areas where atomic processes are considered to be important include the effects of transport, the effects of impurities and the understanding of diagnostics.

(The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.)

Issued in Washington, DC, on March 4, 2002.

John Rodney Clark,

Associate Director of Science, for Resource Management.

[FR Doc. 02–6033 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–02–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–043]

ANR Pipeline Company; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 4, 2002, ANR Pipeline Company (ANR) filed an

amendment to a service agreement between ANR and Duke Energy Fuels, L.P. and an Amended and Restated Negotiated Rate Letter Agreement between these same parties, in compliance with the Commission's January 16, 2002 Letter Order in Docket No. RP99–301–032. *ANR Pipeline Company,* 98 FERC ¶ 61,025 (2002).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5982 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–184–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Seventeenth Revised Sheet No. 19, and Eighth Revised Sheet No. 68H, to be effective April 1, 2002.

ANR states that the above-referenced tariff sheets are being filed to comply with the annual redetermination of the levels of ''Transporter's Fuel Use (%)'', as required by ANR's currently effective tariff. In accordance with Section 1.68 of the General Terms and Conditions in ANR's tariff, the annual redetermined percentages are based upon ANR's most recent three (3) calendar years' experience of compressor fuel usage (1999, 2000 and 2001), and most recent four (4) years' experience of Lost and Unaccounted For gas (1998, 1999, 2000 and 2001).

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6002 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–193–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on February 28, 2002, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective March 1, 2002:

Fifty-first Revised Sheet No. 8
Fifty-first Revised Sheet No. 9
Fiftieth Revised Sheet No. 13
Sixty-first Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to implement recovery of approximately $3.1 million of above-market costs that are associated with its obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs, and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR advises that the proposed changes would increase current quarterly Above-Market Dakota Cost recoveries from $2,447,977 to $3,099,144.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6011 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–194–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that, on February 28, 2002, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sixty-Second Revised Tariff Sheet No. 18, proposed to become effective March 1, 2002.

ANR states that the above-referenced tariff sheet is being filed to implement

the annual reconciliation of the recovery of its Above-Market Dakota Costs, as required by its tariff recovery mechanism. ANR advises that the filing proposes a negative reservation surcharge adjustment of ($0.001) applicable to its currently effective, firm service Rate Schedules. Pursuant to this negative surcharge, ANR proposes to refund, over the twelve month period of March 1, 2002 to February 28, 2003, the ($38,540) of Above-Market Dakota Cost over collections, inclusive of interest, which are reflected in the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6012 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–177–000]

CMS Trunkline Gas Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, CMS Trunkline Gas Company, LLC (Trunkline) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in Appendix A attached to the filing, to become effective April 1, 2002.

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of Trunkline's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets listed on Appendix A reflect: a 0.06% decrease (Field Zone to Zone 2), a 0.05% decrease (Zone 1A to Zone 2), no change (Zone 1B to Zone 2), a 0.18% increase (Zone 2 only), a 0.23% decrease (Field Zone to Zone 1B), a 0.22% decrease (Zone 1A to Zone 1B), a 0.17% decrease (Zone 1B only), a 0.05% decrease (Field Zone to Zone 1A), a 0.04% decrease (Zone 1A only) and no change (Field Zone only) to the currently effective fuel reimbursement percentages.

Trunkline states that copies of this filing are being served on all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5995 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–173–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective April 1, 2002:

Third Revised Sheet No. 369B

CIG states the tariff sheet is being filed to collect Take-or-Pay costs from its jurisdictional sale customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5991 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–181–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2002:

Second Revised Sheet No. 15
Second Revived Sheet No. 16

CIG states the tariff sheets are being filed to refund to CIG sales customers the balance in CIG's PGA Close-out/ Account No. 191 as of January 31, 2002.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5999 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–195–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 4, 2002, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2002:

Twenty-Fourth Revised Sheet No. 11A

CIG states the tariff sheet is being filed to revise the Fuel Reimbursement Percentage applicable to Lost, Unaccounted-For and Other Fuel Gas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6013 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–170–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of April 1, 2002:

Fifty-sixth Revised Sheet No. 25
Fifty-sixth Revised Sheet No. 26
Fifty-sixth Revised Sheet No. 27
Forty-ninth Revised Sheet No. 28

Columbia states that this filing comprises Columbia's annual filing pursuant to Section 36.2 of the General Terms and Conditions (GTC) of its Tariff. GTC Section 36, ''Transportation Costs Rate Adjustment (TCRA),'' enables Columbia to adjust its TCRA rates prospectively to reflect estimated current costs and unrecovered amounts for the deferral period. The TCRA rates consist of a current TCRA rate, reflecting an estimate of costs for a prospective 12-month period, and a TCRA surcharge rate, which is a true-up for actual activity within the deferral period. In this filing, the TCRA rate consists of a Current Operational TCRA Rate and an Operational TCRA Surcharge to recover the unrecovered amounts for the deferral period pursuant to GTC Section 36.4(a).

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://*

www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5988 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–174–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of April 1, 2002:

Twelfth Revised Sheet No. 44

Columbia submits its annual filing pursuant to the provisions of Section 35, ''Retainage Adjustment Mechanism (RAM)'', of the General Terms and Conditions

(GTC) of its Tariff. Twelfth Revised Sheet No. 44 sets forth the retainage factors applicable to Columbia's transportation, storage and gathering services, as revised by this filing.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5992 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–182–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of April 1, 2002:

Fifty-seventh Revised Sheet No. 25
Fifty-seventh Revised Sheet No. 26
Fifty-seventh Revised Sheet No. 27
Fiftieth Revised Sheet No. 28
Seventeenth Revised Sheet No. 31

Columbia states that these revised tariff sheets are filed pursuant to Section 45, ''Electric Power Costs Adjustment (EPCA),'' of the General Terms and Conditions (GTC) of Columbia's FERC Gas Tariff, Second Revised Volume No. 1. Section 45.1 allows Columbia to recover electric power costs, including carrying charges, incurred for compression of natural gas by means of various Transportation EPCA Rates and an LNG EPCA Rate, each of which shall be comprised of a current EPCA rate and an EPCA surcharge. The Transportation EPCA Rate is applicable to buyers under Columbia's FTS, NTS, SST, GTS, OPT, and ITS rate schedules. The LNG EPCA Rate is applicable to Rate Schedules X–131, X–132, and X–133.

Columbia states that these revised tariff sheets are being filed to reflect adjustments to Columbia's current costs for electric power for the twelve-month period beginning April 1, 2002.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6000 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–178–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 1, 2002:

Twenty-ninth Revised Sheet No. 18
Nineteenth Revised Sheet No. 18A
Thirtieth Revised Sheet No. 19

Columbia Gulf states that this filing represents Columbia Gulf's annual filing pursuant to the provisions of Section 33, ''Transportation Retainage Adjustment (TRA),'' of the General Terms and Conditions (GTC) of its Tariff.

Columbia Gulf states that the tariff sheets listed above set forth the transportation retainage factors as a result of this filing. GTC Section 33.2 enables Columbia Gulf to state retainage

factors for its rate zones, which factors consist of a current and an over/under recovered component. Pursuant to GTC Section 33.4(a), the current component reflects the estimate of total company-use, lost, and unaccounted-for quantities required during the 12-month period commencing, in an annual filing such as this, on April 1. Pursuant to GTC Section 33.4(b) the over/under recovered component reflects the reconciliation of ''actual'' company-use, lost, and unaccounted-for quantities with quantities actually retained by Columbia Gulf for the preceding calendar year; i.e., the deferral period.

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5996 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–168–000]

Cove Point LNG Limited Partnership; Notice of Filing

March 7, 2002.

Take notice that on March 1, 2002 Cove Point LNG Limited Partnership (Cove Point) tendered for filing, pursuant to Section 1.37 of the General Terms and Conditions of Cove Point's FERC Gas Tariff, workpapers supporting the calculation of Cove Point's retention percentages for the annual period beginning April 1, 2002. Cove Point states that the proposed retention percentages for both the peaking services and transportation will remain unchanged from the currently effective retention percentages placed into effect April 1, 2001.

Cove Point states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 14, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5986 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184]

El Dorado Irrigation District; Notice of Authorization for Continued Project Operation

March 6, 2002.

On February 22, 2000, El Dorado Irrigation District, licensee for the El Dorado Project No. 184, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 184 is located on the South Fork of the American River in El Dorado, Alpine, and Amador Counties, California.

The license for Project No. 184 was issued for a period ending February 23, 2002. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 184 is issued to El Dorado Irrigation District for a period effective February 24, 2002, through February 23, 2003, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before February 24, 2003, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that El Dorado Irrigation District is authorized to continue operation of the El Dorado Project No. 184 until such time as the Commission acts on its application for subsequent license.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5853 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–185–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, effective April 1, 2002:

Eighth Revised Sheet No. 2
Fifty-Second Revised Sheet No. 8A
Forty-Fourth Revised Sheet No. 8A.01
Forty-Fourth Revised Sheet No. 8A.02
Second Revised Sheet No. 8A.04
Eleventh Revised Sheet No. 207
Original Sheet No. 207A
Original Sheet No. 207B

FGT states that in conjunction with its Phase V Expansion approved in Docket Nos. CP00–40, et al., it will install electric driven compressor units at its Compressor Station 13A. To power the compressors, FGT states that it has entered into a long-term contract for shaft horsepower with an affiliate, Enron Compressor Services (ECS). FGT states that ECS's ability to perform its obligations to deliver shaft horse power is uncertain because of issues surrounding the bankruptcy of Enron Corp and a number of Enron subsidiaries. FGT states that, because of the uncertainty surrounding its arrangement with ECS, FGT may be required to purchase power directly from the electric utility authorized to serve the new units at Station 13A. FGT states that the instant filing is to establish a Purchased Power Surcharge to recover usage related payments made by FGT to operate the units at Station 13A.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6003 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–192–000]

KO Transmission Company; Notice of Tariff Filing March 7, 2002.

Take notice that on March 4, 2002, KO Transmission Company (KOT) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twelfth Revised Sheet No. 10, bearing a proposed effective date of April 1, 2002.

KO Transmission states that the purpose of the filing is to revise its fuel retainage percentage consistent with Section 24 of the General Terms and Conditions of its Tariff. According to KO Transmission, Columbia Gas Transmission Corporation (Columbia) operates and maintains a portion of KO Transmission facilities pursuant to the Operating Agreement referenced in its Tariff at Original Sheet No. 7. Pursuant to that Operating Agreement, Columbia retains certain volumes associated with gas transported on behalf of KO Transmission. On March 1, 2002, Columbia notified KO Transmission that under terms of the Operating Agreement, KO Transmission will be subject to a 1.02% retainage. Accordingly, KO Transmission states that the instant filing tracks this fuel retainage.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6010 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–189–000]

Midwestern Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Midwestern Gas Transmission Company (Midwestern) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective April 1, 2002:

Title Page

First Revised Sheet No. 100
First Revised Sheet No. 110
First Revised Sheet No. 111
First Revised Sheet No. 229
First Revised Sheet No. 497
First Revised Sheet No. 247
First Revised Sheet No. 250
First Revised Sheet No. 425
First Revised Sheet No. 495

Midwestern states that the purpose of this filing is to reflect minor housekeeping changes. Midwestern proposes to revise the Title Page, Original Sheet Nos. 100, 110, 111, 229 and 425 to correct spelling and punctuation errors. The proposed changes to Original Sheet No. 247 have been made to reflect the deletion of a repeated word. Midwestern also proposes to change the reference to ''the Rate After Adjustments'' on Original Sheet No. 250, so that it is consistent with the column heading on the Summary of Rates and Charges on First Revised Sheet No. 5. Original Sheet No. 495 has been revised to reflect a correction to the signature block on the

Electronic Communication Agreement. Northern Plains Natural Gas Company, its Operator, was removed because it does not need to be listed on the signature block of this form. Midwestern also proposes to revise Original Sheet No. 497 to clarify that Agents, when receiving invoices, will also receive all supporting documentation.

Midwestern states that copies of this filing have been sent to all of Midwestern's shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6007 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–150–005]

Millennium Pipeline Company, L.P.; Notice of Compliance Filing

March 7, 2002.

Take notice that on February 19, 2002, Millennium Pipeline Company, L.P. (Millennium) tendered for filing in the above referenced dockets, revised rates and pro forma tariff sheets in compliance with the Commission's Interim Order issued December 19, 2001, in Docket No. CP98–150–000, et al., (97 FERC ¶ 61,292).

Millennium asserts that the Interim Order directed it to file within sixty days rates consistent with the revised capital structure and pro forma tariff sheets that reflect compliance with the GISB standards, Order No. 637, and the other modifications discussed in the order. Millennium contends that in compliance with the rate provisions of the Interim Order, it filed Revised Exhibits N and P that set forth the derivations of the revised FT, IT, and PL recourse rates. Millennium asserts that it has sought rehearing of the Interim Order's requirement that the rates be designed on a capital structure of 75 percent debt and 25 percent equity in lieu of the proposed capital structure of 65 percent debt and 35 percent equity. Millennium asserts that the Interim Order required the initial rates to be filed at least 60 days prior to its in-service date. Millennium contends that accordingly, it will file its initial rates before that deadline and consistent with the capital structure determination set forth in the Commission's order on rehearing.

In compliance with the Interim Order, Millennium asserts that it filed revised pro forma tariff sheets, GISB requirements, and Order No. 637 and its progeny. In addition, Millennium asserts that it identified technical changes required to update its tariff, correct typographical errors, correct cross-reference, and eliminate minor inconsistencies among different tariff provisions. As required by the Interim Order, Millennium contends that it is providing marked pro forma tariff sheets showing changes from the original pro forma tariff and table identifying the changes made to the original pro forma tariff.

Any questions concerning this filing may directed to counsel for Millennium, Julia E. Sullivan., Esq., Sidley Austin Brown & Wood LLP at 202 736–8000, fax (202) 736–8711, or via the Internet at *jsullivan@sidley.com*.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 5, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5975 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–623–003 and RP01–622–002 (Not Consolidated)]

Mississippi River Transmission Corporation; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 4, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 2002:

Eighth Revised Sheet No. 2
Forty-Fifth Revised Sheet No. 5
Forty-Fifth Revised Sheet No. 6
Forty-Second Revised Sheet No. 7
Seventeenth Revised Sheet No. 8
Sixth Revised Sheet No. 11
Fifth Revised Sheet No. 21
Fourth Revised Sheet No. 28
Fourth Revised Sheet No. 33
Second Revised Sheet No. 44
First Revised Sheet No. 56
Sixth Revised Sheet No. 71
Seventh Revised Sheet No. 74
Second Revised Sheet No. 234
Fourth Revised Sheet No. 235
Original Sheet No. 235A
Substitute Sixth Revised Sheet No. 249
Substitute First Revised Sheet No. 249A
Third Revised Sheet No. 264
Third Revised Sheet No. 290

MRT states that the tariff sheets, along with other supporting materials, are being filed in compliance with the Commission's February 1, 2002 order in these proceedings, by providing for separate charges for (a) Fuel Use and (b) Lost And Unaccounted For Gas (LUFG). MRT states that as a result of the proposed revisions, an exemption in appropriate circumstances from Fuel Use charges will not have the consequence of triggering a like exemption from LUFG charges.

MRT states that it has served copies of the filing upon all customers and relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5985 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–94–001 and CP01–94–003]

Nornew Energy Supply, Inc.; Notice of Compliance Filings

March 7, 2002.

Take notice that on February 19, 2002, Nornew Energy Supply, Inc. (Nornew), 19 Ivy Street, Jamestown, New York 14701 and Norse Pipeline, L.L.C. (Norse), 2500 Tanglewilde, Suite 250, Houston, Texas 77063, filed in compliance with the Commission's order dated January 16, 2002, its FERC Gas Tariff, Original Volume No. 1. Nornew also filed Appendices A, B and C, a list of the tariff sheets and a red-lined version of the tariff, showing the changes from the pro forma tariff filed as Exhibit P to Nornew's certificate application dated March 1, 2001. Subsequently, on March 4, 2002, Nornew filed corrected versions of the paper and electronic tariff sheets, correcting certain formatting errors in the tariff sheets filed on February 19, 2002. The filing may be viewed at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5974 Filed 3–13–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–190–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of April 1, 2002:

Sixth Revised Sheet No. 119
Fourth Revised Sheet No. 270
Original Sheet No. 270A
First Revised Sheet No. 406
Second Revised Sheet No. 407
First Revised Sheet No. 429B

Northern Border is filing revised tariff sheets to revise Subsection 5.1 of Northern Border's Rate Schedule T–1, and Subsection 26.2(b) of the General Terms and Conditions and to make associated housekeeping changes to Exhibit A of the U.S. Shippers and T–1B Service Agreements.

Northern Border states that the proposed changes will provide more flexibility and expand the alternatives and that Shippers and Northern Border have in contracting for firm capacity.

Northern Border states that copies of this filing have been sent to all of Northern Border's contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6008 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02–11–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreement

March 7, 2002.

Take notice that on March 1, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing and acceptance a Rate Schedule TF–1 non-conforming service agreement. Northwest also tendered the following tariff sheet as part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective April 1, 2002:

Fifth Revised Sheet No. 366

Northwest states that the service agreement contains a scheduling priority provision imposing subordinate primary corridor rights. Northwest states that the tariff sheet is submitted to add such agreement to the list of non-

conforming service agreements contained in Northwest's tariff and to update that list to reflect the termination of another non-conforming service agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5976 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–169–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective April 1, 2002:

Third Revised Volume No. 1

Sixteenth Revised Sheet No. 14

Original Volume No. 2

Thirty-Second Revised Sheet No. 2.1

Northwest states that the purpose of this filing is to propose new fuel reimbursement factors (Factors) for Northwest's transportation and storage rate schedules. The Factors allow Northwest to be reimbursed in-kind for the fuel used during the transmission and storage of gas and for the volumes of gas lost and unaccounted-for that occur as a normal part of operating the transmission system.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5987 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–176–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing, to become effective April 1, 2002.

Panhandle states that this filing is made in accordance with Section 24 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets filed herewith reflect the following changes to Fuel Reimbursement Percentages:

(1) No change in the Gathering Fuel Reimbursement Percentage;
(2) A 0.05% increase in the Field Zone Fuel Reimbursement Percentage;
(3) No change in the Market Zone Fuel Reimbursement Percentage;
(4) No change in the Injection and Withdrawal Field Area Storage Reimbursement Percentages; and
(5) No change in the Injection and Withdrawal Market Area Storage Reimbursement Percentages.

Panhandle further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5994 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP02–188–000, CP01–69–003, and RP00–491–001]

Petal Gas Storage, L.L.C.; Notice of Tariff Filing

March 7, 2002.

Take notice that on March 1, 2002, Petal Gas Storage, L.L.C. (Petal),

tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A and Appendix B to its filing. Petal requests that these sheets be made effective April 1, 2002.

Petal states that the tariff sheets are being filed in compliance with the Commission's October 25, 2001 (Certificate Order), and February 14, 2002 Orders in the above-referenced proceeding. The Certificate Order approved Petal's request to construct and operate approximately 59 miles of pipeline, compression and appurtenant facilities (the Petal Pipeline), and accepted Petal's pro forma filing to establish transportation services on the Petal Pipeline, subject to certain revisions.

Petal states that it is submitting the Appendix A tariff sheets in compliance with the Certificate Order to implement those sheets. Petal further states that it is submitting the proposed alternate Appendix B sheets at the request of, and as a resolution of, issues raised by its customers. Petal further states that it is also submitting the instant filing in its Certificate (CP01–69) and Order No. 637 proceedings (RP00–491–000), so that all parties may have a chance to comment in accordance with the February 14, 2002 Order on Clarification.

Petal states that copies of the filing have been mailed to all affected customers and state regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6006 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–191–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

March 7, 2002.

Take notice that on March 1, 2002, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, Thirty-seventh Revised Sheet No. 4. GTN requests that the above-referenced tariff sheet become effective April 1, 2002.

GTN states that the purpose of this filing is to request a reduction in its Mitigation Revenue Recovery Surcharge (MRRS) in compliance with the requirements of its Settlement in Docket Nos. RP94–149–000, et al. In addition, GTN is filing to reduce its Competitive Equalization Surcharge, which was designed to mirror the MRRS and apply to new expansion shippers subscribing to long-term firm capacity on GTN.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6009 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–014]

Questar Pipeline Company; Notice of Negotiated Rate

March 7, 2002.

Take notice that on March 1, 2002, Questar Pipeline Company's (Questar) tendered for filing a tariff filing to implement a negotiated-rate contract as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, et al.

The Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers. Questar submitted its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 (Policy Statement) issued January 31, 1996.

Questar states that copies of this filing has been served upon all parties to this proceeding, Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5983 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–175–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 2002:

Eighth Revised Sheet No. 5
Eighth Revised Sheet No. 6
Ninth Revised Sheet No. 7

REGT states that the revised tariff sheets are being filed in accordance with the Stipulation and Agreement (Settlement) approved by the Commission on March 31, 1992 in Docket No. RP91–49–004 and Section 18 of the General Terms and Conditions of REGT's Tariff, which govern REGT's recovery of certain contract settlement costs (''CSC'') relating to the buyout or buydown of certain take-or-pay gas supply contracts. The Settlement and Tariff Section 18 provide for annual filings by REGT over a ten-year period to address REGT's CSC recovery through surcharges and other procedures. REGT states that because the final recovery period will end March 31, 2002, the instant filing reflects removal of the CSC surcharges from its transportation rates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5993 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89–224–020]

Southern Natural Gas Company; Notice of GSR Refund Filing

March 7, 2002.

Take notice that on February 28, 2002, Southern Natural Gas Company (Southern) tendered for filing a refund report which calculates and allocates among its customers $290,321 of GSR amounts overcollected during 2001.

Southern states that copies of the filing were served upon all parties listed on the official service list complied by the Secretary in these proceedings and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 14, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5979 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–180–000]

Southwest Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 5, to become effective April 1, 2002.

Southwest states that this filing is made in accordance with Section 16 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Southwest's FERC Gas Tariff, First Revised Volume No. 1. The Fuel Reimbursement Adjustment filed herewith reflects the following Fuel Reimbursement Percentages: (1) West Area Storage Facilities Injection 1.45% and Withdrawal 0.70%; and (2) East Area Storage Facilities Injection 2.75% and Withdrawal 1.41%.

Southwest further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5998 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–007]

Texas Gas Transmission Corporation; Notice of Negotiated Rate

March 7, 2002.

Take notice that on March 1, 2002, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective April 1, 2002:

Third Revised Sheet No. 40

Texas Gas states that the purpose of this filing is to reflect a new negotiated rate/non-conforming contract in its tariff as required Section 154.112(b) of the Commission's regulations and as directed by Commission Letter Order dated April 27, 2001. The contract is non-conforming due to its capacity release crediting mechanism.

Texas Gas states that copies of the revised tariff sheet is being mailed to the parties on the official service list for this docket number, Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5980 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–460–002]

Total Peaking Services, L.L.C.; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 1, 2001, Total Peaking Services, L.L.C., (Total Peaking) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 2001:

First Revised No. 65
First Revised No. 67
Second Revised No. 82
Substitute First Revised No. 86
First Revised No. 97
First Revised No. 98

Total Peaking states that the filing is being made in compliance with the Commission's Order on Order No. 637 Compliance Filing issued in this docket on June 4, 2001, and in response to the letter Order in this docket issued February 5, 2002.

Total Peaking represents that these sheets are consistent with the August 15, 2000 Compliance Filing that was accepted by the Commission in the June 4, 2001 Order. These sheets replace erroneous tariff sheets that were filed on November 21, 2001 inadvertently and rejected in the February 5, 2002 letter Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5984 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–042]

TransColorado Gas Transmission Company; Notice of Compliance Filing

March 7, 2002.

Take notice that on March 1, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Forty-Second Revised Sheet No. 21 and Fifteenth Revised Sheet No. 22A, to be effective March 1, 2002.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets propose to revise TransColorado's Tariff to reflect negotiated-rate contract revisions.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically

via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5981 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–172–000]

TransColorado Gas Transmission Company; Notice of Annual Fuel Gas Reimbursement Report

March 7, 2002.

Take notice that on March 1, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing its annual Fuel Gas Reimbursement Percentage (FGRP) report and proposed a Phase I −0.1% variance adjustment and a Phase II 0.1% variance adjustment to be effective April 1, 2002. The Phase I variance adjustment is applicable to contracts entered into after March 31, 2001.

TransColorado stated that a copy of this filing has been served upon its customers, the New Mexico Public Utilities Commission and the Colorado Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 14, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5990 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–171–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which sheets are enumerated in Appendix A to the filing, with an effective date of April 1, 2002.

Transco states that the instant filing is submitted pursuant to Section 38 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file, to be effective each April 1, a redetermination of its fuel retention percentages applicable to transportation and storage rate schedules. The derivations of the revised fuel retention percentages included therein are based on Transco's estimate of gas required for operations (GRO) for the forthcoming annual period April 2002 through March 2003 plus the balance accumulated in the Deferred GRO Account at January 31, 2002. Appendix B attached to the filing contains workpapers supporting the derivation of the revised fuel retention percentages.

An alternate tariff sheet has also been tendered for filing which reflects a change in the method used to derive the fuel retention factor applicable to Rate Schedules ISS, WSS, WSS-Open Access and WSS-Open Access-R. This approach reduces the fuel retention percentage applicable to Rate Schedules WSS, WSS-Open Access and WSS-Open Access-R by .72% and results in a fuel retention percentage of .64% for the forthcoming annual period under Rate Schedules ISS, WSS, WSS-Open Access and WSS-Open Access-R. Appendix B–1 attached to the filing contains workpapers supporting the derivation of the revised fuel retention factor contained therein.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5989 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–183–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to be effective April 1, 2002.

Transco states that the instant filing is submitted pursuant to Section 41 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to reflect net changes in the Transmission Electric Power (TEP) rates at least 30 days prior to each TEP Annual Period beginning April 1. Attached in Appendix B are workpapers supporting the derivation of

the revised TEP rates reflected on the tariff sheets included therein.

The TEP rates are designed to recover Transco's transmission electric power costs for its electric compressor stations (Stations 35, 100, 115, 120, 125, 145 and 205). The costs underlying the revised TEP rates consist of two components—the Estimated TEP Costs for the period April 1, 2002 through March 31, 2003 plus the balance in the TEP Deferred Account including accumulated interest as of January 31, 2002. Appendix C contains schedules detailing the Estimated TEP Costs for the period April 1, 2002 through March 31, 2003 and Appendix D contains workpapers supporting the calculation of the TEP Deferred Account.

Transco states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also beviewed 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. 02–6001 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–186–000]

Vector Pipeline L.P.; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on February 28, 2002, Vector Pipeline L.P. (Vector), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective April 1, 2002.

Vector states that the purpose of this filing is to make editorial-type changes to its existing tariff, revise and amend various provisions of its tariff to reflect operating experience, amend certain provisions in the tariff to reflect new Commission policy, and to add a new Website Access Agreement Vector states that it is proposing revised tariff sheets which reflect changes to make editorial type corrections, to revise and update sections of its tariff based on operating experience, to accommodate changes in Commission policy, and in order to reflect Vector's current corporate headquarters. In addition, Vector asserts that it is adding a Website Access Agreement form.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6004 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–179–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on March 1, 2002, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, to become effective April 1, 2002.

Williams states that the revised tariff sheets are being filed to allow Williams to transition from a monthly allocation pipeline to a daily allocation pipeline. These changes coincide with the way the natural gas industry typically conducts its business as well as the capabilities Williams now has in measuring gas flow and providing accurate real time measurement to its point operators and shippers. Various meetings have been held with Williams' customers and state commissions to discuss the provisions of this change to a daily allocation system. Although the tariff sheets are proposed to go into effect April 1, 2002, as part of the discussions, Williams agreed to accept the maximum suspension period for the proposed tariff changes. This will allow Williams' customers and point operators more time to become accustomed to the new processes and allow for implementation, after the maximum suspension period, effective as of September 1, 2002.

Williams states that copies of the revised tariff sheets are being mailed to Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://*

www.ferc.gov using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5997 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–187–000]

Wyoming Interstate Company, Ltd.; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2002.

Take notice that on February 28, 2002, Wyoming Interstate Company, Ltd. (WIC), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, Eighth Revised Sheet No. 4C, to become effective April 1, 2002.

WIC states that the tendered tariff sheet revises the Columbia Exit Fee Surcharge Credits applicable to WIC's maximum rate firm and interruptible shipper's transportation service on WIC's system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–6005 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–23–000, et al.]

Trans-Elect, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 6, 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. Trans-Elect, Inc., Michigan Transco Holdings, L.P., Consumers Energy Company and Michigan Electric Transmission Company

[Docket Nos. EC02–23–000 and ER02–320–002]

Take notice that on March 4, 2002, Consumers Energy Company (CECo) filed changes to its easement agreement with Michigan Electric Transmission Company which agreement is associated with the transfer of CECo's electrical transmission facilities to a subsidiary of Trans-Elect, Inc.

CECo states that the purpose of this filing is to comply with Ordering Paragraph (D) of the Federal Energy Regulatory Commission's (Commission) Order Conditionally Authorizing Disposition of Jurisdictional Facilities and Conditionally Approving Proposed Rates and Agreements, 98 FERC ¶ 61,142.

CECo states that a copy of this filing is available for public inspection during regular business hours at CECo's Washington legal office at 1016 16th Street, NW., Suite 100, Washington, DC 20036. In addition copies of this filing are being served on all parties and the Michigan Public Service Commission.

Comment Date: March 18, 2002.

2. Ameren Service Company

[Docket Nos. ER00–1379–001, ER00–1386–001, ER00–2068–001 and ER00–2365–002]

Take notice that on March 1, 2002, Ameren Service Company tendered for filing with the Federal Energy Regulatory Commission (Commission) a Compliance Refund Report pursuant to the Commission's Letter Order issued January 16, 2002 in the above-referenced proceedings.

Comment Date: March 22, 2002.

3. Tri-State Power, LLC

[Docket No. ER01–2444–002]

Take notice that on March 1, 2002, Tri-State Power, LLC (TSP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a long-term contract under which (TSP) will sell electricity under Rate Schedule FERC No. 1 to Tri-State Generation & Transmission Association, Inc. (TSGTA). TSP also filed a short-term agreement under which it will sell start-up test energy to TSGTA.

Comment Date: March 22, 2002.

4. American Electric Power Service Corporation

[Docket No. ER02–371–003]

Take notice that on March 1, 2002, American Electric Power Service Corporation (AEP), on behalf of its public utility operating companies, submitted for filing revised pages to the AEP open access transmission service tariff and to the Transmission Coordination Agreement in compliance with the Commission's January 16, 2002 order in the above-captioned proceeding.

AEP states that a copy of the transmittal letter has been served on all parties to this proceeding, all customers under the tariff and a copy of the filing has been served on the Public Utility Commission of Texas, the Louisiana Public Service Commission, the Arkansas Public Service Commission and the Oklahoma Corporation Commission.

Comment Date: March 22, 2002.

5. Tampa Electric Company

[Docket No. ER02–508–002]

Take notice that on February 28, 2002, Tampa Electric Company (TEC) tendered for filing in compliance with the February 1, 2002 letter order a revised Interconnection and Operating Agreement between TEC and CPV Pierce, Ltd. as a service agreement under TEC's open access transmission tariff.

Comment Date: March 21, 2002.

6. Tampa Electric Company

[Docket No. ER02–551–002]

Take notice that on February 28, 2002, Tampa Electric Company (TEC) tendered for filing in compliance with the February 1, 2002 letter order a revised Interconnection and Operating Agreement between TEC and Calpine Construction Finance Company, L.P. as a service agreement under TEC's open access transmission tariff.

Comment Date: March 21, 2002.

7. Cinergy Services, Inc.

[Docket Nos. ER02–666–001, ER02–667–001 and ER02–668–001]

Take notice that on March 1, 2002, Cinergy Services, Inc., (Cinergy), submitted for filing First Revised Rate Schedule Nos. 286, 288 and 292 to comply with the Commission's order of January 31, 2002 in the above referenced dockets.

Cinergy has served a copy of this compliance filing on the Public Utilities Commission of Ohio, The Midwest Independent System Operator, Strategic Energy, L.L.C., Newenergy, Inc., and FirstEnergy Services, Corp.

Comment Date: March 22, 2002.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–816–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Cinergy Services, Inc. (Cinergy). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

9. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–830–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Minnesota Power & Light Company (Minnesota Power).

The Midwest ISO states that its filing is in compliance with Order No. 614. Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–850–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Louisville Gas & Electric Company/Kentucky Utilities (LG&E/KU). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

11. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–863–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Alliant Energy Corporate Services, Inc. (Alliant). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

12. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–903–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest

ISO by Otter Tail Power Company (OTP). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

13. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–918–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Central Illinois Light Company (CILCO). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

14. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–919–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Indianapolis Power & Light Company (IPL). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

15. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–941–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Southern Indiana Gas & Electric Company (SIGECO). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

16. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–951–001]

Take notice that on March 1, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing, pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000) and Sections 35.16 and 385.205 of the Commission's regulations, 18 CFR 35.16 and 385.205, corrected cover sheets and other information concerning the Notice of Succession of contractual arrangements that were to be assigned to the Midwest ISO by Northern States Power Company (NSP). The Midwest ISO submits that its filing is in compliance with Order No. 614.

Pursuant to the Commission's regulations, 18 CFR 385.2010, 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 Web site 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 22, 2002.

17. Mississippi Power Company

[Docket No. ER02–1179–000]

Take notice that on March 1, 2002, Mississippi Power Company and Southern Company Services, Inc., its

agent, on February , 2002, tendered for filing a Service Agreement with East Mississippi Electric Power Association for DENA Station Service Delivery Point, pursuant to the Southern Companies' Electric Tariff, FERC Electric Tariff, First Revised Volume No. 4. The agreement will permit Mississippi Power to provide wholesale electric service to East Mississippi Electric Power Association at a new service delivery point.

Copies of the filing were served upon East Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment Date: March 22, 2002.

18. Ocean State Power

[Docket No. ER02–1184–000]

Take notice that on February 28, 2002, Ocean State Power (Ocean State) tendered for filing revised pages to Rate Schedule FERC Nos. 1–4, which update Ocean State's rate of return on equity (ROE) with respect to such rate schedules.

Ocean State requests an effective date for the rate schedule changes of April 29, 2002.

Copies of the Supplements have been served upon, among others, Ocean State's power purchasers, the Massachusetts Department of Public Utilities, and the Rhode Island Public Utilities Commission.

Comment Date: March 21, 2002.

19. Montana Power Trading & Marketing Company

[Docket No. ER02–1185–000]

Take Notice that on February 28, 2002, PanCanadian Energy Services Inc. on behalf of Montana Power Trading & Marketing Company, filed with the Federal Energy Regulatory Commission (Commission), certain information as required by the Commission's January 6, 1997 order in Docket No. ER97–399–000.

Comment Date: March 21, 2002.

20. Automated Power Exchange, Inc.

[Docket No. ER02–1186–000]

Take notice that on February 28, 2002, Automated Power Exchange, Inc. (APX) submitted for filing an annual report for 2001.

Comment Date: March 21, 2002.

21. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–1187–000]

Take notice that on March 1, 2002, pursuant to section 205 of the Federal Power Act and Section 35.16 of the Commission's regulations, 18 CFR 35.16, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Succession for certain Transmission Service Agreements and Network Transmission Service and Operating Agreements held by American Transmission Company LLC (ATC).

Copies of this filing were sent to all applicable customers under the ATC Open Access Transmission Tariff by placing a copy of the same in the United States mail, first-class postage prepaid.

Comment Date: March 22, 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. 02–5973 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 7, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection. A mailing error has occurred; therefore, this notice is being reissued and the deadline for filing is extended.

a. *Application Type:* Amendment of License.

b. *Project No.:* 4659–026.

c. *Date Filed:* August 8, 2001.

d. *Applicant:* Independence County.

e. *Name of Project:* White River Lock and Dam No. 3 Hydroelectric Project.

f. *Location:* The project is located on the White River, in Independence County, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Donald H. Clarke, Law Offices of GKRSE, 1500 K Street NW, Suite 330, Washington, DC 20005. Telephone (202) 408–5400, or e-mail address: dhclarke@GKRSE-law.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Janet Hutzel at (202) 208–2271, or e-mail address: *janet.hutzel@ferc.fed.us*.

j. *Deadline for filing comments, motions to intervene, and protests:* 30 days from the issuance date of this notice.

k. This notice was issued January 29, 2002 with a comment date of February 28, 2002, and is being reissued with an extended deadline for filing.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please include the project number (P–4659–026) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, motions to intervene, and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site, http://www.ferc.gov, under the ''e-Filing'' link.

l. *Description of Amendment:* The license, issued February 28, 1986, authorizes a transmission line route whereby the as yet unconstructed transmission line would interconnect with Arkansas Power and Light (now Entergy). Independence County now intends to interconnect with a Southwestern Power Administration

(SWPA) transmission line. Independence County thus proposes to (1) change the route for the unconstructed transmission line and (2) build a substation on an existing Southwestern Power Administration (SWPA) right-of-way.

The proposed transmission line would extend along the north side of the White River eastward nine miles from Lock and Dam No. 3 to the proposed substation. Single pole structures would be used to construct the 25 kV transmission line.

The proposed substation would be located approximately two miles east of White River Lock and Dam No. 2 (Project No. 4660), on the north side of the White River. The 100 ft by 150 ft substation would step-up the voltage from 25 kV to 161 kV, and have a transformer rating of 17.5 kV.

SWPA is a cooperating agency in the processing of the license amendment.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at http://www.ferc.gov using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above. n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number (No. 4659–026) of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of Independence County specified in item h, above.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative listed in item h, above.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5977 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 7, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection. A mailing error has occurred; therefore, this notice is being reissued and the deadline for filing is extended.

a. *Application Type:* Amendment of License.

b. *Project No.:* 4660–028.

c. *Date Filed:* August 8, 2001.

d. *Applicant:* Independence County.

e. *Name of Project:* White River Lock and Dam No.2 Hydroelectric Project.

f. *Location:* The project is located on the White River, in Independence County, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Donald H. Clarke, Law Offices of GKRSE, 1500 K Street NW, Suite 330, Washington, DC 20005. Telephone (202) 408–5400, or e-mail address: *dhclarke@GKRSE-law.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Janet Hutzel at (202) 208–2271, or e-mail address: *janet.hutzel@ferc.fed.us.*

j. *Deadline for filing comments, motions to intervene, and protests:* 15 days from the issuance date of this notice.

k. This notice was issued January 29, 2002 with a comment date of February 28, 2002, and is being reissued with an extended deadline for filing.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–4660–028) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, motions to intervene, and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site, http://www.ferc.gov, under the ''e-Filing'' link.

l. *Description of Amendment:* The license, issued November 8, 1985, authorizes a transmission line route whereby the as yet unconstructed transmission line would interconnect with Arkansas Power and Light (now Entergy). Independence County now intends to interconnect with a Southwestern Power Administration (SWPA) transmission line. Independence County thus proposes to (1) change the route for the unconstructed transmission line and (2) build a substation on an existing Southwestern Power Administration (SWPA) right-of-way.

The proposed transmission line would extend along the north side of the White River eastward two miles from Lock and Dam No. 2 to the proposed substation. Single pole structures would be used to construct the 25 kV transmission line.

The proposed substation would be located approximately two miles east of White River Lock and Dam No. 2, on the north side of the White River. The 100 ft by 150 ft substation would step-up the voltage from 25 kV to 161 kV, and have a transformer rating of 17.5 kV.

SWPA is a cooperating agency in the processing of the license amendment.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at http://www.ferc.gov using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above. n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the

Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number (No. 4660–028) of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of Independence County specified in item h, above.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative listed in item h, above.

Magalie R. Salas,

Secretary.

[FR Doc. 02–5978 Filed 3–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Georgia-Alabama-South Carolina System of Projects

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of proposed rate adjustment.

SUMMARY: Southeastern Power Administration (Southeastern) proposes to revise existing schedules of rates and charges applicable to the sale of power from the Georgia-Alabama-South Carolina System of Projects effective for a 5-year period, October 1, 2002, through September 30, 2007. Additionally, opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a forum and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before June 11, 2002. A public information and comment forum will be held at the Westin Atlanta Airport, in Atlanta, Georgia, at 10 a.m., on April 18, 2002. Persons desiring to speak at the forum should notify Southeastern at least 3 days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: Written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711. The public information and comment forums for the Georgia-Alabama-South Carolina System of Projects will be at the Westin Atlanta Airport, 4736 Best Road, Atlanta, Georgia 30337, (404–762–7676).

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance & Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (the Commission) by order issued February 26, 1999, in Docket No. EF98–3011–000, (86 FERC 61,195) confirmed and approved Wholesale Power Rate Schedules SOCO–1, SOCO–2, SOCO–3, SOCO–4, ALA–1–I, MISS–1–I, Duke-1, Duke-2, Duke-3, Duke-4, Santee-1, Santee-2, Santee-3, Santee-4, and Pump-1 applicable to Georgia-Alabama-South Carolina System of Projects' power for a period ending September 30, 2003. On April 23, 1999, in Docket No. EF98–3011–001, the Commission issued an order granting rehearing for further consideration. On July 31, 2001, the Commission issued an order denying rehearing. Rate schedule Regulation-1 was approved by the Administrator, Southeastern Power Administration, on May 2, 2001.

Discussion: Existing rate schedules are predicated upon a July 1998 repayment study and other supporting data contained in FERC Docket No. EF98–3011–000. The current repayment study prepared in February 2002 shows that existing rates are not adequate to recover all costs required by present repayment criteria. Southeastern is proposing to establish rates that will recoup these unrecovered costs.

Existing rates for the Georgia-Alabama-South Carolina System have been in effect since October 1, 1998. This region has experienced a severe drought since that time. This has impacted repayment in two ways. First, revenues have been reduced because Southeastern has had less energy available for sale. Second, expenses have increased because it has been necessary for Southeastern to purchase replacement energy to meet its contractual obligations.

Southeastern is proposing four rate alternatives for public comment. Southeastern is proposing two rate alternatives that would continue the current rate design where purchases of replacement energy are included in the capacity and energy charges from Southeastern. These are designated ''Scenario 1A'' and ''Scenario 1B.'' In addition, Southeastern is proposing two rate alternatives that include a direct pass through of replacement energy costs. These are designated ''Scenario 2A'' and ''Scenario 2B.'' Under these alternatives, replacement energy costs are excluded from the capacity and energy charges.

Proposed Unit Rates

Southeastern is proposing the following rate schedules to be effective for the period from October 1, 2002 through September 30, 2007.

Rate Schedule SOCO–1–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be wheeled and scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated.

Rate Schedule SOCO–2–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be wheeled pursuant to contracts between the Government and Southern Company Services, Incorporated. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule SOCO–3–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida to whom power may be scheduled pursuant to contracts between the Government and Southern Company Services, Incorporated. The customer is responsible for providing a transmission arrangement.

Rate Schedule SOCO–4–A

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, and Florida. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule ALA–1–J

Available to the Alabama Electric Cooperative, Incorporated.

Rate Schedule MISS–1–J

Available to the South Mississippi Electric Power Association to whom power may be wheeled pursuant to contract between the Government and Alabama Electric Cooperative, Inc.

Rate Schedule Duke–1–A

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and Duke Power Company.

Rate Schedule Duke–2–A

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be wheeled pursuant to contracts between the Government and Duke Power Company. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule Duke–3–A

Available to public bodies and cooperatives in North Carolina and South Carolina to whom power may be scheduled pursuant to contracts between the Government and Duke Power Company. The customer is responsible for providing a transmission arrangement.

Rate Schedule Duke–4–A

Available to public bodies and cooperatives in North Carolina and South Carolina served through the transmission facilities of Duke Power Company. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule Santee–1–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Public Service Authority.

Rate Schedule Santee–2–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Public Service Authority. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule Santee–3–A

Available to public bodies and cooperatives in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Public Service Authority. The customer is responsible for providing a transmission arrangement.

Rate Schedule Santee–4–A

Available to public bodies and cooperatives in South Carolina served through the transmission facilities of South Carolina Public Service Authority. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule SCE&G–1–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled and scheduled pursuant to contracts between the Government and South Carolina Electric & Gas Company.

Rate Schedule SCE&G–2–A

Available to public bodies and cooperatives in South Carolina to whom power may be wheeled pursuant to contracts between the Government and South Carolina Electric & Gas Company. The customer is responsible for providing a scheduling arrangement with the Government.

Rate Schedule SCE&G–3–A

Available to public bodies and cooperatives in South Carolina to whom power may be scheduled pursuant to contracts between the Government and South Carolina Electric & Gas Company. The customer is responsible for providing a transmission arrangement.

Rate Schedule SCE&G–4–A

Available to public bodies and cooperatives in South Carolina served through the transmission facilities of South Carolina Electric & Gas Company. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

Rate Schedule Pump–1

Available to all customers of the Georgia-Alabama-South Carolina System and applicable to energy from pumping operations at the Carters and Richard B. Russell projects.

Rate Schedule Regulation–1

Available to public bodies and cooperatives in Georgia, Alabama, Mississippi, Florida, South Carolina, or North Carolina to whom regulation service is provided pursuant to contracts between the Government and the customer.

Rate Schedule Replacement–1

Available to all customers in the Georgia-Alabama-South Carolina System and applicable to replacement energy.

Under Scenario 1A, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $2.98 per kw per month.

Energy: 7.91 mills per kwh.

Generation Services: $0.13 per kw per month.

Under this scenario, 70 per cent of generation revenues are recovered from capacity sales and 30 per cent are recovered from energy sales. These rates include a reserve for contingencies. These rates are expected to produce an average revenue increase of $10.0 million in FY 2003 and all future years.

Under Scenario 1B, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $3.60 per kw per month.

Energy: 3.94 mills per kwh.

Generation Services: $0.13 per kw per month.

Under this scenario, 85 per cent of generation revenues are recovered from capacity sales and 15 per cent are recovered from energy sales. These rates include no reserve for contingencies. These rates are expected to produce an average revenue increase of $9.5 million in FY 2003 and all future years.

Under Scenario 2A, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $2.89 per kw per month.

Energy: 7.67 mills per kwh.

Generation Services: $0.13 per kw per month.

Under Scenario 2A, 70 percent of generation revenues are recovered from capacity sales and 30 per cent are recovered from energy sales. These rates include a reserve for contingencies. These rates are expected to produce an average revenue increase of $7.0 million in FY 2003 and all future years.

Under Scenario 2B, the proposed rates for capacity, energy, and generation services are as follows:

Capacity: $3.49 per kw per month.

Energy: 3.82 mills per kwh.

Generation Services: $0.13 per kw per month.

Under Scenario 2B, 85 percent of generation revenues are recovered from capacity sales and 15 per cent are recovered from energy sales. These rates include no reserve for contingencies. These rates are expected to produce an average revenue increase of $6.5 million in FY 2003 and all future years.

The rates for transmission, scheduling, reactive supply, and regulation and frequency response apply to all four scenarios and are illustrated in Table 1.

SOUTHEASTERN POWER ADMINISTRATION PROPOSED RATES FOR TRANSMISSION SCHEDULING, REACTIVE, AND REGULATION CHARGES

Rate schedule	Transmission charge, $/KW/month	Scheduling charge, $/KW/month	Reactive charge, $/KW/month	Regulation charge, $/KW/month
SOCO–1–A	1.51	0.0806	0.11	0.0483
SOCO–2–A	1.51	N/A	0.11	N/A
SOCO–3–A	N/A	0.0806	N/A	0.0483
SOCO–4–A	N/A	N/A	N/A	N/A
ALA–1–J	N/A	N/A	N/A	N/A
MISS–1–J	1.854	N/A	N/A	N/A
Duke–1–A	0.93	N/A	N/A	N/A
Duke–2–A	0.93	N/A	N/A	N/A
Duke–3–A	N/A	N/A	N/A	N/A
Duke–4–A	N/A	N/A	N/A	N/A
Santee–1–A	1.59	N/A	N/A	N/A
Santee–2–A	1.59	N/A	N/A	N/A
Santee–3–A	N/A	N/A	N/A	N/A
Santee–4–A	N/A	N/A	N/A	N/A
SCE&G–1–A	1.13	N/A	N/A	N/A
SCE&G–2–A	1.13	N/A	N/A	N/A
SCE&G–3–A	N/A	N/A	N/A	N/A
SCE&G–4–A	N/A	N/A	N/A	N/A
Pump–1	N/A	N/A	N/A	N/A
Regulation–1	N/A	N/A	N/A	N/A
Replacement–1	N/A	N/A	N/A	N/A

The referenced repayment studies are available for examination at 1166 Athens Tech Road, Elberton, Georgia 30635–6711. Proposed Rate Schedules SOCO–1–A, SOCO–2–A, SOCO–3–A, SOCO–4–A, ALA–1–J, MISS–1–J, Duke–1–A, Duke–2–A, Duke–3–A, Duke–4–A, Santee–1–A, Santee–2–A, Santee–3–A, Santee–4–A, SCE&G–1–A, SCE&G–2–A, SCE&G–3–A, SCE&G–4–A, Pump–1, Regulation–1, and Replacement–1 are also available.

Dated: February 26, 2002.

Charles A. Borchardt,

Administration.

[FR Doc. 02–6036 Filed 3–12–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00762; FRL–6827–5]

The Association of American Pesticide Control Officials/State FIFRA Issues Research and Evaluation Group Working Committee on Pesticide Operations and Management; Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials (AAPCO)/State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Pesticide Operations and Management (WC/POM) will hold a 2–day meeting, beginning on April 8, 2002, and ending April 9, 2002. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on Monday, April 8, 2002, from 8:30 a.m. to 5 p.m. and Tuesday, April 9, 2002, from 8:30 a.m. to noon.

ADDRESSES: This meeting will be held at the Sheraton Gunter Hotel - San Antonio, 205 East Houston, San Antonio, TX 78205. The telephone number is (210) 227–3241.

Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. under **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00762 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Georgia A. McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: Mcduffie.Georgia@epa.gov.

Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax number: (802) 472–6957; e-mail address: aapco@plainfield.bypass.com.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encouraged to attend the meetings and participate as appropriate. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00762. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00762 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00762. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Tentative Agenda:

1. Chromated copper arsenate treated woods - Update - State impacts.
2. Pesticide field data plan.
3. Methyl bromide critical use exemption.
4. Inspector credential authorization - Update.
5. Check sample program.
6. Certification and training advisory group (CTAG) issues - Discussion of survey results and issue papers.
7. Funding.
8. Drift update.
9. NAFTA labels - Committee input on practicality.
10. Cross contamination - Revisit PR Notice.
11. E-labeling.
12. Chlorine gas workgroup - Update.
13. Aluminum phosphide.
14. Dursban products - What are States finding in the market.

Lists of Subjects

Environmental protection, Pesticides and pests.

Dated: March 1, 2002.

Bruce A. Sidwell,

Acting Associate Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 02–6067 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7156–9]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of two meetings of the Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel of the Radiation Advisory Committee (RAC) of the US EPA Science Advisory Board (SAB). The Panel will meet on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. For teleconference meetings, available lines may also be limited. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

1. Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel—April 8, 2002 Teleconference

The Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel of the

Radiation Advisory Committee (RAC) of the US EPA Science Advisory Board (SAB) (also referred to as the ''Review Panel,'' or ''Panel'') will meet on Monday, April 8, 2002, via teleconference from 11:00 am to 1:00 pm Eastern Standard Time. This teleconference meeting will be hosted out of Conference Room 6013, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meeting is open to the public, however, due to limited space, seating will be on a first-come basis—the public may also attend via telephone, however, lines may be limited. For further information concerning the meeting or how to obtain the phone number, please contact the individuals listed at the end of this FR notice.

Purpose of the Meeting

The purpose of this public teleconference meeting is to: (a) Discuss the charge and the adequacy of the review materials provided to the MARLAP Review Panel; (b) to clarify any questions and issues relating to the charge and the review materials; (c) to discuss specific charge assignments to the MARLAP Review Panelists; and (d) to clarify specific points of interest raised by the MARLAP Review Panelists in preparation for the face-to-face meeting to be held on April 23–25, 2002. This teleconference meeting of the Review Panel will provide focus on the charge and issues prior to the April 23–25, 2002 meeting of the Panel.

See below for availability of review materials, the charge to the review panel, and contact information.

2. Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Review Panel—April 23–25, 2002 Meeting

The MARLAP Review Panel of the Radiation Advisory Committee's (RAC) of the US EPA Science Advisory Board (SAB) will conduct a public meeting on Tuesday, April 23 through Thursday, April 25, 2002. The meeting will begin on Tuesday, April 23, 2002 at 9:00 am and adjourn no later than 5:30 pm that day. On the subsequent days, the meeting may begin at 8:30 am and adjourn no later than 5:30 pm. The meeting will take place in EPA Hearing Room 1153 in the EPA East Headquarters Building, 1201 Pennsylvania Avenue, NW, Washington, DC 20004. ''Break-out'' sessions will be held in this conference room and adjoining rooms 1150A, 1151, and 1155, as appropriate. For further information concerning the meeting, please contact the individuals listed at the end of this FR notice.

The need for subsequent meetings of the MARLAP Review Panel will be discussed at this meeting and schedules of any future meetings to complete review of this topic will be discussed. Information concerning any future public meetings will appear in **Federal Register** notices as appropriate.

Purpose of the Meeting

The purpose of this meeting is to begin a review of the MARLAP document. In particular, the MARLAP Review Panel will: (1) Engage in dialogue with appropriate officials from the participating agencies, departments and commissions responsible for preparation and utilization of the MARLAP Manual; (2) begin to prepare responses to the charge questions (see below); (3) receive public comments as appropriate, and (4) plan and schedule subsequent meetings (if needed) to complete this review.

See below for availability of review materials, the charge to the review panel, and contact information for both meetings.

FOR FURTHER INFORMATION: Any member of the public wishing further information concerning these meetings or who wish to submit brief oral comments must contact Dr. K. Jack Kooyoomjian, Designated Federal Officer, MARLAP, USEPA Science Advisory Board (1400A), Suite 6450, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4557; fax at (202) 501–0582; or via e-mail at *kooyoomjian.jack@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Dr. Kooyoomjian no later than noon Eastern Time five business days prior to the meeting date (April 1, 2002 and April 16, 2002, respectively, for the two meetings). See below for time limitations on public comments.

Members of the public desiring additional information about the meeting locations or the call-in number for the teleconference, must contact Ms. Mary Winston, Management Assistant, MARLAP, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone/voice mail at (202) 564–4538; fax at (202) 501–0582; or via e-mail at *winston.mary@epa.gov.*

A copy of the draft agenda for each meeting will be posted on the SAB Website *(www.epa.gov/sab)* (under the AGENDAS subheading) approximately 10 days before that meeting.

Availability of Review Materials

There are seven sponsoring federal agencies, commissions and departments (US Environmental Protection Agency, US EPA; US Department of Energy, DOE; US Nuclear Regulatory Commission, NRC; US Department of Defense, DoD; US National Institutes of Standards and Technology, NIST; US Geologic Survey, USGS; and the US Food and Drug Administration, FDA), and two state representatives (California and Kentucky) for the documents that are the subject of the review. The review document is available electronically at the following site *http://www.eml.doe/marlap/.* For questions and information pertaining to the review document, please contact Dr. Mary E. Clark, Assistant Director, Office of Radiation and Indoor Air (6601), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; tel. (202) 564–9348, FAX (202) 565–2043, e-mail: *clark.marye@epa.gov.* Dr. Clark will refer you to the appropriate agency, commission or department contact for the particular issue of interest. The review document which is the subject of this review is cited as follows:

Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Manual, Volume I: Chapters 1–9, and Volume II: Chapters 10–20 and Appendices, NUREG–1576; EPA 402-B–01–003; NTIS PB2001–106745, August 2001.

The above document and any comments received to date on a previous **Federal Register** solicitation (see 66 *FR,* Vol. 66, No. 170, pgs. 45972 to 45974, Aug 31, 2001; see also *http://www.epa.gov/rpdweb00/marlap/index.html)* can be viewed at the US Environmental Protection Agency, Office of Air and Radiation Docket (Docket Number A–2001–16), Room M1500, 401 M Street, SW, Washington, DC 20460, Tel. (202) 260–7548.

Charge to the Panel

The focus of the review will be on the following charge questions:

Charge Question #1: Is the overall approach presented in part I of MARLAP for the planning implementation and assessment phases of projects which require analysis for radionuclides technically acceptable?

(1a) Is the performance-based approach presented clearly and logically?

(1b) Is the approach reasonable in terms of ease of implementation?

(1c) Does the approach effectively link the three phases (planning, implementation, and assessment) of a project?

Charge Question #2: Is the guidance on laboratory operations in the Part II chapters technically accurate? Does it provide a useful resource base of information for a laboratory's implementation of a performance-based approach?

Charge Question #3: Is the guidance on measurement statistics—specifically measurement uncertainty and detection and quantification capability—technically accurate, clearly presented, and useful for implementation by appropriately trained personnel?, and

Charge Question #4: What are the overall Integration and Implementation Issues?

Note: *This charge question was added by the MARLAP Review Panel.*

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

General Information

Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website *(http://www.epa.gov/sab)* and in *The FY2001 Annual Report of the Staff Director* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Kooyoomjian at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 5, 2002.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 02–6066 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34143D; FRL–6828–1]

Dimethoate Products Cancellation Order and Label Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's cancellation order for the product and use cancellations as requested by companies (hereafter collectively referred to as the ''EUP Registrants'') that hold the registrations of pesticide End-Use Products (EUPs) containing the active ingredient dimethoate and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up a January 10, 2002 notice of receipt from the EUP Registrants, of requests for cancellations and or amendments of their dimethoate product registrations to terminate all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. In the January 10, 2002 notice, EPA indicated that it would issue an order granting the voluntary product and use registration cancellations unless the Agency received any substantive comment within the comment period that would merit its further review of these requests. The Agency did not receive any comments. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective on March 13, 2002.

FOR FURTHER INFORMATION CONTACT: Patrick Dobak, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–6249; fax number: (703) 308–7042; e-mail address: dobak.pat@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use dimethoate products. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for dimethoate, go to the Home Page for the Office of Pesticide Programs or go directly to http://www.epa.gov/pesticides/op/dimethoate.htm.

2. *In person*. The Agency has established an official record for this

action under docket control number OPP 34143D. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

A. Background

Certain registrants requested in letters dated July, August, September, and October, 2001, that their dimethoate registrations be amended to delete all indoor uses and certain agricultural uses, as described below. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, other dimethoate end-use registrants requested voluntary cancellation of their dimethoate EUP registrations with indoor use and/or certain outdoor non-agricultural uses. EPA announced its receipt of these above-mentioned cancellation requests in a **Federal Register** Notice dated January 10, 2002 (67 FR 1345)(FRL–6817–5).

These requested cancellations and amendments are consistent with the requests in December 2000 by the manufacturers of dimethoate technical products, and EPA's approval of such requests, to terminate all residential uses and certain agricultural uses from their dimethoate product registrations. The indoor uses and agricultural uses subject to cancellation are identified in the list below:

List—Uses Requested for Termination

- *Residential and public area uses.* Any use in or around a structure used as a residence or domestic dwelling, or on any articles or areas associated with such structures (including household contents, home gardens, and home greenhouses).
- Any use in public or private building or structure (including recreational facilities, theaters, hotels, resorts, or other buildings used for public accommodation, or in any other commercial, industrial, or institutional building), or on any articles or areas associated with such structures, including refuse areas, building contents and landscaping and playgrounds.
- *Agricultural uses.* Housefly treatments on farm buildings and structures, farm animals, and manure piles.

In today's Cancellation Order, EPA is approving the registrants' requested cancellations and amendments of their dimethoate end-use products registrations to terminate all uses identified in the list above.

B. Requests for Voluntary Cancellation of End-Use Products

The end-use product registrations for which cancellation was requested are identified in the following Table 1.

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

Company	Registration No	Product
Bonide Products, Inc.	4–256	Bonide Systemic Insecticide
Value Garden Supply, LLC	70–113	Kill-Ko Cygon 2-E Systemic Insecticide
Value Garden Supply, LLC	192–134	Drexol Cygon Systemic Insecticide
Value Garden Supply, LLC	5887–128	Black Leaf Cygon 2-E
Rockland Corporation	572–224	Rockland Residual Fly Spray
Universal Cooperatives Inc.	1386–449	Cygon 2E Systemic Insecticide
AMVAC Chemical Corporation	5481–54	ALCO Cygon 2 E
Celaflor GMBH	69129–3	Celaflor Rose Patch

EPA did not receive any comments on the requests for cancellation of dimethoate products for residential use and the agricultural uses described above. Accordingly, the Agency is issuing an order in this notice canceling the registrations identified in Table 1, as requested by the EUP registrants.

C. Requests for Voluntary Amendments of End-Use Product Registrations to Terminate Certain Uses

Pursuant to section 6(f)(1)(A) of FIFRA, many EUP Registrants submitted requests to amend a number of their dimethoate end-use product registrations to terminate the uses identified in the List above or any other uses as specified for each product in the January 10, 2002, Dimethoate 6(f) Notice and reiterated in Table 2 below. EPA did not receive any comments expressing a need for any of the uses for which termination was requested. The registrations for which amendments to terminate specific uses were requested are identified in the following Table 2:

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

Company	Registration No	Product Name:Use Deletions
Dragon Chemical Corporation	16–160	Dragon Cygon 2E Systemic Insecticide

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS—Continued

Company	Registration No	Product Name:Use Deletions
Value Gardens Supply, LLC	769–948	Pratt Cygon 2-E Systemic Insecticide
Uniroyal Chemical Company Inc.	400–278	De-Fend E267 Dimethoate Systemic Insecticide
Southern Agricultural Insecticides,	829–251	SA-50 Brand Cygon 2 E Dimethoate Inc. Systemic Insecticide
Universal Cooperatives Inc.	1386–449	Cygon 2-E Systemic Insecticide
Universal Cooperatives Inc.	1386–618	Dimethoate 267 EC Systemic Insecticide
Helena Chemical Company	5905–493	Dimethoate 4EC
Helena Chemical Company	5905–497	5 LB Dimethoate Systemic Insecticide
Voluntary Purchasing Group Inc.	7401–338	Hi-Yield Cygon
BASF Corporation	7969–38	Rebelate 2E Insecticide
Agriliance, LLC	9779–273	Dimate 4E
Platte Chemical Company, Inc.	34704–207 34704–762	Clean Crop Dimethoate 400 Flygon 2-E
Haco, Inc.	2393–377	Cygon 2-E Systemic Insecticide
Micro-Flo Company LLC	51036–110 51036–198	Dimethoate 4E Cymate 267
Cheminova Agro F/S	67760–36 67760–44	Chemathoate 267 E.C. Systemic Insecticide Dimethoate 4W

III. Cancellation Order

Pursuant to section 6(f) of FIFRA, EPA hereby approves the requested cancellations of dimethoate product and use registrations identified in Tables 1 and 2 of this Notice. Accordingly, the Agency orders that the dimethoate end-use product registrations identified in Table 1 are hereby canceled. The Agency also orders that all of the end-use product registrations identified in Table 2 are amended to cancel those uses identified in List 1. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 in a manner inconsistent with the terms of this Order or the Existing Stock Provisions in Unit IV of this Notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provisions

For purposes of this Order, the term ''existing stocks'' is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the amendment or cancellation. The existing stocks provisions of this Cancellation Order are as follows:

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on the agricultural crops identified in List 1 will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 2 that bears instructions for any of the agricultural uses identified in List 1 after the effective date of the cancellation order.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order.

3. *Distribution or sale by the registrant of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites(except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

4. *Distribution or sale by persons other than the registrant of existing stock of products for indoor use.* The distribution or sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

Lists of Subjects

Environmental protection, Memorandum of Agreement, Pesticides and pests.

Dated: March 4, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–6090 Filed 3–12–02; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30509B; FRL–6827–3]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30509B, must be received on or before April 12, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30509B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9354, and e-mail address: mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30509B. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30509B in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30509B. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be

submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received an application as follows to register a pesticide product containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of the application does not imply a decision by the Agency on the application.

Product Containing Active Ingredients Not Included in Any Previously Registered Products

File symbol: 524–LEI. On March 19, 2001 (66 FR 15435) (FRL–6771–5), EPA announced receipt of a seed increase registration application from Monsanto Company (700 Chesterfield Parkway N., St. Louis, MO 63198) to register the product Event MON 863: Corn Rootworm Protected Corn (ZMIR13L) containing the plant-incorporated protectant *Bacillus thuringiensis Cry3Bb* protein and the genetic material (Vector ZMIR13L) necessary for its production in corn. Monsanto has subsequently modified their application for full commercial use. Proposed classification/Use: None. For full commercial use.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 27, 2002.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 02–5869 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7156–8]

Gulf States Steel Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), the United States Environmental Protection Agency (''EPA'') proposes to enter into a Prospective Purchaser Agreement (''PPA'') regarding a portion of the Gulf States Steel Superfund Site in Gadsden, Etowah County, Alabama. EPA proposes to enter into the PPA with Alabama Structural Products, Inc. (ASP). The PPA provides for the payment of $100,000 from ASP and obligates ASP to fully cooperate with any response actions EPA may take on the property. Further, the PPA provides ASP with a covenant not to sue from the United States for Existing Contamination on the property. The covenant is conditioned upon ASP's fulfilling its obligations under the PPA. EPA will consider comments on the proposed PPA for thirty (30) days.

EPA may withdraw from or modify the proposed PPA should such comments disclose facts or considerations which indicate the proposed PPA is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, 404/562–8887.

Written comments may be submitted to Ms. Batchelor at the above address within 30 days of the date of publication.

Dated: March 5, 2002.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–6065 Filed 3–12–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Technological Advisory Council; Meeting

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the fourth meeting of the Technological Advisory Council (''Council'') under its new charter.

DATES: Friday, April 26, 2002 at 10:00 a.m.

ADDRESSES: Federal Communications Commission, 445 12th St. SW, Room TW–C305 Washington, DC 20554.

SUPPLEMENTARY INFORMATION: Continuously accelerating technological changes in telecommunications design, manufacturing, and deployment require that the Commission be promptly informed of those changes to fulfill its statutory mandate effectively. The Council was established by the Federal Communications Commission to provide a means by which a diverse array of recognized technical experts from a variety of interests such as industry, academia, government, citizens groups, etc., can provide advice to the FCC on innovation in the communications industry. The purpose of, and agenda for, the fourth meeting under the Council's new charter will be to review the progress that has been made and organize the Council's efforts to fulfill its responsibilities under its new charter. The Council will also consider such questions as the Commission may put before it. Members of the public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many persons as possible. Admittance, however, will be limited to the seating available. Unless so requested by the Council's Chair, there will be no public oral participation, but the public may submit written comments to Jeffery Goldthorp, the Federal Communications Commission's Designated Federal Officer for the Technological Advisory Council, before the meeting. Mr. Goldthorp's e-mail address is *jgoldtho@fcc.gov.* His United States mail

delivery address is Jeffery Goldthorp, Chief, Network Technology Division, Office of Engineering and Technology, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–6032 Filed 3–12–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

DATE & TIME: Tuesday, March 19, 2002 at 10:00 a.m.

PLACE: 999 E Street, N.W., 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: Wednesday, March 20, 2002 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC. (Ninth Floor).

STATUS: This hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Use of the Internet for campaign-related activities.

DATE & TIME: Thursday, March 21, 2002 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

New Rulemaking on Administrative Fines (11 CFR part 111, subpart B).

Statement of Policy Regarding Party Committee Coordinated Expenditures.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–6185 Filed 3–11–02; 3:04 pm]

BILLING CODE 6715–01–M

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.: 011657–005.

Title: Zim/Italia U.S. West Coast Space Charter Agreement.

Parties: Zim Israel Navigation Co., Ltd., Italia di Navigazione, S.p.A.

Synopsis: The proposed agreement amendment changes the geographic scope to eliminate France and Greece and reduces Zim's basic allocation from 65 to 50 TEUs. It also makes changes in the provision regarding further sales of slots to Zim under the agreement.

Agreement No.: 011745–004.

Title: Evergreen/Lloyd Triestino/Hatsu Alliance Agreement.

Parties: Evergreen Marine Corp. (Taiwan) Ltd., Hatsu Marine Limited, Lloyd Triestino di Navigazione S.p.A.

Synopsis: The proposed agreement modification increases the number of vessels to be deployed under the agreement and revises the parties' various vessel strings. The parties request expedited review.

Agreement No.: 011789–001.

Title: Contship/Zim Indian Subcontinent Space Charter Agreement.

Parties: Contship Container Lines, Zim Israel Navigation Company, Ltd.

Synopsis: The proposed agreement modification would add ports in Egypt to the geographic scope of the agreement. The parties request expedited review.

Agreement No.: 011792.

Title: NYK/WWL/CSAV South America Space Charter Agreement.

Parties: Nippon Yusen Kaisha, Wallenius Wilhelmsen Lines AS, Compania Sud Americana de Vapores S.A.

Synopsis: The proposed agreement authorizes the parties to share vessel space in the trade between the ports of New York and Miami, on the one hand, and ports in Venezuela, Ecuador, Colombia, Chile, and Peru, on the other hand. The parties request expedited review.

Agreement No.: 201130.

Title: Broward-Discovery Cruise Agreement.

Parties: Broward County, Discovery Cruise Services, Inc.

Synopsis: The agreement is a wharfage agreement covering rates, port charges, and services. The agreement runs through March 5, 2012.

Dated: March 8, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6079 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection or the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Carnival Corporation, 3655 N.W. 87th Avenue, Miami, FL 33178–2193, Vessel: CARNIVAL PRIDE

Discovery Sun Partnership, Discovery Sun Cruises, Inc., and Discovery Sun Tours, Inc., 1775 N.W. 70th Avenue, Miami, FL 33126–1341, Vessel: DISCOVERY SUN

Holland America Line-Westours Inc. (d/b/a Windstar Cruises), Wind Spirit Limited, and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, WA 98119, Vessel: WIND SURF

Norwegian Cruise Line Limited and Norwegian Star, Ltd., 7665 Corporate Center Drive, Miami, FL 33126,Vessel: NORWEGIAN STAR

Princess Cruise Lines, Ltd., P & O Princess Cruises International Limited, GP3, Ltd., and P & O Princess Cruises plc, 24305 Town Center Drive, Santa Clarita, CA 91355–4999, Vessel: STAR PRINCESS

Royal Caribbean Cruises Ltd., and Adventure of the Seas Inc., 1050 Caribbean Way, Miami, FL 33132–

2096, Vessel: ADVENTURE OF THE SEAS

Sea Cloud Cruises GmbH, Schiffahrts-Gesellschaft Hansa Columbus mbH & Co., KG, Hansa Shipmanagement GmbH & Co., Hansa Columbus Sailing Ltd., Valletta, and Hapag-Lloyd Kreuzfahrten GmbH, Ballindamm 17, 20095 Hamburg, Germany, Vessel: SEA CLOUD II

Star Clippers, Ltd., Star Clipper N.V., and Luxembourg Shipping Services S.A. (d/b/a Star Clippers), 4101 Salzedo Street, Coral Gables, FL 33146, Vessel: STAR CLIPPER

Dated: March 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6081 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817 (e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

The Delta Queen Steamboat Co., and Great River Cruise Line, L.L.C., 1380 Port of New Orleans Place, New Orleans, LA 70130, Vessel: DELTA QUEEN

The Delta Queen Steamboat Co., and Great Ocean Cruise Line, L.L.C., 1380 Port of New Orleans Place, New Orleans, LA 70130, Vessel: MISSISSIPPI QUEEN

Holland America Line-Westours Inc. (d/b/a Holland America Line), HAL Cruises Limited, Holland America Line N.V., and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, WA 98119, Vessels: OOSTERDAM, PRINSENDAM and ZUIDERDAM

Holland America Line-Westours Inc. (d/b/a Windstar Cruises), Wind Spirit Limited, and HAL Antillen N.V., 300 Elliott Avenue West, Seattle, WA 98119, Vessel: WIND SURF

Luxumbourg Shipping Services S.A. (d/b/a Star Clippers), 4101 Salzedo Street, Coral Gables, FL 33146, Vessel: STAR CLIPPER

Norwegian Cruise Line Limited (d/b/a Norwegian Cruise Line), 7665 Corporate Center Drive, Miami, FL 33126, Vessel: NORWEGIAN DAWN

Sea Cloud Cruises GmbH, Schiffahrts-Gesellschaft Hansa Columbus mbH & Co., KG, and Hapag-Lloyd Kreuzfahrten GmbH Ballindamm 17, 20095 Hamburg, Germany, Vessel: SEA CLOUD II

Dated: March 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6082 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 02–03]

Exclusive Tug Arrangements in Port Canaveral, FL; Notice of Investigation and Hearing

Notice is given that, on February 25, 2002, the Federal Maritime Commission (''Commission'') served an Order of Investigation and Hearing (''Order'') on the Canaveral Port Authority (''Port'').

The Port requires prospective suppliers of various services, including tug services, to obtain a franchise from the port. Tugz International, LLC (''Tugz'') filed an application for a tug and towing franchise in June 2000. At its July 21, 2000 hearing, the Port determined not to consider Tugz/ application. Tugz' application was updated in September 2001, and is still pending. On April 1, 2001, the Port extended the right of Seabulk Towing, Inc., dba Port Canaveral Towing (''Seabulk'') to perform towing services for another ten years.

This proceeding therefore seeks to determine whether the Port is in violation of sections 10(d)(1) and/or 10(d)(4) of the 1984 Act by its actions resulting in the continuation of Seabulk's monopoly. If so, this proceeding also shall determine whether civil penalties should be assessed and, if so, in what amount, and whether a cease and desist order should be issued.

Any person having an interest in participating in this proceeding may file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure, 46 CFR 502.72.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6077 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 02–02]

Canaveral Port Authority—Possible Violations of Section 10(b)(10), Unreasonable Refusal to Deal or Negotiate; Notice of Show Cause Proceeding

Notice is given that, on February 25, 2002, the Federal Maritime Commission (''Commission'') served an Order to Show Cause (''Order'') on the Canaveral Port Authority (''Port'').

It appears that the Port has refused to consider the application of Tugz International LLC (''Tugz'') for a franchise to perform tug and towing services. This refusal appears to have the effect of preventing competition and of maintaining a monopoly for the single tug company in the port.

The Order directs the Port to show cause why it should not be found in violation of section 10(b)(10) of the 1984 Act, 46 U.S.C. app. sec. 1709(b)(10), for its refusal to consider Tugz' application.

The Order's full text may be viewed on the Commission's homepage at *http://www.fmc.gov.* or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure, 46 CFR thnsp;502.72 and the procedural schedule set forth in the Commission's February 25 Order.

Bryant L. VanBrakle,

Secretary,

[FR Doc. 02–6078 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–M

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 part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

Empire Container Line, Inc., 100 Route 37 East, Toms River, NJ 08753, Officer: Milton D'Souza, President (Qualifying Individual)

Multi-Link Container Line, LLC, 31–18 80th Street, E. Elmhurst, NY 11370, Officers: Tin Wai Chan, Vice President (Qualifying Individual), Alex K. F. Wu, President

MCL-Multi Container Line, Inc., dba Transpac Cargo Line, 3764 Oakhurst Way, Dublin, CA 94568, Officers: Harald Oechsner, Vice President (Qualifying Individual), Daniel Richner, President

Sea-Line Cargo, Inc., 135 Post Avenue, New York, NY 10034, Officer: Edickson Burgos, President (Qualifying Individual)

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Uni Logistics, Inc., 630 South Glasgow Avenue, Inglewood, CA 90301, Officers: John Park, President (Qualifying Individual) Soo Kim, Secretary

Washington Movers, Inc., 8210 Cinderhed Road, #3, Lorton, VA 22079, Officer: Sam Ghanem, President (Qualifying Individual)

U.S. Sea Wave Express, Inc., 2931 Plaza Del Amo, #74, Torrance, CA 90503, Officers: Xiaoman Hu, Vice President (Qualifying Individual) Weishan Hou, President

Seaspeed Overseas Shipping Co., Inc., 69 La Fante Lane, Bayonne, NJ 07002, Officer: John Trimarchi, Director

Japan Star America, 21906 Arnold Center Road, Carson, CA 90810, Yuni Kim Pearson, Director Sole Proprietor

Nationwide Forwarding, Inc., 48 Ridge Drive, Montville, NJ 07045, Officers: Charles A. Kadets, Vice President (Qualifying Individual) Michele Della Valle, President

Wice Logistics USA, Inc., 177–15 149th Road, Jamaica, NY 11434, Officers: Stan kwai-wah Chu, Vice President (Qualifying Individual) Paul Dunn, President

Trans Pacific Logistics LLC, 9911 Inglewood Avenue, Inglewood, CA 90301, Officers: Gary Dorian, Vice President (Qualifying Individual) Roscoe Jones, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Actionfreight Int'l Inc., 11034 La Cienega Blvd., Inglewood, CA 90304, Officer: Natalie Dix, Owner (Qualifying Individual)

Dated: March 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–6080 Filed 3–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 27, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. David C. Harrison, as co-trustee of the Central Bancompany Voting Trust Agreement; to acquire voting shares of Central Bancompany, Jefferson City, Missouri, and thereby indirectly acquire voting shares of Bank of Jacomo, Blue Springs, Missouri; Boone County National Bank of Columbia, Columbia, Missouri; Central Bank Lake of the Ozarks, Osage Beach, Missouri; Central Trust Bank, Jefferson City, Missouri; City Bank and Trust Company of Moberly, Moberly, Missouri; Empire Bank, Springfield, Missouri; First Central Bank, Warrensburg, Missouri; First National Bank of Audrain County, Mexico, Missouri; First National Bank of Missouri, Lee's Summit, Missouri; First National Bank of St. Louis, Clayton, Missouri; Jefferson Bank of Missouri, Jefferson City, Missouri; Ozark Mountain Bank, Branson, Missouri; and Third National Bank of Sedalia, Sedalia, Missouri.

Board of Governors of the Federal Reserve System, March 7, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–5956 Filed 3–12–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 8, 2002.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Hoosac Financial Services, Inc., North Adams, Massachusetts; to merge with Williamstown Mutual Holding Company, and thereby indirectly acquire Williamstown Savings Bank, both of Williamstown, Massachusetts. The resulting bank holding company will be renamed MoutainOne Financial Partners, MHC.

2. Hoosac Financial Services, Inc., North Adams, Massachusetts; to acquire 100 percent of the voting shares of Williamstown Savings Bank, Williamstown, Massachusetts.

3. MountainOne Financial Partners, Inc., North Adams, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Williamstown Savings Bank,

Williamstown, Massachusetts, and Hoosac Bank, North Adams, Massachusetts.

C. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. First Citizens Bancorporation of South Carolina, Inc., Columbia, South Carolina, to acquire up to 10 percent of the voting shares of Bank of Wilmington, Wilmington, North Carolina.

Board of Governors of the Federal Reserve System, March 7, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–5957 Filed 3–12–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 012 3182]

Campbell Mithun LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Mary Engle or Richard Kelly, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3161 or 326–3304.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 6, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Campbell Mithun LLC (Campbell), an advertising agency.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves allegedly unsubstantiated representations made on television advertising about the effects of the calcium in Wonder Bread on children's memory and brain function. Campbell was the advertising agency that created these commercials. According to the FTC complaint, Campbell made unsubstantiated claims that as a good source of calcium, Wonder Bread helps children's minds work better and helps children remember things. The complaint further alleges that the ad agency knew or should have known that the claims were unsubstantiated.

The proposed consent order contains provisions designed to prevent Campbell from engaging in similar acts and practices in the future. Part I of the proposed order prohibits Campbell from making any unsubstantiated claim (a claim lacking competent and reliable scientific evidence) that as a good source of calcium, Wonder Bread helps children's minds work better, or as a good source of calcium, Wonder Bread helps children remember things.

Part II of the order requires Campbell to have competent and reliable scientific evidence for any claim that any bread, bread product, rolls or muffins or any of their ingredients, helps brain function or memory, or can treat, cure or prevent any disease or related health condition. Part II also provides that a mere statement that a product contains a particular vitamin or mineral will not, without more, be considered for purposes of this order a representation that the product can treat, cure or prevent any disease or related health condition.

Part III of the order notes that this order does not prohibit Campbell from making any claim that is specifically permitted in labeling pursuant to the Nutrition Labeling and Education Act of 1990. Parts IV through VII of the order require Campbell to keep copies of relevant advertisements and materials substantiating claims made in the advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file a compliance report with the Commission. Part VIII provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission, Commissioner Anthony recused.

Donald S. Clark,

Secretary.

[FR Doc. 02–5965 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 011 0117]

Deutsche Gelatine-Fabriken Stoess AG, et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: James Holden, Jr., Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2963.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 7, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from Deutsche Gelatine-Fabriken Stoess AG (''DGF Stoess'') and Goodman Fielder Limited (''Goodman Fielder'') which is designed to remedy the anticompetitive effects resulting from Goodman Fielder's sale of its gelatin business to DGF Stoess. Under the terms of the Consent Agreement, DGF Stoess will not be allowed to acquire Goodman Fielder's entire gelatin business as initially proposed; rather, Goodman Fielder will retain its United States and Argentine gelatin assets, which, collectively, represent approximately 40 percent of the original proposed acquisition. Moreover, Goodman Fielder will face limitations on any subsequent divestiture of those retained assets, including requirements that Goodman Fielder seek prior approval from the Commission or provide prior notice to the Commission, depending on certain relevant considerations.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make final the Decision and Order.

Pursuant to a purchase agreement dated February 14, 2001, DGF Stoess proposed to acquire Goodman Fielder's entire worldwide gelatin business (the ''Proposed Acquisition''). The total value of the Proposed Acquisition is approximately $170 million. The Commission's Complaint alleges that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the United States market for the manufacture and sale of pigskin and beef hide gelatin.

II. The Parties

Headquartered in Eberbach, Germany, DGF Stoess is the largest supplier of pigskin and beef hide gelatin in the United States and the world. DGF Stoess produces pigskin and beef hide gelatin at seven manufacturing plants worldwide. Two of the plants are located in the United States (Kind & Knox, in Sioux City, Iowa, and Dynagel, in Calumet City, Illinois), one plant is in Brazil, one plant is in Sweden, and three plants are in Germany.

Goodman Fielder is a diversified food products company based in Sydney, Australia. Through its Leiner Davis Gelatin subsidiary, and other related subsidiaries, Goodman Fielder is the second largest supplier of pigskin and beef hide gelatin in the United States and the world. Goodman Fielder owns and operates eight gelatin manufacturing plants of varying sizes worldwide—one each in the United States (Davenport, Iowa), Mexico, South Africa, Australia, New Zealand and Argentina, and two in Brazil. Of Goodman Fielder's gelatin manufacturing facilities, only the plants in the United States and South America compete for gelatin sales in the U.S. market.

III. The Pigskin and Beef Hide Gelatin Market

Pigskin and beef hide gelatins are versatile products obtained from the partial hydrolysis of collagen, a protein that is the principal constituent of pigskins and beef hides. Pigskin and beef hide gelatins have many functions and are a critical component of a wide variety of products, particularly in the food industry (in products such as gelatin desserts, marshmallows, gummy candies and other confections) and the pharmaceutical industry (in products such as soft and hard capsules and tablet coatings). Although other types of products (e.g., starch, carrageenan, pectin, etc.) can provide some of the qualities of gelatin, no other product provides the full range of performance of gelatin, or is sufficiently cost-effective to replace gelatin in edible and pharmaceutical applications.

If the Proposed Acquisition were to be consummated, DGF Stoess would have a U.S. market share of over 50 percent of pigskin and beef hide gelatin sales and would be more than two and one-half times the size of its nearest competitor. Prior to the acquisition, DGF Stoess and Goodman Fielder (through its Leiner Davis Gelatin subsidiary) competed vigorously against each other for gelatin business, and this competition benefitted gelatin customers. By eliminating competition between the two largest gelatin suppliers, and creating a firm with a market share of over 50 percent, the Proposed Acquisition would allow the combined firm to exercise market power unilaterally, as well as increasing the likelihood of coordinated interaction among gelatin manufacturers. As a result, the Proposed Acquisition would increase the likelihood that purchasers of pigskin and beef hide gelatin would be forced to pay higher prices and that innovation, service levels, and product quality in this market would decrease.

There are significant impediments to both expansion by existing manufacturers, as well as new entry, in the pigskin and beef hide gelatin market. First, the gelatin industry is operating at or very near full capacity, as is required for the efficient operation of gelatin manufacturing facilities. Second, even under normal conditions, the raw materials for pigskin and beef hide gelatin production are a finite resource often in short supply. Third, recent outbreaks of foot and mouth disease and ''mad cow'' disease around the world have further limited the normally tight supply of raw materials for the gelatin industry, thus diminishing the likelihood of significant and timely expansion. Finally, even if raw materials were available, significant capacity expansions (beyond the limited available excess capacity) can take years to complete, and more modest expansions are generally viewed as economically inefficient.

New entry is an even more remote possibility because a new entrant, beyond facing the same limited raw material supply, would need to build a plant—a difficult, expensive and time-consuming process. It would take a new entrant over two years to accomplish the necessary steps for entry and achieve a significant market impact. Indeed, because many gelatin customers impose stringent supplier qualification requirements that (even if all goes well) can take years to complete, a new entrant is highly unlikely to achieve a significant market impact within two years. New entry also is unlikely because the costs of building a new plant and entering the market are high relative to the limited sales opportunities available to new entrants.

IV. The Consent Agreement

The Commission initiated its investigation of the Proposed Acquisition shortly after being notified of the transaction in March 2001. In response to competitive concerns raised by the Commission which came to light during the course of the Commission's investigation, DGF Stoess and Goodman Fielder proposed to divest one of Goodman Fielder's gelatin plants—a large pigskin gelatin plant located in Davenport, Iowa. After careful consideration, that proposal was ultimately deemed insufficient to remedy the anticompetitive effects of the Proposed Acquisition. On January 15, 2002, the Commission authorized its staff to seek a preliminary injunction in federal district court preventing DGF Stoess and Goodman Fielder from consummating the Proposed Acquisition. The Consent Agreement arose out of subsequent discussions between the Commission, DGF Stoess and Goodman Fielder. In those discussions, the parties proposed to amend the Purchase Agreement such that Goodman Fielder would not sell its entire gelatin business to DGF Stoess, but rather would retain two of its plants—a pigskin gelatin manufacturing plant in Davenport, Iowa, and a beef hide gelatin plant located in Santa Fe, Argentina—along with all of the ancillary assets and infrastructure (*e.g.*, production personnel, sales operations, etc.) required to operate those plants together as an ongoing business.

The parties' proposal, as reflected in the Consent Agreement, effectively remedies the Proposed Acquisition's anticompetitive effects in the United States market for pigskin and beef hide gelatin. By retaining two substantial gelatin plants in Davenport and Santa Fe, Goodman Fielder will have virtually the same U.S. presence as did DGF Stoess before the acquisition, and the concentration level of the U.S. market for pigskin and beef hide gelatin will remain nearly unchanged by the transaction. In addition, the package of assets retained by Goodman Fielder, a pigskin gelatin plant in the United States and a beef hide gelatin plant in Argentina, provides geographic scope and product diversity characteristic of the most competitive market participants.

Although Goodman Fielder's retention of the U.S. and Argentine plants largely remedies the anticompetitive effects of the Proposed Acquisition, some competitive questions remain because Goodman Fielder has expressed a desire to exit the gelatin business. Accordingly, the Commission has required additional provisions in the Consent Agreement in case Goodman Fielder chooses to dispose of the retained assets, to address three specific concerns. First, and most obviously, a subsequent sale of the retained assets to DGF Stoess would be problematic because such a sale would simply effectuate a two-step version of the Proposed Acquisition—a transaction that the Commission already believes to be anticompetitive. Second, a subsequent sale of the retained assets to SKW, the third leading supplier worldwide of pigskin and beef hide gelatin, would raise many of the same competitive issues raised by a sale of those assets to DGF Stoess. Third, any sale by Goodman Fielder that would split up the retained assets would raise a competitive concern, because it would eliminate the product and geographic diversity of the gelatin business retained by Goodman Fielder and likely would diminish the competitive significance of those assets in the U.S. market.

To address these problems, the proposed Consent Agreement provides that: (1) DGF Stoess may not buy any of the gelatin assets retained by Goodman Fielder without prior approval from the Commission; (2) Goodman Fielder may not sell any of the retained gelatin assets to DGF or SKW, or sell less than the complete package of retained assets to anyone, without prior approval from the Commission; and (3) Goodman Fielder must provide the Commission with prior notice of any other sale of the retained assets. The prior approval requirements ensure that the Commission will be able to address the three specific issues raised above. The prior notice requirement guarantees the Commission the benefits of the Hart-Scott-Rodino framework in evaluating all other possible sales of the retained assets, including those that might otherwise be unreportable. In short, the Consent Agreement preserves the current competitive situation, allows DGF Stoess and Goodman Fielder to complete a modified version of their transaction that does not harm competition, and provides Goodman Fielder with ongoing flexibility with respect to a disposition of the retained assets, even if market conditions change in the near future.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.

By direction of the Commission, Chairman Muris not participating.

Donald S. Clark,

Secretary.

[FR Doc. 02–5966 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 012 3182]

Interstate Bakeries Corp.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Mary Engle or Richard Kelly, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3161 or 326–3304.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 6, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Interstate Bakeries Corporation (IBC).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves allegedly unsubstantiated representations made on television and in Internet advertising about the effects of the calcium in Wonder Bread on children's memory and brain function. According to the FTC complaint, IBC made unsubstantiated claims that as a good source of calcium, Wonder Bread helps children's minds work better and helps children remember things.

The proposed consent order contains provisions designed to prevent IBC from engaging in similar acts and practices in the future. Part I of the proposed order prohibits IBC from making any unsubstantiated claim (a claim lacking competent and reliable scientific evidence) that as a good source of calcium, Wonder Bread helps children's minds work better, or as a good source of calcium, Wonder Bread helps children remember things.

Part II of the order requires IBC to have competent and reliable scientific evidence for any claim that any of its breads, bread products, rolls or muffins or any of their ingredients, helps brain function or memory, or can treat, cure or prevent any disease or related health condition. Part II also provides that a mere statement that a product contains a particular vitamin or mineral will not, without more, be considered for purposes of this order a representation that the product can treat, cure or prevent any disease or related health condition.

Part IV of the order states that the order does not apply to any label or labeling printed before the order is served on IBC and shipped by IBC's bakeries to distributors or retailers within nine months after the order is issued.

Part III of the order notes that this order does not prohibit IBC from making any claim that is specifically permitted in labeling pursuant to the Nutrition Labeling and Education Act of 1990. Parts V through VIII of the order require IBC to keep copies of relevant advertisements and materials substantiating claims made in the advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file a compliance report with the Commission. Part IX provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission, Commissioner Anthony recused.

Donald S. Clark,

Secretary.

[FR Doc. 02–5967 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 002 3332]

Palm, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment

describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 5, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2699.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 6, 2002), on the World Wide Web, at *http://www.ftc.gov/os/2002/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Palm, Inc. (''Palm'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged misleading representations about Palm handheld computers or personal digital assistants (''PDAs''). This matter concerns allegedly false and deceptive advertising claims made in advertisements regarding the ability of Palm devices to wirelessly access the Internet and e-mail accounts and to perform other functions.

According to the FTC complaint, Palm misrepresented that Palm PDAs, as sold, contain everything that consumers need to wirelessly access the Internet and their e-mail accounts. In fact, in order to wirelessly access the Internet and e-mail accounts using Palm PDAs, other than the Palm VII model line, consumers must purchase and carry a separate wireless modem or a device to connect the Palm to certain mobile telephones; and, moreover, many mobile telephones currently in use in the U.S. are not compatible with Palm PDAs. The complaint also alleges that in representing that consumers can use Palm PDAs, as sold, to access the Internet and their e-mail accounts wirelessly, Palm failed to disclose or failed to disclose adequately that in order to wirelessly access the Internet and their e-mail accounts, consumers must purchase and carry a separate wireless modem or a device to connect the Palm to certain mobile telephones. The complaint alleges that the failure to disclose this material fact is a deceptive practice.

The proposed complaint also challenges as false the claim that Palm PDAs, as sold, can perform common business functions such as data base management, custom form creation, and viewing Microsoft Word and Excel documents. To perform these functions using Palm PDAs, consumers must purchase and install additional software. The complaint also alleges that in representing that consumers can use Palm PDAs, as sold, to perform these functions, respondent failed to disclose or failed to disclose adequately that in order to perform these functions using Palm PDAs, consumers must purchase and install additional software. The complaint alleges that the failure to disclose this material fact is a deceptive practice.

Finally, the complaint alleges that in representing that consumers can use the Palm VII model line to access the Internet and their e-mail accounts wirelessly, Palm failed to disclose or failed to disclose adequately that consumers must subscribe to Palm.Net, a proprietary for-fee service. The complaint alleges that the failure to disclose this material fact is a deceptive practice.

The proposed consent order contains provisions designed to prevent Palm from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits respondent from making misrepresentations that any PDA or handheld Internet or e-mail access device can perform any common business function that it cannot perform without additional products or services that consumers must purchase. Part I also prohibits misrepresentations that wireless Internet or e-mail service coverage for the product is available everywhere or almost everywhere in the U.S.

Part II of the proposed order prohibits misrepresentations about performance characteristics relating to Internet or e-mail account access of any non-wireless PDA or handheld Internet or e-mail access device (*i.e.*, one that requires the use of an additional device in order to access the Internet or e-mail accounts wirelessly).

Part III requires that when respondent makes any claims about the ability of any PDA or handheld Internet or e-mail access device to perform any function that requires the purchase of additional products or services, it must make a clear and conspicuous disclosure, depending upon the function being discussed. When the function involves accessing the Internet or e-mail accounts, respondent must disclose any other products (such as a modem, mobile telephone, or adapter) or Internet or e-mail access services (other than general-purpose ISP service, as defined in the order), that consumers must purchase in order to access the Internet or e-mail accounts. When the function does not involve accessing the Internet or e-mail accounts, respondent must disclose that additional products must

be purchased in order to perform such function(s).

Part IV of the proposed order provides that, for up to 120 days after service of the order, respondent may continue to ship products from existing stock in packaging with nonconforming labeling, as long as the packaging was printed less than 30 days after the date respondent signed the consent agreement.

Parts VI through IX require Palm to keep copies of relevant advertisements and materials substantiating claims made in the advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file compliance reports with the Commission. Part X provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–5968 Filed 3–12–02; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Human Research Protections Advisory Committee (NHRPAC)

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office for Human Research Protections.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Human Research Protections Advisory Committee (NHRPAC).

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. Individuals planning on attending the meeting and who want to ask questions must submit their requests in writing in advance of the meeting to the contact person listed below.

DATES: The Committee will hold its next meeting on April 29–30, 2002. The meeting will convene EST from 8:30 a.m. to its recess at approximately 5:30 p.m. on April 29 and resume at 8:30 a.m. to 5 p.m. on April 30.

ADDRESSES: Hyatt Regency Bethesda Hotel, One Bethesda Metro, Bethesda, MD, (301) 657–1234.

FOR FURTHER INFORMATION CONTACT: Keisha Johnson, Program Assistant, National Human Research Protections Advisory Committee, Office for Human Research Protections, The Tower Building, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852, (301) 435–4917. The electronic mail address is: *kjohnson@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: The National Human Research Protections Advisory Committee was established on June 6, 2000, to provide expert advice and recommendations to the Secretary of HHS, Assistant Secretary for Health, the Director, Office for Human Research Protections, and other departmental officials on a broad range of issues and topics pertaining to or associated with the protection of human research subjects.

Information about NHRPAC, and the draft agenda for the Committee's April 2002 meeting, will be posted on the NHRPAC website at: *http://ohrp.osophs.dhhs.gov/nhrpac/nhrpac.htm.*

Dated: March 7, 2002.

Greg Koski,

Executive Secretary, National Human Research Protections Advisory Committee.

[FR Doc. 02–5925 Filed 3–12–02; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0437]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; New Animal Drugs for Investigational Use; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of January 14, 2002 (67 FR 1772). The document announced that a proposed collection of information had been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The document was published with an incorrect OMB control number. This document corrects that error.

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

SUPPLEMENTARY INFORMATION: In FR Doc. 02–855, appearing on page 1772 in the **Federal Register** of Monday, January 14, 2002, the following correction is made:

1. On page 1772, in the second column, in the fourteenth line, ''0910–0017'' is corrected to read ''0910–0117''.

Dated: March 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–5922 Filed 3–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0073]

''Guidance for Industry: Validation of Procedures for Processing of Human Tissues Intended for Transplantation;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance for Industry: Validation of Procedures for Processing of Human Tissues Intended for Transplantation'' dated March 2002. The guidance document is intended to remind all tissue establishments that the current requirement to prepare, validate, and follow procedures to prevent infectious disease contamination or cross-contamination during the processing of human tissues intended for transplantation includes such infectious disease agents as viruses, bacteria, fungi, and will include transmissible spongiform encephalopathy (TSE)-associated prions as technology progresses.

DATES: General comments on agency guidance documents are welcome at any time. The agency is soliciting public comment, but is implementing this guidance document immediately because of public health concerns. FDA is requesting that you submit with your comments any information on specific methods currently used by tissue establishments to prevent infectious disease contamination and cross-

contamination of tissue during processing.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.Submit written or electronic comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Validation of Procedures for Processing of Human Tissues Intended for Transplantation'' dated March 2002. The document is intended to remind all tissue establishments that the current requirement to prepare, validate, and follow procedures to prevent infectious disease contamination or cross-contamination during the processing of human tissues intended for transplantation (21 CFR 1270.31(d)) includes such infectious disease agents as viruses, bacteria, fungi, and will include TSE-associated prions as technology progresses. Current regulations for human tissue intended for transplantation are found in 21 CFR parts 1270 and 1271.

This guidance is being issued in accordance with FDA's good guidance practices regulation (21 CFR 10.115). This guidance document represents the agency's current thinking on the validation of procedures for processing of human tissues intended for transplantation. 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 requirement of the applicable statutes and regulations.

II. Comments

The agency is soliciting public comment, but is implementing this guidance document immediately because of the public health concerns related to the possible risk of infectious disease contamination or cross-contamination during tissue processing. In particular, FDA's concern is heightened by recent reports from the Centers for Disease Control and Prevention about bacterial contamination of musculoskeletal allografts associated with injury as well as death in recipients of these tissues [MMWR; 50(46): 1035–1036, November 23, 2001; 50(48): 1080–1083, December 7, 2001.] FDA is requesting that you submit with your comments any information on specific methods currently used by tissue establishments to prevent infectious disease contamination and cross-contamination of tissue during processing. FDA plans to have further public discussion on this issue and to develop additional guidance containing more specific recommendations on validation methods for tissues in the future.

Interested persons may, at any time, submit written or electronic comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: March 4, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–5963 Filed 3–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: October 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of October 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ABRANTE, HECTOR ..... HIALEAH, FL	02/20/2002
ADAMS, BILLY WAYNE ..... FEDERAL WAY, WA	02/20/2002
BINA, SHOKROLLAH ..... LOS ANGELES, CA	02/20/2002
CARING RESPIRATORY SVCS, INC ..... CORAL GABLES, FL	09/17/2001
CARROLL, MAXIE G ..... TALLAHASSEE, FL	02/20/2002
CORVO, RENE ..... JESSUP, GA	02/20/2002
DJGLYAN, ARUTYUN ..... ELOY, AZ	02/20/2002
DOUGHERTY, TERRENCE W CLAYTON, MO	02/20/2002
ENRIQUEZ, HONORIA ..... MIAMI, FL	02/20/2002
ESPINOZA, THELMA AUXILIADOR ..... SOUTHGATE, CA	02/20/2002
FAULKNER, THERESA ANN ... PHOENIX, AZ	02/20/2002
FRENZI, MICHELLE L ..... AURORA, CO	02/20/2002
FULLER, ALISHA ANN ..... SPRINGFIELD, OR	02/20/2002
HING, VAN DAN	02/20/2002

Subject, city, state	Effective date
LONG BEACH, CA	
JACKSON, ERNESTINE W ..... INDIANAPOLIS, IN	02/20/2002
JACKSON, ALYSSA JOYCE ... BATON ROUGE, LA	02/20/2002
JOHNSON, DOUGLAS A ..... ALTOONA, PA	02/20/2002
KATSNELSON, EDWARD ..... DENVER, CO	02/20/2002
KATSNELSON, LYUDMILA ..... DENVER, CO	02/20/2002
KILMER, CATHY P ..... TACOMA, WA	02/20/2002
LEVY, STEPHEN E ..... TRINIDAD W INDIES,	10/25/2000
MADDEN, EVA ..... DETROIT, MI	02/20/2002
MILLER, ROBERT ..... ARLINGTON, TX	02/09/2001
MOLSBEE, BRENDA M ..... TALLAHASSEE, FL	02/20/2002
PADILLA, CRISOLOGO L ..... BROOKLYN, NY	02/20/2002
PARONIAN, KAZAR ..... MISSION HILLS, CA	02/20/2002
PEREZ-ARYAN, ELIA ..... CORAL GABLES, FL	09/17/2001
PRICE, LESLIE E ..... CARY, NC	02/20/2002
SALUDO, EDUARDO DY ..... LOS ANGELES, CA	02/20/2002
SCHNEIDER-RUCINSKI, NOREEN ..... SAN DIEGO, CA	02/20/2002
SMOLKOVICH, REGAN ..... ARVADA, CO	02/20/2002
STUARDO, LUIS ARTEMIO .... BONITA, CA	02/20/2002
STUARDO, CAROL MARIE ..... BONITA, CA	02/20/2002
VILLARIZA, BEATRICE BURROLA ..... PALM DESERT, CA	02/20/2002
WILLIAMS-WARD, LORRAINE F ..... GREEN POND, SC	02/20/2002
WOODWORTH, LINDA LERENE ..... DANBURY, CT	02/20/2002

FELONY CONVICTION FOR HEALTH CARE FRAUD

AULT, ELLEN FRANCIS SCANLON ..... LEXINGTON, KY	02/20/2002
KOTANSKY, MICHELLE ..... HAZLETON, PA	02/20/2002
SMITH, LEE ALLEN ..... APPLE VALLEY, MN	02/20/2002
SULLIVAN, JENNIFER A ..... ROSLINDALE, MA	02/20/2002

FELONY CONTROL SUBSTANCE CONVICTION

AGER, ALAN LAWRENCE ..... SAN GERONIMO, CA	02/20/2002
BRIGGS, JOHN ..... KINGSPORT, TN	02/20/2002
DOUGLAS, NATALIE ..... BESSEMER, MI	02/20/2002
MARTINEZ, RICHARD FRANK SAFFORD, AZ	02/20/2002
RYAN, KAREN MARIE ..... COLORADO SPRNGS, CO	02/20/2002
SHOCKLEY, CHERONDA KIM ROGERSVILLE, TN	02/20/2002

PATIENT ABUSE/NEGLECT CONVICTIONS

ARMERO, JUAN ANTONIO ..... AZUSA, CA	02/20/2002
BRANCH, CURTIS ..... VICKSBURG, MS	02/20/2002
BULLIS, SHAWN R ..... DELAVAN, WI	02/20/2002
CONGER, EARLENE ..... ST ALBANS, VT	02/20/2002
GOMEZ, FRANCISCO JAVIER WILDOMAR, CA	02/20/2002
HART, SHANDER S ..... BATON ROUGE, LA	02/20/2002
HAYES, DON JOHN ..... MANSURA, LA	02/20/2002
HOWARD, WANDA E ..... WETUMKA, OK	02/20/2002
MATHIS, PATRICIA ..... BRENHAM, TX	02/20/2002
MCCOY, KIM MARIE ..... STOCKTON, AL	02/20/2002
MCKENNEY, BRIAN ..... JOHNSTOWN, NY	02/20/2002
NEWTON, VALERIA RILEY ..... MARION, LA	02/20/2002
RAY, CHARMAINE ..... QUEENS, NY	02/20/2002
ROBBINS, JAMES E ..... YOUNGSTOWN, OH	02/20/2002
SALAZAR-VILLAR, CIRO ALCIDES ..... ESCONDIDO, CA	02/20/2002
SANCHEZ-DE ARELLANO, NORA OLIV ..... VISTA, CA	02/20/2002
SIMPSON, VICKY D ..... SMITHVILLE, TN	02/20/2002
TRUDELL, SYLVIA MONTELL PINEVILLE, LA	02/20/2002
WOOD, LEIGH ANNE ..... TUCSON, AZ	02/20/2002

CONVICTION FOR HEALTH CARE FRAUD

DICKSON, TRINA KAY ..... ARKANSAS CITY, KS	02/20/2002

CONTROLLED SUBSTANCE CONVICTIONS

SKINNER, DAWN MICHELLE ESCONDIDO, CA	02/20/2002

LICENSE REVOCATION/SUSPENSION/SURRENDERED

ACKERMAN, SHARON R ..... AMES, IA	02/20/2002
ADAMS, STEPHANIE DIANN .. CHARLOTTE, NC	02/20/2002
ALCAIDE, KELLEY KAY ..... SOMMERVILLE, NJ	02/20/2002
BARBEE, DEBORAH S ..... CHICAGO, IL	02/20/2002
BAUERNFEIND, JOYCE ELLEN ..... ROCHESTER, MN	02/20/2002
BELT, HARRIET A ..... BLACK JACK, MO	02/20/2002
BENNINGFIELD, GAYLA ANN COURTW ..... BRADFORDSVILLE, KY	02/20/2002
BENTSON, KRISTA L ..... W DES MOINES, IA	02/20/2002
BERUK, DJUANA ..... GREENVILLE, MS	02/20/2002
BLANGIN, BARBARA B ..... LAGRANGE, IL	02/20/2002
BONNELL, STEPHANIE ..... MONROE, NJ	02/20/2002
BRISTOL, DAVID A ..... BRATTLEBORO, VT	02/20/2002
BROOKS, REENE F ..... MATTOON, IL	02/20/2002
BROWN, KAREN ANNETTE ... DENVER, CO	02/20/2002
BUNCH, LATITIA ..... CAMDEN, NJ	02/20/2002
CAIN, DANNY MICHAEL ..... ROCHESTER, MN	02/20/2002
CAPOUCH, ROBIN LYNN ..... BEMIDJI, MN	02/20/2002
CARRIERE, LAUREN L ..... WOONSOCKET, RI	02/20/2002
CARTER, MICHAEL ANSON ... CHATSWORTH, CA	02/20/2002
CHENG, HUNG HUI ..... SAN FRANCISCO, CA	02/20/2002
CLAPP, NIOKAH ..... LOUSIVILLE, KY	02/20/2002
COLLENBURG, SUSAN CATHERINE ..... LONGVIEW, TX	02/20/2002
CONDIT, TONI R ..... GRAND JUNCTION, CO	02/20/2002
COVARRUBIAS-MIER, JORGE A ..... PHOENIX, AZ	02/20/2002
CRESWELL, DAVID ..... BLENCOE, IA	02/20/2002
DICASTRO, STEVEN A ..... PRINCETON, MA	02/20/2002
DILL, CASEY ..... ROSWELL, GA	02/20/2002
DOTY, MARY T ..... STRASBURG, IL	02/20/2002
DRUPPEL, PAUL ROBERT ..... FORT MADISON, IA	02/20/2002
DUCHARME, NANCY LOUISE ST PAUL, MN	02/20/2002
EISEN, SARAH A ..... ELGIN, IL	02/20/2002
ESTERMAN, SIDNEY ..... E ORANGE, NJ	02/20/2002
FERGUSON, BONNIE S ..... MORRIS, IL	02/20/2002
FLIPPO, SANDRA KAY BYROM ..... BELL BUCKLE, TN	02/20/2002
FREEMAN, JENNIFER B ..... PHOENIZ, AZ	02/20/2002
GARNER, DAWN L ..... SESSER, IL	02/20/2002
GERGANS, GREGORY A ..... EVANSTON, IL	02/20/2002
GOMEZ, ROBERT ..... YUMA, AZ	02/20/2002
HAAKE, LISA A	02/20/2002

Subject, city, state	Effective date
DES MOINES, IA	
HACHMEISTER, SUZANNE PEARL	02/20/2002
WONDER LAKE, IL	
HADLICH, ELIZABETH MAY	02/20/2002
ST PAUL, MN	
HARLAN, CAROLYN L	02/20/2002
INDIANAPOLIS, IN	
HARTLEY, LAUREL SUTCH	02/20/2002
RICHEYVILLE, PA	
HASSER, CARRIE MARIE	02/20/2002
MORA, MN	
HASTAD, PATRICIA KAY	02/20/2002
BROOKLYN PARK, MN	
HICKMAN, DEWAYNE KEITH	02/20/2002
ANAHEIM, CA	
HILBURN, CHERYL LYNN	02/20/2002
WILMINGTON, NC	
HILL, CANDY RENEE	02/20/2002
BIRMINGHAM, AL	
HYRY, PHILLIP WADE	02/20/2002
ISHPEMING, MI	
ILOUNO, GEORGE ORANYELU	02/20/2002
HARBOR CITY, CA	
IORDAMOVA, ZOYA	02/20/2002
N HOLLYWOOD, CA	
JOHNSON, KATHLEEN RUTH	02/20/2002
MINNEAPOLIS, MN	
JONES, LUCRETIA ANN	02/20/2002
SALT LAKE CITY, UT	
KAPOOR, QUDRAT S	02/20/2002
ROSWELL, NM	
KEESEE, DIANE LYN	02/20/2002
CHICAGO, IL	
KELSEY, MARIANNE BREIER	02/20/2002
HIGH POINT, NC	
KIM, BYUNG CHANG	02/20/2002
DIAMOND BAR, CA	
KOENIG, NANCY LOUISE	02/20/2002
ROCHESTER, MN	
KUSHMER, JOHN V	02/20/2002
TAMPA, FL	
LANDPHAIR, GREGORY R	02/20/2002
STRYKERSVILLE, NY	
LARA, FRANK J	02/20/2002
MESA, AZ	
LAWSON, ALAN R	02/20/2002
FAYETTEVILLE, AR	
LEADER, WILLIAM O	02/20/2002
LOS ANGELES, CA	
LEHNERTZ, LINDA LEE	02/20/2002
OWATONNA, MN	
LEVY, KENNETH D II	02/20/2002
WINDSOR, CT	
LONNES, DEBORAH JOY	02/20/2002
ST PAUL, MN	
LOOP, JERRY R	02/20/2002
GRAND ISLAND, NE	
LYONS, DANA	02/20/2002
ROEBLING, NJ	
MCAULEY, DONALD	02/20/2002
PHOENIX, AZ	
MCCANN, JON SCOTT	02/20/2002
RED OAK, OK	
MCGEE, VICKIE W	02/20/2002
LA FAYETTE, GA	
MCGEE, ELIZABETH	02/20/2002
WAYNE, NJ	
MILLER, LORI E	02/20/2002
ALLEN, TX	
MOONEY, SHARON RENE	02/20/2002
FRANKVILLE, AL	
MORLEY, KIMBERLY LYNNE	02/20/2002
LITTLETON, CO	
MORSE, TERRY FURR	02/20/2002
WEXFORD, PA	
MUNCAN, PETAR	02/20/2002
HOWARD BEACH, NY	
NEMAZEE, MAHMOUD	02/20/2002
SANTA MONICA, CA	
NESTOR, TIA M	02/20/2002
HAY SPRINGS, NE	
NIMMO, ZWANNAH G	02/20/2002
PAWTUCKET, RI	
NOVICK, HOWARD ALAN	02/20/2002
BREINIGSVILLE, PA	
O'BRIEN, DANIEL PATRICK	02/20/2002
LEXINGTON, KY	
PATTY, KENNETH D	02/20/2002
BLAIRS, VA	
PETERSON, CHERYL RENEE	02/20/2002
BLOOMINGTON, MN	
PIER, LARRY VAUGHN	02/20/2002
PAYSON, AZ	
PLANT-MAU, MARY J	02/20/2002
CORPUS CHRISTI, TX	
POLLARD, WILLIAM W	02/20/2002
CORVALLIS, OR	
PORTER, COLETTE S THREATS	02/20/2002
NORFOLK, VA	
PRADO, ANGEL	02/20/2002
MANHASSET, NY	
PROCTOR, ROSALIND G	02/20/2002
PHOENIX, AZ	
RANTALA, MARILYN JEAN	02/20/2002
SPRINGFIELD, IL	
RAY, FRANCES F	02/20/2002
DENVER, CO	
RICHARDS, KAY ANN	02/20/2002
PHOENIX, AZ	
RYAN, GERALDINE	02/20/2002
BRICK, NJ	
SAMOY, GREGORIO DALUZ	02/20/2002
TUCSON, AZ	
SANDOVAL, MANUEL A	02/20/2002
NEW BRITAIN, CT	
SARRACCO, LORI ANN	02/20/2002
HAM LAKE, MN	
SCHLEIF, NANCY ANN	02/20/2002
PLYMOUTH, MN	
SCHULTE, CYNTHIA L	02/20/2002
KINGMAN, AZ	
SKORA, ALAN P	02/20/2002
DEWITT, IA	
SMITH, VEE LANDIS	02/20/2002
MINNEAPOLIS, MN	
SOLOMON, ABRAHAM	02/20/2002
LONG ISLAND CITY, NY	
STRUWVE, SUSAN LOUISE	02/20/2002
RAMSEY, MN	
STULL, AARON MYLES	02/20/2002
ROCHESTER, MN	
TAMAYO, RICKY M	02/20/2002
EL CENTRO, CA	
TAYLOR, CORA REBECCA	02/20/2002
TUCSON, AZ	
THORNTON, JUDY LYNN	02/20/2002
EL CAJON, CA	
TOTH, JEANINE MICHELLE	02/20/2002
HONOLULU, HI	
TULLY, ANN MENDELSON	02/20/2002
DOYLESTOWN, PA	
TUTT, KEITH E	02/20/2002
PROVIDENCE, RI	
UNDERWOOD, CLYDE HAMILTON	02/20/2002
CLARKSVILLE, AR	
VEJRASKA, EUGENE	02/20/2002
ALLIANCE, NE	
VISSER, SUSAN C	02/20/2002
KNOXVILLE, IA	
VISSER, MELINDA JAYNE	02/20/2002
SUSANVILLE, CA	
WAHL, REBECCA	02/20/2002
WESTERN, NE	
WAHLERS, KATHLEEN A	02/20/2002
MUNCIE, IN	
WARRICK, LYNETTE ANN	02/20/2002
ST CLOUD, MN	
WATKINS, DEBORAH ANN	02/20/2002
WINCHESTER, IL	
WAYNE, SYLVIA	02/20/2002
SUN CITY WEST, AZ	
WELCH, WENDY J	02/20/2002
DECORAH, IA	
WESTMORELAND, MEREDITH H	02/20/2002
COLUMBIA, TN	
WILLIAMSON, CHRIS E	02/20/2002
CAMP VERDE, AZ	
WILSON, CAMILLE SUE	02/20/2002
PENDLETON, OR	
WOOLDRIDGE, DOUGLAS W	02/20/2002
WELLESLEY, MA	
WRIGHT, PAMELA JEAN	02/20/2002
ROCHESTER, MN	
ZEMAN, LAURA MARIE	02/20/2002
KETCHIKAN, AK	
FEDERAL/STATE EXCLUSION/SUSPENSION	
KATZAP, IZEA	02/20/2002
JAMAICA, NY	
MCCASKILL, EDDIE	02/20/2002
ST LOUIS, MO	
SAUL, STEPHEN	02/20/2002
MARGATE, NJ	
FRAUD/KICKBACKS	
AMEX II	10/09/2001
PHOENIX, AZ	
SPRIGGS, ROBERT ALAN	11/24/2000
FAIRFIELD, CA	
OWNED/CONTROLLED BY CONVICTED ENTITIES	
ADVANCED HEALTH CLINIC	02/20/2002
MESA, AZ	
CHILD & ADOLESCENT INSTITUTE	02/20/2002
BEACHWOOD, OH	
CHIROPRACTIC PLUS	02/20/2002
LONGVIEW, TX	
CREATIVE CARE ENLIGHTENED	02/20/2002
FT MYERS, FL	
M & G HEALTH CARE, INC	02/20/2002
MIAMI, FL	
MAIN STREET DENTAL ASSOCIATES	12/18/2001
FARMINGTON, CT	
MICHAEL B AUSTIN, D O, P A	02/20/2002
TAMPA, FL	
PSYCHIATRIC PROFESSIONAL GROUP	02/20/2002

Subject, city, state	Effective date
N OLMSTED, OH	
DEFAULT ON HEAL LOAN	
ALEXANDER, MICHAEL A ALIQUIPPA, PA	02/20/2002
ARGUEDAS, WALTER G HIALEAH, FL	02/20/2002
BELLER, BRYAN D SOUTHGATE, MI	02/20/2002
CAFAGNA, MARK WILLIAM SR WEST HILLS, CA	02/20/2002
CAGLE, LARRY S AHOSKIE, NC	02/20/2002
CARR, GUY A HUTCHINSON, KS	02/20/2002
CONSTANTINESCU, SERBAN CRISTIA PHILADELPHIA, PA	02/20/2002
COOPER, SHIRLEY T LANSDALE, PA	02/20/2002
CRAIG, BRADLEY D SNOWFLAKE, AZ	02/20/2002
DE JESUS–MIRANDA, LUIS A SAN JUAN, PR	02/20/2002
DIENER, ROBERT B AUBURNDALE, MA	02/20/2002
DONELSON, RICHARD BARTON PHOENIX, AZ	02/20/2002
EATON, GARY D SPRINGFIELD, MO	02/20/2002
ELLZEY, PAUL D PRATTVILLE, AL	02/20/2002
FISHBOUGH, ROSS E BENSLAEM, PA	02/20/2002
FLOYD, THOMAS PARKER TRUFANT, MI	02/20/2002
GREETHONG, KITIMAN IRVINE, CA	02/20/2002
HAGEN, CALVIN P KANSAS CITY, MO	02/20/2002
HANSEN, KRIS T ST GEORGE, UT	02/20/2002
HORNIG–ROHAN, JAMES EDWARD SENECA, SC	02/20/2002
IBRIK, AMIR SYRACUSE, NY	02/20/2002
KALMAN, BETSY S RICHMOND HILL, NY	02/20/2002
KRUGMAN, LINDA L LEXINGTON, KY	02/20/2002
LE SAGE, SAHARA ADAMS LEAGUE CITY, TX	02/20/2002
LEONELLI, DAVID ROMAN SR LOS ANGELES, CA	02/20/2002
LEWIS, STEVEN R IRVING, TX	02/20/2002
LINSTEADT, ELIZABETH M DENISON, TX	02/20/2002
LUCEY, TIMOTHY D NEWBURGH, NY	02/20/2002
MARTINEZ, DANIEL A REDLANDS, CA	02/20/2002
MASSAKOWSKI, EDWARD A BENSALEM, PA	02/20/2002
MCGHEE, STEPHANIE Y HOUSTON, TX	02/20/2002
MCINNES, THOMAS K POOLESVILLE, MD	02/20/2002
MEINHOLD, STEVEN DALE OMAHA, NE	02/20/2002
MONICA, JULIANNE H SPRING LAKE, NJ	02/20/2002
NEWELL, DAVID CLIFFORD FORT BRAGG, CA	02/20/2002
OWCZAREK, KEITH VINCENT MARYSVILLE, WA	02/20/2002
PATT, RICHARD H NEW YORK, NY	02/20/2002
PEISS, STUART HOFFMAN ESTATES, IL	02/20/2002
PHILLIPS, THADDEUS HILLARD III SAN ANTONIO, TX	02/20/2002
PORTNOW, ROBERT THOMAS CLEVELAND, OH	02/20/2002
RAMU, NALAYA LOS ANGELES, CA	02/20/2002
RASHTI, KOUROS TARZANA, CA	02/20/2002
RICHBERG, MARK H PHILADELPHIA, PA	02/20/2002
RIGNEY, MARK EDWARD OKLAHOMA CITY, OK	02/20/2002
ROMERO, JOHN JOSEPH ALBURQUERQUE, NM	02/20/2002
RORRER, MARK TIMOTHY CLAYTON, OH	02/20/2002
ROZENBERG, RONALD L LEVITTOWN, NY	02/20/2002
RUSSELL, BILL ST LOUIS, MO	02/20/2002
SAID, SAED M DUNIONVILLE, CT	12/18/2001
SANDOR, GEORGE JOSEPH NEW YORK, NY	02/20/2002
SAUTMAN, SATPAL K PLANTATION, FL	02/20/2002
SCHWARTZ, FRANCIS XAVIER JR OAKLAND, CA	02/20/2002
SCHWARZ–MANDRACCHIA, DENISE MA WINTERSET, IA	02/20/2002
SLOTNICK, ROBIN T CLEVELAND, OH	02/20/2002
STOCK, ANN M BELLEVILLE, IL	02/20/2002
THOMPSON, JANETTE A SILVER SPRING, MD	02/20/2002
TOLIVER, EDWARD C CHICAGO, IL	02/20/2002
VESTICH, GEORGE T RICHMOND, OH	02/20/2002
VILLANO, GUY JOHN NISKAYUNA, NY	02/20/2002
WALCHER, KEVIN RAY BOOKER, TX	02/20/2002
WALTERS, BRIAN D JR SEATTLE, WA	02/20/2002
WAN, JAMES Y MOBILE, AL	02/20/2002
WHEDBEE, JOSEPH IRELAND REDLANDS, CA	02/20/2002
WILLIAMS, ERIC A TOWSON, MD	02/20/2002
WILSON, RONALD E DETROIT, MI	02/20/2002
YODER, KYLE JAY REDWOOD CITY, CA	02/20/2002
ZIMMERMAN, MARY L P OCONOMOWOL, WI	02/20/2002

Dated: March 4, 2002.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 02–5944 Filed 3–12–02; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Policies of Academic Institutions Regarding Tobacco Industry Research Funding

SUMMARY: 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 national Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Policies of Academic Institutions Regarding Tobacco Industry Research Funding.

Type of Information Collection Request: NEW.

Need and Use of Information Collection: This study will assess current administrative policies of medical schools and schools of public health regarding faculty acceptance of research funding from tobacco manufacturers and trade organizations. The primary objectives of the study are to assess how many institutions have a tobacco-specific research funding policy, their reasons for adopting or not adopting such a policy, and what the requirements of those policies are. The finding will provide valuable information concerning: (1) How academic institutions have responded to concerns about researchers' funding relationships in tobacco research, (2) administrators' attitudes towards research funding policies targeted at tobacco specifically; and (3) what types of requirements have been imposed on academic researchers regarding tobacco funding.

Frequency of Response: Once.

Affected Public: Individuals; academic institutions.

Type of Respondents: academic administrators.

The annual reporting burden is as follows:

Estimated Number of Respondents: 156.

Estimated Number of Responses per Respondent: 1.

Average Burden Hours Per Response: .5.

Estimated Total Annual Burden Hours Requested: 78.

The annualized cost to respondents is estimated at: $780. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Mark Parascandola, Cancer Prevention Fellow, OPO, DCP, NCI, NIH, 6130 Executive Boulevard, Suite 3109, Bethesda, MD 20892, or call non-toll-free number (301) 594–1576 or E-mail your request, including your address to: *paramark@mail.nih.gov.*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before May 13, 2002.

Dated: February 19, 2002.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–5930 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Artificial Chromosomes That Can Shuttle Between Bacteria, Yeast, and Mammalian Cells

Larionov et al. (NCI)

DHHS Reference No. E–253–00/0 filed April 6, 2001

Licensing Contact: Pradeep Ghosh; 301/496–7736 ext. 211; e-mail *ghoshp@od.nih.gov*.

Development of a novel cloning system in mammalian cells based on Mammalian Artificial Chromosome (MAC) may have profound effects on human gene therapy. The technology described in invention pertains to methods and compositions that allow for the selective isolation of centromeric regions from mammalian chromosomes, including those of humans. Also included in the invention are cloned and characterized centromeric regions of humans and other mammalian chromosomes. The isolation of these centromeric regions provides a material for engineering of MACs that are capable of being shuttled between bacterial, yeast and mammalian cells, such as human cells. These MACs may serve as effective tools for the characterization of cis-active loci controlling transmission of mammalian chromosomes. The present invention has broad utilities in studies related to genetic diseases. It can be used for studying of expression of entire copies of human genes. Gene therapy may have therapeutic and preventative applications and a range of gene therapy approaches are currently being evaluated for treatment of cancer and a large number of autoimmune and genetic disorders. Gene therapy necessitates an efficient system for gene delivery. The MACs constructed in this invention provide useful vehicles for the delivery and expression of transgenes within cells. Thus, the present invention provides a novel method allowing a direct isolation of mammalian centromeres and efficient system for gene delivery associated with gene therapy.

Treatment of Pain Based on Parathyroid Hormone-2 (PTH2) Receptors

Ted B. Usdin (NIMH)

DHHS Reference No. E–079–01/0 filed Jun 13 2001

Licensing Contact: Norbert Pontzer; 301/496–7736 ext. 284; e-mail: *np59n@nih.gov.*

Current medications for pain, especially chronic pain, are only partially effective and can involve unacceptable side effects. A unique receptor (PTH2) and an endogenous ligand (TIP39) which binds to the receptor were previously discovered by this inventor. The PTH2 receptor and the endogenous ligand were found to have an anatomical distribution suggesting a role in nociception. The PTH2 receptor is present at relatively high levels in nerve terminals within the outer layers of the dorsal horn of the spinal cord where it is primarily coupled to generation of cAMP (Usdin, T.B., et al., 1999, *Nature Neurosci.* 2: 941–943; Wang, T., et al, 2000, *Neuroscience* 100: 629–49; Usdin, T.B., et al, 2000, *Front Neuroendocrinol* 21: 349–83) The DRG neurons that project to this area are largely nociceptors and this region contains the central nervous system neurons they activate. Most receptors present in the central terminals of DRG neurons are also found in their peripheral terminals. Thus, activation of the PTH2 receptor could modulate peripheral excitation of nociceptors, neurotransmitter release from their central terminals in the spinal cord, and some of their postsynaptic effects.

This inventor has now shown the PTH2 receptor system to have very potent actions in animal tests of nociception. Both peripheral and

intrathecal administration of TIP39 cause nocifensive responses. Intrathecal delivery of an antibody that sequesters TIP39 decreases sensitivity in several acute nociceptive assays, and administration of TIP39 potentiates responses in these same tests. Neurochemical changes that occur in neurons in outer layers of the dorsal horn in response to intense pain or injury may lead to manifestations of chronic pain, including hyperalgesia and allodynia. As TIP39 potentiates pain perception and increases cAMP, the PTH2 receptor system may be involved in the transition from acute to chronic pain. Novel drugs which block this system could thus be useful in treating acute or chronic pain. The invention described and claimed in the pending patent application provides novel methods of treating pain and methods of screening to find new and useful drugs acting on this newly discovered pain modulation system.

Development of a Plant Derived Recombinant Subunit Vaccine Candidate Against Hepatitis C

Lev G. Nemchinov and Jerry M. Keith (NIDCR)

DHHS Reference No. E–249–01/0

Licensing Contact: Carol Salata; 301/496–7735 ext. 232; *salatac@od.nih.gov.*

Hepatitis C virus (HCV) is a major cause of acute and chronic hepatitis with over 180 million cases worldwide. Development of a vaccine to combat HCV has been difficult. Presently, the virus cannot be grown in tissue culture and there is no vaccine or effective therapy against this virus. This technology relates to the development of an experimental plant-derived subunit vaccine against HCV. A tobamoviral vector was engineered to encode a consensus sequence of hypervariable region 1 (HVR1), a potential neutralizing epitope of HCV, which was genetically fused to the C-terminus of the B subunit of cholera toxin (CTB). This epitope was selected from the amino acid sequences of HVR1 ''mimotopes'' previously derived by phage display technology. The nucleotide sequence encoding this epitope was designed utilizing plant codons. This mimotope is capable of inducing cross-neutralizing antibodies against different variants of the virus. Plants infected with recombinant tobacco mosaic virus (TMV) engineered to express the HVR1/CTB chimeric protein, contained intact TMV particles and produced the HVR1 consensus peptide fused to the functionally active, pentameric B subunit of cholera toxin. Plant-derived HVR1/CTB reacted with HVR1-specific monoclonal antibodies and immune sera from individuals infected with virus from four of the major genotypes of HCV. Intranasal immunization of mice with a crude plant extract containing the recombinant HVR1/CTB protein elicited both anti-CTB serum antibody and anti-HVR1 serum antibody which specifically bound to HCV virus-like particles. Using plant-virus transient expression to produce this unique chimeric antigen will facilitate the development and production of an experimental HCV vaccine. A plant-derived recombinant HCV vaccine can potentially reduce expenses normally associated with production and delivery of conventional vaccines.

Endotracheal Tube Using Leak Hole to Lower Dead Space

Theodor Kolobow (NHLBI)

Serial No. 09/967,903 filed Sep 28, 2001

Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: *berkleyd@od.nih.gov.*

The invention is a tracheal tube ventilation apparatus which, through the use of one or more tube leak holes or connecting tubes positioned in the wall of the endotracheal tube above the larynx, is able to efficiently rid the patient of expired gases and promote healthier breathing. A first stage of the apparatus has a smaller diameter such that it fits within the confined area of the lower trachea and the second stage has a larger diameter, which fits properly within the larger diameter of the patient's pharynx. The endotracheal tube is preferably wire reinforced and ultra-thin walled so as to reduce airway resistance. The invention substantially reduces endotracheal dead space and is expected to benefit those patients with both early and late stage acute respiratory failure, and reduce or obviate the need for mechanical pulmonary ventilation in many patients.

Dated: March 5, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–5931 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Method and Apparatus to Improve an MRI Image

Peter Kellman and Elliot McVeigh (NHLBI)

DHHS Reference No. E–361–01/0 filed Oct 19, 2001

Licensing Contact: Dale Berkley; 301/496–7735 ext. 223; e-mail: *berkleyd@od.nih.gov*

The invention is a method for improving image quality in MR imaging methods using the SENSE (SENSitivity Encoding) method, which is known to have degraded image quality due to numerical ill-conditioning (so called g-factor loss). The invention improves the numerical conditioning by means of an adaptive regularization (matrix conditioning), thereby improving image quality for a given scan time. This is accomplished by adaptively adjusting the regularization parameter for each pixel position to achieve a target ghost artifact suppression. In this manner, a higher degree of matrix conditioning is used in regions which have less artifact, thus improving the SNR in these regions.

Use of CpG Oligodeoxynucleotides to Encourage Angiogenesis

Dennis M. Klinman (FDA), Mei Zheng (EM), Barry T. Rouse (EM)

DHHS Reference No. E–328–01/0 filed Dec 20, 2001
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: *soukasp@od.nih.gov*

This invention relates to the field of angiogenesis, more specifically to the use of CpG oligonucleotides to promote angiogenesis. Angiogenesis, the process of developing a hemovascular network, is essential for the growth of solid tumors and is a component of normal wound healing and growth processes. It has also been implicated in the pathophysiology of atherogenesis, arthritis, corneal neovascularization, and diabetic retinopathy. Angiogenesis factors play an important role in wound healing and likely play a role in the development of malignancies; hence, it would clearly be advantageous to identify new angiogenic agents.

CpG oligodeoxynucleotides (ODNs) express a wide range of biological activities. They are potent vaccine adjuvants, anti-allergens, and trigger a protective innate immune response. Several recent reports indicate that CpG ODN also stimulate cells of the central nervous system. Although CpG ODN have many potential uses, their potential to induce angiogenesis has not been previously recognized. The inventors have shown that bioactive CpG motifs induce dose-dependent neovascularization in the corneas of mice. The invention claims methods for stimulating angiogenesis using CpG ODNs, methods for inducing the production of VEGF (Vascular Endothelial Growth Factor) using CpG ODN, and a model system for screening potential anti-angiogenic agents.

Vaccine for Protection Against Shigella sonnei Disease

Dennis J. Kopecko, De-Qi Xu, John O. Cisar (FDA)
DHHS Reference No. E–210–01/0 filed Jan 16, 2002
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; e-mail: *soukasp@od.nih.gov*

Shigellosis is a global human health problem. Transmission usually occurs by contaminated food and water or through person-to-person contact. The bacterium is highly infectious by the oral route, and ingestion of as few as 10 organisms can cause an infection in volunteers. An estimated 200 million people worldwide suffer from shigellosis, with more than 650,000 associated deaths annually. A recent CDC estimate indicates the occurrence of over 440,000 annual shigellosis cases in the United States alone, approximately eighty percent (80%) of which are caused by *Shigella sonnei. Shigella sonnei* is more active in developed countries. *Shigella* infections are typically treated with a course of antibiotics. However, due to the emergence of multidrug resistant *Shigella* strains, a safe and effective vaccine is highly desirable. No vaccines against *Shigella* infection currently exist. Immunity to *Shigellae* is mediated largely by immune responses directed against the serotype specific O-polysaccharide. Claimed in the invention are compositions and methods for inducing an immunoprotective response against *S. sonnei.* Specifically, an attenuated bacteria capable of expressing an *S. sonnei antigen* comprised of the *S. sonnei* form I O-polysaccharide expressed from the *S. sonnei* rfb/rfc gene cluster is claimed. The inventors have shown that the claimed vaccine compositions showed one hundred percent (100 %) protection against parenteral challenge with virulent *S. sonnei* in mice.

Method for Determining Sensitivity to a Bacteriophage

Carl R. Merril (NIMH), Sankar Adhya (NCI), Dean M. Scholl (NIMH)
DHHS Reference No. E–318–00/0 filed Jan 22, 2002
Licensing Contact: Peter Soukas; 301/496–7056, ext. 268; e-mail: *soukasp@od.nih.gov*

Traditionally, chemical antibiotics have been used to treat a variety of bacterial infections. However, bacterial resistance to current antibiotics is an increasingly serious problem in human and veterinary health as well as agriculture. Many experts believe that strains of disease-causing bacteria resistant to all common antibiotics will arise in the next ten to twenty years. Bacteriophages offer a promising therapeutic alternative to antibiotics for these antibiotic resistant bacteria. There are also situations in which bacteriophage may be more suitable than antibiotics to treat infections caused by against antibiotic-sensitive bacteria. Bacteriophages are highly host-specific, thus determining whether a phage would be therapeutically useful against a particular bacterium or strain of bacteria is very important but can be a time-consuming and labor-intensive process.

The current invention claims a method for selecting a therapeutic bacteriophage that would be effective against a particular disease-causing bacteria, comprising a number of bacteriophages containing reporter nucleic acids capable of being expressed when the bacteriophage infects a bacterial cell. These bacteriophages are separately contacted with a sample contaminated by a bacterium. Expression of the reporter is then detected, indicating which bacteriophage has infected a bacterial cell and is thus a potential therapeutic phage against the particular bacteria. Also claimed in the application are kits allowing for the rapid identification of potentially therapeutic bacteriophages.

Dated: March 5, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–5934 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Kai Chen, Ph.D., M.B.A., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057 ext. 247; fax: 301/402–0220; e-mail: *ChenK@od.nih.gov.* A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Antiproliferative Actions of Human IGF Binding Protein-3 Mutants That Do Not Bind IGF–I or IGF–II

M.M. Rechler (NIDDK)

[DHHS Reference No. E–048–02/0 filed 17 Dec 2001]

Recent epidemiological studies indicate that increased serum insulin-like growth factor binding protein-3 (IGFBP–3) is associated with decreased

risk of prostate, breast, lung and colorectal cancers, and childhood leukemia. IGFBP–3 can inhibit cell growth and stimulate death through formation of complexes with IGF–I and IGF–II that prevent activation of the IGF–I receptor to stimulate proliferation and survival.

The current invention embodies a novel mechanism of action for IGFBP–3: direct inhibition of cell growth and stimulation of cell death through a mechanism that is independent of IGF–I, IGF–II and the IGF–I receptor. In the current invention, human IGFBP–3 has been genetically modified so that its affinity for IGF-I and IGF-II is greatly reduced, and it can act only through this novel direct mechanism. These human IGFBP–3 mutants still can inhibit DNA synthesis and stimulate apoptosis, and have been shown to induce apoptosis in human prostate cancer cells. The current invention could selectively exert antiproliferative action without interfering with IGF actions, and may have therapeutic uses as an antitumor agent.

A Novel DNA Methyltransferase Assay System With High Throughput/Automation Potential

K. Robertson, T. Yokochi (NCI)

[DHHS Reference No. E–030–02/0 filed 14 Jan 2002]

It is now believed that unregulated cell growth is due to aberrant gene expression in cells caused by deletion, mutation, or silencing of one or more critical growth regulatory proteins. The latter method, gene silencing, is mediated by DNA methylation, or the addition of methyl groups to cytosine residues at critical gene expression control regions.

The current invention embodies a novel and highly sensitive assay for detecting DNA methyltransferase activity, which catalyzes the addition of methyl groups to DNA. Treatment with DNA methyltransferase inhibitors in a clinical setting might lead to expression of silenced gene(s) and restoration of controlled cell growth. Huge numbers of compounds must be screened to identify ones that are active against DNA methyltransferases. The assay embodied in the current invention represents the first such assay adaptable for high-throughput and/or automated screening of potential DNA methyltransferase inhibitors. This assay also is fast, easy, reproducible, and highly sensitive.

Generation and Use of Tc1 and Tc2 Cells

D. Fowler (NCI), U. Jung (NCI), J. Medin (NINDS), R. Gress (NCI), A. Erdmann (NCI), B. Levine, and C. June

[U.S. Provisional Patent Application 60/336,473 filed 31 Oct 2001]

Allogeneic stem cell transplantation represents a potentially curative treatment option for patients with both hematologic and solid cancers, and for patients with other non-malignant conditions. However, the clinical application of allogeneic stem cell transplantation is limited by T cell immune reactions.

The current invention embodies a method for enrichment of donor T cells of Tc1 and Tc2 phenotypes by in vitro culture. This method represents a significant advance in terms of T cell numbers produced, level of cytokine polarization, and efficacy of in vivo effects. In murine transplantation models, this method greatly reduces graft-versus-host disease (GVHD) associated with donor CD8 cell administration. Murine Tc2 cells generated by this method are particularly potent in abrogating graft rejection by a mechanism that does not involve GVHD. In addition, this method can generate Tc1 and Tc2 cells that mediate graft-versus-tumor (GVT) effects against murine breast cancer and murine leukemia. The Tc1 and Tc2 cells produced by this method are also amenable to insertion of a suicide gene, which represents a potential strategy for mediating potent allogeneic GVT effects, with subsequent reversal of T cell mediated GVHD. Allogeneic transplantation using Tc1 and Tc2 cells generated via this method may therefore represent an approach to increase the anti-tumor efficacy and reduce the GVHD-toxicity of allogeneic stem cell transplantation, and to extend allogeneic transplantation to those patients lacking an HLA-matched sibling.

Dated: March 7, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–6062 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

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 7, 2002.[1]

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892. (301) 435–1249.

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 7, 2002.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Betty Hayden, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892. (301) 435–1223. *haydenb@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 Institutes of Health, HHS)

[1] **Editorial Note:** This document was received at the Office of the Federal Register on March 8, 2002.

Dated: March 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6059 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Gems Phase II Review.

Date: April 2, 2002.

Time: 9:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: Hilton—Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Zoe E. Huang, MD, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Bethesda, MD 20892–7924. 301–435–0314.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6058 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National institute of Environmental Health Sciences; 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 of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 2, 2002.

Time: 2:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 3, 2002.

Time: 11:30 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 3, 2002.

Time: 1:00 PM to 1:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 3, 2002.

Time: 2:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709. (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: April 4, 2002.

Time: 1:00 PM to 1:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M McGee, BS, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, Research Triangle Park, NC 27709. 919/541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS).

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6052 Filed 3–12–02; 8:45 am]

BILLING CODE 4410–01–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: March 13, 2002.

Time: 2:30 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd 5th Floor, Rockville, MD 20852. (Telephone Conference Call).

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.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS).

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6053 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel.

Date: April 3, 2002.

Time: 8:30 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Richard E. Weise, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, *rweise@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6056 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel.

Date: March 27, 2002.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter J. Sheridan, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606. 301–443–1513. *psherida@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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6057 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 of Mental Health Special Emphasis Panel.

Date: March 8, 2002 [1]

[1] **Editorial Note:** This document was received at the Office of the Federal Register on March 8, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Martha Ann Carey, PHD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608. 301–443–1606.

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 of Mental Health Special Emphasis Panel.

Date: March 18, 2002

Time: 2:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Susan M. Matthews, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6134, MSC 9607, Bethesda, MD 20892–9607. 301–443–5047.

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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6060 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Library of Medicine,Board of Scientific Counselors, Lister Hill Center.

Date: May 9–10, 2002.

Open: May 9, 2002, 9:00 AM to 1:00 PM.

Agenda: Review or research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: May 9, 2002, 1:00 PM to 2:00 PM.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: May 9, 2002, 2:00 PM to 5:00 PM.

Agenda: Review or research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: May 10, 2002, 9:00 AM to 12:00 PM.

Agenda: Review or research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Contact Person: Jackie Duley, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Bldg 38A, Rm 7N–705, Bethesda, MD. 301–496–4441.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons with 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 Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 7, 2002.

Laverne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6055 Filed 3–12–02; 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 13, 2002.

Time: 12:00 PM to 12:30 PM.

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 14, 2002.

Time: 9:30 AM to 10:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Gloria B. Levin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892. (301) 435–1017. *leving@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 14, 2002.
Time: 1:30 PM to 2:30 PM.
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 18, 2002.
Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Anshumali Chaudhari, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892. (301) 435–1210.
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: 10:00 AM to 11:00 AM.
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.
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 25, 2002.
Time: 8:00 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
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 25, 2002.
Time: 8:30 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
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 25–26, 2002.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Ronald J. Dubois, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892. (301) 435–1722.
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 25, 2002.
Time: 9:30 AM to 11:30 AM.
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, (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.
Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: March 25, 2002.
Time: 10:00 AM to 11:30 AM.
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 25, 2002.
Time: 10:00 AM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, 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@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 25, 2002.
Time: 1:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
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 25, 2002.
Time: 1:30 PM to 2:45 PM.
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.
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 25–26, 2002.
Time: 2:00 PM to 5:30 PM.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Central, 1143 New Hampshire Avenue, Washington, DC 20037.
Contact Person: George W. Chacko, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room: 4202, MSC: 7812, Bethesda, MD 20892. 301–435–1220. *chackoge@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 25, 2002.
Time: 2:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).
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 25, 2002.

Time: 2:30 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Everett E. Sinnett, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892. (301) 435–1016. *sinnett@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 25, 2002.

Time: 12:45 PM to 1:30 PM.

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.

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 26, 2002.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: David L. Simpson, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892. (301) 435–1278. *simpsod@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jim Bishop, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 1:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 27, 2002.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 3:00 PM to 5:00 PM.

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 3:15 PM to 5:45 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Everett E. Sinnett, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892. (301) 435–1016. *sinnett@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 26, 2002.

Time: 12 PM to 1:30 PM.

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.*

(Catalog 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: March 7, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–6054 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Co-Exclusive License: Human Derived Monocyte Attracting Purified Peptide Products for Treating Human Infections and Neoplasms in a Human Body

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a co-exclusive license to practice the inventions embodied in the U.S. Patent Applications and issued Patents listed below to Centocor Corporation, having a place of business in Malvern, Pennsylvania. The patent rights of these inventions have been assigned to the United States of America.

- USPA 07/330,446 filed March 30, 1989 and entitled ''Human Derived Monocyte Attracting Purified Peptide Products Useful in a Method of Treating Infections and Neoplasms in a Human Body and the Cloning of Full Length cDNA Thereof''
- USPA 07/686,264 filed April 15, 1991 now USPN 6,090,795 issued July 18, 2000
- USPA 08/449,552 filed May 24, 1995 now USPN 5,532,144 issued July 2, 1996
- USPA 08/466,288 filed June 6, 1995 now USPN 5,714,578 issued February 3, 1998
- PCT/US90/00040 filed January 2, 1990

The prospective co-exclusive license territory will be worldwide and the field of use may be limited to the treatment of asthma, restenosis, hepatitis B and cancer. This announcement serves as a modification of a notice previously published in the **Federal Register**, 66 FR 59450–59451, Nov. 28, 2001.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before May 13, 2002, will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comment and other materials relating to the contemplated co-exclusive license should be directed to: Percy S. Pan, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone

301–496–7736 x256; Facsimile 301–402–0220; e-mail *panp@od.nih.gov.*

SUPPLEMENTARY INFORMATION: The invention relates to a human derived purified peptide product that exhibits monocytic chemotactic activity (MCA). A method of preparing the peptide is disclosed as well as a method of treating neoplasms and infections by administering the peptides. A pharmaceutical composition of the peptide is also claimed. The peptide may be useful in the treatment of various disorders including autoimmune disease, chronic inflammatory diseases, and cancer. This peptide, also known as MCP–1, is a b chemokine. Chemokines are multipotent cytokines that localize and enhance inflammation by inducting chemotaxis and activation of different types of inflammatory cells. This peptide is a chemotactic factor for monocytes. It stimulates histamine release and regulates cytokine production in monocytes.

The prospective co-exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective co-exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated co-exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 7, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–6061 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Uses of Cyanovirin-N for HIV Vaccines

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive worldwide license to practice the inventions embodied in patents under ''Supplementary Information'' to OmniViral Therapeutics LLC, having a place of business in Gaithersburg, Maryland. The patent rights in these inventions have been assigned to the Government of the United States of America.

The field of use may be limited to four vaccine strategies based on:

1. Conjugate consisting of HIV virions inactivated with Cyanovirin–N or homolog thereof
2. Conjugate consisting of gp120, an HIV envelope protein, and Cyanovirin–N or homolog thereof
3. Native Cyanovirin–N or homolog thereof to stimulate a virus neutralizing response via endogenous anti-idiotypic antibodies
4. Identification of Cyanovirin-N-binding-site anti-idiotypic monoclonal antibodies, and use thereof as a primary antigen

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before May 13, 2002, will be considered.

ADDRESSES: Requests for a copy of this patent application, inquiries, comments and other materials relating to the contemplated license should be directed to Cristina Thalhammer-Reyero, Ph.D., M.B.A., Technology Transfer Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852; Telephone: (301) 496–7056 extension 263; Facsimile: (301) 402–0220; E-mail: thalhamc@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The patents and patent applications to be licensed are:

Patent No 6,245,737, issued 06/12/2001, entitled ''Conjugates of Antiviral Proteins or Peptides and Virus or Viral Envelope Glycoproteins'', (E–117–95/7);

PCT/US99/18975 (WO00/11036), filed Aug. 19, 1998, allowed, entitled ''An Anti-Cyanovirin Antibody with an Internal Image of gp120, a Method of Use Thereof, and a Method of Using a Cyanovirin to Induce an Immune Response to gp120'' (E–117–95/8);

PCT/US00/06247 (WO00/53213) filed March 10 2000, pending, entitled ''Cyanovirin Conjugates, Matrix-Anchored Cyanovirin And Anti-Cyanovirin Antibody, And Related Compositions And Methods of Use'' (E–074–99/2);

US Patent No. 6,015,876, issued 01/18/2000, entitled ''Methods Of Using Cyanovirins'' (E–074–99/3);

USSN 09/428,275 filed 10/27/1999, pending, entitled ''Methods of Using Cyanovirins to Inhibit Viral Infection'' (E–074–99/5);

USSN 09/714,884 filed 03/22/2001, pending, entitled ''Conjugates of Antiviral Proteins or Peptides and Virus or Viral Envelope Glycoproteins'' (E–074–99/8);

US Patent No. 5,843,882, issued Dec. 01, 1998, entitled ''Antiviral Proteins and Peptides'' (E–117–95/0);

US Patent No. 5,821,081, issued Oct. 13, 1998, entitled ''Nucleic Acids Encoding Antiviral Proteins and Peptides, Vectors and Host Cells Comprising Same, and Methods of Producing the Antiviral Proteins and Peptides'' (E–117–95/1);

US Patent No. 6,015,876, issued Jan. 18, 2000, entitled ''Method of Using Cyanovirins (E–117–95/3);

US Patent No. 5,998,587, issued Dec. 7, 1999, entitled ''Anti-Cyanovirin Antibody'' (E–117–95/6);

And related U.S. and foreign cognates of the PCT patent applications.

The inventors have found that Cyanovirin-N, a naturally occurring anti-HIV protein originally isolated from *Nostoc ellipipsosporum*, a blue-green algae, has potent neutralizing activity against HIV 1 and 2 by blocking the fusion reaction between HIV and CD4 cells. Cyanovirin-N is now expressed in a DNA coding sequence in *E. coli.* New information on the nature of the interaction of the HIV envelope with the cell surface during the binding, entry and fusion process has led to new ideas about how to improve envelope immunogenicity. Among these ideas are the various ways of using Cyanovirin-N in preparing reagents for use in a potential HIV vaccine.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. This prospective exclusive license may be granted unless within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections submitted in response to this notice will not be made available for

public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 5, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 02–5933 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences; Notice of Establishment; Scientific Advisory Committee on Alternative Toxicological Methods

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the Director of the National Institute of Environmental Health Sciences (NIEHS) announces the establishment of the Scientific Advisory Committee for Alternative Toxicological Methods (SACATM).

SACATM

The SACATM was chartered January 9, 2002, to fulfill section 3(d) of Pub. L. 106–545, the ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3(d)). The committee will function as an advisory committee in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2). The charter is posted on the web (*http://iccvam.niehs.nih.gov*) or is available in hard copy upon request from the National Toxicology Program (NTP) Liaison and Scientific Review Office, NIEHS, PO Box 12233, Research Triangle Park, NC 27709; telephone: 919–541–3971; facsimile: 919–541–0295 or *liason@starbase.niehs.nih.gov*.

The SACATM will provide advice to the Director of the NIEHS, the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), and the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) regarding statutorily mandated duties of ICCVAM. The duties of the ICCVAM include:

(1) Review and evaluate new or revised or alternative test methods, including batteries of tests and test screens, that may be acceptable for specific regulatory uses, including the coordination of technical reviews of proposed new or revised or alternative test methods of interagency interest.

(2) Facilitate appropriate interagency and international harmonization of acute or chronic toxicological test protocols that encourage the reduction, refinement, or replacement of animal test methods.

(3) Facilitate and provide guidance on the development of validation criteria, validation studies, and processes for new or revised or alternative test methods and help facilitate the acceptance of such scientifically valid test methods and awareness of accepted test methods by Federal agencies and other stakeholders.

(4) Submit ICCVAM test recommendations for the test methods reviewed by the ICCVAM, through expeditious transmittal by the Secretary of Health and Human Services (Secretary) (or the designee of the Secretary), to each appropriate Federal agency, along with the identification of specific agency guidelines, recommendations, or regulations for a test methods, including batteries of tests and test screens, for chemicals or class of chemicals within a regulatory framework that may be appropriate for scientific improvement, while seeking to reduce, refine, or replace animal test methods.

(5) Consider for review and evaluation, petitions received from the public that—(A) identify a specific regulation, recommendation, or guideline regarding a regulatory mandate; and (B) recommend new or revised or alternative test methods and provide valid scientific evidence of the potential of the test method.

(6) Make available to the public final ICCVAM test recommendations to appropriate Federal agencies and the response from the agencies regarding these recommendations.

(7) Prepare reports to be made available to the public on its progress under the Act.

The SACATM will also provide advice to the Director of the NIEHS and the NICEATM on activities and directives relating to the NICEATM in three areas:

(1) Priorities and opportunities for alternative test methods that may provide improved prediction of adverse health effects compared to currently used methods or advantages in terms of reduced expense and time, reduced animal use, and reduced animal pain and distress;

(2) Development and implementation of more effective and efficient processes for determining the scientific validity and acceptability of proposed new test methods; and

(3) Ways to foster more effective and productive interactions between Federal agencies and other involved stakeholders, including test method developers.

Future meetings of the SACATM will be posted on the NICEATM/ICCVAM web site (*http://iccvam.niehs.nih.gov*) and announced in the **Federal Register**. Additional information about the ICCVAM and the NICEATM is also available on the web.

Dated: March 1, 2002.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences.

[FR Doc. 02–5932 Filed 3–12–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–080–1210–PG]

Resource Advisory Council Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: In accordance with Section 309 of the Federal Land Policy and Management Act of October 21, 1976, (Pub. L. 94–579, 90 Stat. 2767, 43 U.S.C. 1739), as amended, and the Federal Advisory Committee Act of 1972 (FACA), as amended (Pub. L. 92–463, 5 U.S.C., App.), the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia-Salmon Clearwater District Resource Advisory Council (Council) on Wednesday, March 27, 2002 and Thursday, March 28, 2002, in Missoula, Montana.

The Council's responsibilities include providing recommendations concerning long-range planning and establishing resource management priorities. Agenda items will include: Introduction of new members, election of officers, review of past accomplishments, Idaho BLM table of organization, and identification of future issues.

DATES: Wednesday, March 27, 2002 from 8:00 a.m. (MST) to 4:30 p.m. and Thursday, March 28, 2002 from 8 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the C'mon Inn, 2775 Expo Parkway, Missoula, Montana.

FOR FURTHER INFORMATION CONTACT: Stephanie Snook, BLM Coeur d'Alene District Office, 1808 N. Third Street, Coeur d'Alene, Idaho 83814. Phone (208) 769–5004.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are

open to the public. The public may address the Council during the public comment period from 3:00–3:30 p.m. on March 27, 2002. Interested persons may make oral statements to the Council during this time, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Dated: January 25, 2002.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 02–6167 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–5853–EU]

Notice of Realty Action: Competitive Sale of Public Lands in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: The following lands have been designated for disposal under Public Law 105–263, the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343); they will be sold competitively in accordance with section 203 and section 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719) at not less than the appraised fair market value (FMV).

Mount Diablo Meridian, Nevada

T. 20 S., R. 59 E.,
Sec. 1, NE¼NW¼SW¼, E½SE¼NW¼SW¼, E½E½SW¼SW¼, W½NW¼SE¼SW¼, W½SE¼SW¼SE¼;
Sec. 12, W½NW¼NE¼NE¼, W½NE¼NW¼NE¼, NW¼SE¼NW¼, W½SW¼SE¼NW¼, E½SW¼NE¼SW¼, W½SE¼NE¼SW¼, SE¼SE¼NW¼.
T. 19 S., R. 60 E.,
Sec. 18, Lots 5, 6, 9, 11, 17, W½NW¼NE¼NW¼, E½NW¼SE¼NW¼, E½SE¼SE¼NW¼.
T. 22 S., R. 60 E.,
Sec. 13, SW¼NE¼SE¼NE¼;
Sec. 14, SW¼NE¼NE¼SW¼, W½SW¼SW¼NW¼SE¼, NW¼NE¼NW¼SE¼, SE¼NE¼NW¼SE¼, NW¼NW¼NE¼SE¼;
Sec. 15, N½NE¼NE¼NE¼SW¼, S½NE¼NE¼NE¼SW¼, SE¼NE¼NE¼SW¼, E½SE¼SE¼NE¼;
Sec. 18, SE¼SW¼SE¼;
Sec. 20, N½NW¼SE¼SW¼NE¼, S½NE¼NE¼NW¼, SE¼NW¼NE¼NW¼;
Sec. 23, NE¼NE¼SE¼NW¼;
Sec. 24, SE¼SW¼NE¼NE¼, SW¼SE¼NE¼NE¼;
Sec. 26, E½NW¼NW¼SE¼, W½SW¼NW¼SE¼, NW¼NE¼SE¼, W½SW¼NE¼SE¼.
T. 22 S., R. 61 E.,
Sec. 28, Lots 65, 66;
Sec. 29, SE¼SE¼SW¼NE¼, W½NE¼SW¼SE¼, E½NE¼NW¼SW¼SE¼, NE¼SE¼SW¼SE¼;
Sec. 33, SW¼SW¼NW¼NE¼, NW¼NW¼SW¼NE¼.
Totaling 216.25 gross acres.

In addition to the lands described herein, parcels that have been published in a previous Notice of Realty Action (NORA), and were previously offered but did not sell, may be re-offered at this sale.

When the land is sold, conveyance of the locatable mineral interests will occur simultaneously with the sale of the land. The locatable mineral interests being offered have no known mineral value. Acceptance of a sale offer will constitute an application for conveyance of those mineral interests. In conjunction with the final payment, the applicant will be required to pay a $50.00 non-refundable filing fee for processing the conveyance of the locatable mineral interests.

The terms and conditions applicable to the sale are as follows:

All Parcels Subject to the Following

1. All leaseable and saleable mineral deposits are reserved on land sold; permittees, licensees, and lessees retain the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. All land parcels are subject to all valid existing rights. Parcels may also be subject to applications received prior to publication of this Notice if processing the application would have no adverse affect on the appraised FMV. Encumbrances of record are available for review during business hours, 7:30 AM to 4:15 PM, PDT, Monday through Friday, at the Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, NV.

4. All land parcels are subject to reservations for roads, public utilities and flood control purposes, both existing and proposed, in accordance with the local governing entities' Transportation Plans.

5. All purchasers/patentees, by accepting a patent, agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgements of any kind or nature arising from the past, present, and future acts or omissions of the patentee or their employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of federal, state, and local laws and regulations that are now or may in the future become, applicable to the real property; (2) Judgements, claims or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by federal or state environmental laws; off, on, into or under land, property and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by federal and state environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by federal and state law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Maps delineating the individual sale parcels will be available for public review at the BLM Las Vegas Field Office on or about February 14, 2002. Appraisals for each parcel will be available for public review at the Las Vegas Field Office on or about March 14, 2002.

Each parcel will be offered by sealed bid, and at oral auction. All sealed bids must be received at the BLM Las Vegas Field Office (LVFO), 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, no later than 4:15 PM, PDT, May 10, 2002. Sealed bid envelopes must be marked

on the lower front left corner with the parcel number and sale date. Bids must be for not less than the appraised FMV and a separate bid must be submitted for each parcel.

Each sealed bid shall be accompanied by a certified check, money order, bank draft, or cashier's check made payable to the Bureau of Land Management, for not less than 10 percent of the amount bid.

The highest qualified sealed bid for each parcel will become the starting bid for oral bidding. If no sealed bids are received, oral bidding will begin at the appraised FMV.

All parcels will be offered for competitive sale by oral auction beginning at 10:00 AM, PDT, May 14, 2002, at the Clark County Commission Chambers, Clark County Government Center, 500 S. Grand Central Parkway, Las Vegas, Nevada. Registration for oral bidding will begin at 8:30 AM the day of sale and will continue throughout the auction. All oral bidders are required to register.

The highest qualifying bid for any parcel, whether sealed or oral, will be declared the high bid. The apparent high bidder, if an oral bidder, must submit the required bid deposit immediately following the close of the sale in the form of cash, personal check, bank draft, cashiers check, money order or any combination thereof, made payable to the Bureau of Land Management, for not less than 20 percent of the amount bid.

The remainder of the full bid price, whether sealed or oral, must be paid within 180 calendar days of the sale date. Failure to pay the full price within the 180 days will disqualify the apparent high bidder and cause the entire bid deposit to be forfeited to the BLM. Unsold parcels may be offered on the Internet beginning on or about May 28, 2002. Internet auction procedures will also be available at *www.auctionrp.com* at that time. If unsold on the Internet, parcels may be offered at future auctions without additional legal notice. Upon publication of this notice and until the completion of the sale, the BLM is no longer accepting land use applications affecting any parcel being offered for sale, including parcels being offered for sale that have been published in a previous Notice of Realty Action. However, land use applications may be considered after the completion of the sale within parcels that are not sold through sealed, oral, or on-line Internet auction procedures.

Federal law requires bidders to be U.S. citizens 18 years of age or older; a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property; or an entity including, but not limited to, associations or partnerships capable of holding property or interests therein under the law of the State of Nevada. Certification of qualification, including citizenship or corporation or partnership, must accompany the bid deposit.

In order to determine the fair market value of the subject public lands through appraisal, certain assumptions have been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the Bureau of Land Management gives notice that these assumptions may not be endorsed or approved by units of local government. Furthermore, no warranty of any kind shall be given or implied by the United States as to the potential uses of the lands offered for sale, and conveyance of the subject lands will not be on a contingency basis. It is the buyers' responsibility to be aware of all applicable local government policies and regulations that would affect the subject lands. It is also the buyers' responsibility to be aware of existing or projected use of nearby properties. When conveyed out of federal ownership, the lands will be subject to any applicable reviews and approvals by the respective unit of local government for proposed future uses, and any such reviews and approvals would be the responsibility of the buyer. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Detailed information concerning the sale, including the reservations, sale procedures and conditions, planning and environmental documents is available for review at the Bureau of Land Management, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130, or by calling (702) 515–5114. Much of this information will also be available on the Internet at *http://propdisp.gsa.gov.* Click on NV for Nevada.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, the general public and interested parties may submit comments to the Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of any adverse comments, this realty action will become the final determination of the Department of Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws or is determined to not be in the public interest. Any comments received during this process, as well as the commentor's name and address, will be available to the public in the administrative record and/or pursuant to a Freedom of Information Act request. You may indicate for the record that you do not wish your name and/or address be made available to the public. Any determination by the Bureau of Land Management to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A commentor's request to have their name and/or address withheld from public release will be honored to the extent permissible by law.

Lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Dated: February 6, 2002.

Mark T. Morse,

Field Manager.

[FR Doc. 02–6083 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a General Management Plan, Final Environmental Impact Statement for Mary McLeod Bethune Council House National Historic Site, Washington, DC

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Pursuant to section 102 (2) (c) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a final Environmental Impact Statement and General Management Plan (FEIS/GMP) for Mary McLeod Bethune Council House National Historic Site, Washington, DC.

DATES: The Draft EIS/GMP was on public review from August 3, 2001 through October 15, 2001. Responses to public comment are addressed in the FEIS/GMP. A 30-day no-action period will follow the Environmental Protection Agency's Notice of Availability of the FEIS/GMP. After the 30-day period, a Record of Decision will be signed that will document NPS approval of the final EIS/GMP and

identify the selected alternative for implementation.

ADDRESSES: The final EIS/GMP will be mailed to agencies, organizations, and individuals requesting the document. Copies of the document are available from Terri Urbanowski, PSD, National Park Service, P.O. Box 25287, Denver, CO 80225–0287 or requests may be mailed to: *MAMC_GMP@nps.gov.* Public reading copies of the document will also be available for review at the following locations:

- Mary McLeod Bethune Council House National Historic Site, 1318 Vermont Avenue, NW, Washington, DC 20020.
- National Capital Parks East, 1900 Anacostia Drive, SE, Washington, DC 20020.
- National Capital Region Office of Lands, Resources and Planning Attention: Gail Cain, 1100 Ohio Drive, NW, Washington, DC 20242.
- Frederick Douglass National Historic Site Visitor Center, 1411 W Street, SE, Washington, DC 20020.
- In addition the document will be posted on the National Park Service Planning site under Mary McLeod Bethune Council House Site, *http://www.nps.gov/mamc/pphtml/facts.html.*

SUPPLEMENTARY INFORMATION: Consistent with the park's purpose, significance, and mission goals, 4 alternatives were evaluated for guiding the management of the park over the next 15 to 20 years. The alternatives incorporate various management provisions to ensure resource protection and quality visitor experience conditions. The environmental consequences anticipated from implementation of the various alternatives are addressed in the document. Impact topics include cultural resources, visitor use and experience, socioeconomic environment, and site administration and facilities. The following management alternatives were evaluated in the EIS/GMP:

Alternative 1, the no-action alternative, would maintain current management direction. The Council House would continue to operate as a visitor center and administrative office area; archival collections and archive staff offices would remain in the carriage house. Conflicts would continue to occur between visitor and administrative functions in the limited space of the Council House resulting in a less than desirable visitor experience and operational inefficiency. Storage space for archival collections would remain inadequate.

Alternative 2, the preferred action, would place dual emphasis on the Council House, which would be used as a museum, and on the archives. Under this alternative new space would be acquired to accommodate some visitor services and most administrative offices. The visitor experience would be enhanced with adequate space to provide broad and comprehensive interpretative opportunities and exhibits in the Council House. The primary storage for archival collections would be in an offsite state-of-the-art facility that would provide enhanced preservation and protection of stored items. The carriage house would be renovated and would house a research room, offices for archival staff, an area for some processing of collections, and space for frequently accessed collections.

Alternative 3 would commemorate the site through the establishment of the Bethune Center for Human Rights. The Council House would be used for interpretation and also would provide a place for groups to meet and engage in activities, workshops and programs. Materials related to social justice and human rights would be emphasized in the archival collections. Additional property would be leased or acquired for administrative offices and would be the primary space for meetings and workshops. This space would be the main contact point for visitors, and access and programmatic interpretation would be provided for visitors with mobility disabilities at this site. Offsite interpretation would be expanded with traveling exhibits. The carriage house would be renovated and expanded to include the archival collections, archival staff offices, and research space.

Under alternative 4, the Council House would be used as a traditional National Park Service museum commemorating the life and times of Mary McLeod Bethune. The Council House would have expanded exhibit space and an orientation area for visitors. Period furnishings would be in the Council House and archival collections would illustrate the highlights of Dr. Bethune's life and activities. Educational materials would focus on the life contributions and legacy of Dr. Bethune. Space would be leased offsite to accommodate current archival collections that would be managed through a contract with others. The carriage house would be torn down and replaced with a new building that would house a bookstore, visitor restrooms and administrative offices.

FOR FURTHER INFORMATION CONTACT: Site Manager Diann Jacox, Mary McLeod Bethune National Historic Site, 1318 Vermont Avenue, NW, Washington, DC 20005, (202) 673–2402; FAX (202) 673–2414; e-mail *Diann_Jacox@nps.gov.*

Dated: January 23, 2002.

Terry R. Carlstrom,

Regional Director, National Capital Region, National Park Service.

[FR Doc. 02–6039 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement for the General Management Plan for the Blue Ridge Parkway

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the General Management Plan for the Blue Ridge Parkway

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the U.S. Department of the Interior, National Park Service will prepare an Environmental Impact Statement on the General Management Plan for the Blue Ridge Parkway. The statement will assess potential environmental impacts associated with various types and levels of visitor use and resources management within the parkway boundary. Specific issues to be addressed include appropriate levels and types of visitor use along the parkway and at various developed areas, and the protection of natural, cultural, and scenic resources. Adjacent land uses and transportation improvements, their effect on parkway resources and visitors, and strategies for cooperation among public and private land managers will also be explored.

DATES: To determine the scope of issues to be addressed in the GMP and EIS and identify significant issues related to the project, a series of planning newsletters with public response forms will be distributed to the public and public scoping meetings will be held in the summer, 2002. When these meetings have been scheduled, public notice will be provided. Representatives of the National Park Service will be available to discuss issues, resource concerns, and the planning process at each of the public meetings.

ADDRESSES: Any comments or requests for information should be addressed to Superintendent, Blue Ridge Parkway, 1999 Hemphill Knob Road, Asheville, North Carolina 28803.

FOR FURTHER INFORMATION CONTACT: Superintendent, Blue Ridge Parkway,

1999 Hemphill Knob Road, Asheville, North Carolina 28803, (828) 271–4779.

SUPPLEMENTARY INFORMATION: The Blue Ridge Parkway is located in southwestern Virginia and northwestern North Carolina in the Central and Southern Appalachian Mountains. The parkway is 469 miles long, connecting Shenandoah National Park in the north with Great Smoky Mountains National Park to the south. Created in 1936 as a national rural parkway, the parkway is designed for recreational driving free from commercial traffic and with limited access. The parkway traverses the crests, ridges, and valleys of five major mountain ranges, encompassing several geographic and vegetative zones ranging from 500 to over 6,000 feet above sea level. It provides visitors with many varied vistas of scenic Appalachian landscapes ranging from forested ridge tops and mountain slopes to rural farm lands to urban areas. Although most of the parkway has a very narrow right of way, it includes several large recreational and natural history areas and Appalachian cultural sites along its length.

Today, the parkway encompasses 82,000 acres of federally owned land. The parkway has over 1000 miles of boundary to manage, 4000 adjacent land owners, 29 county and several city governments to interact with, and has 500,000 acres of scenic viewshed outside of its boundary. There are 191 public access points on the parkway from the regional road systems. This planning effort will evaluate a range of alternative methods to provide a quality visitor experience while maximizing protection of resources and operational efficiency.

Public documents associated with the planning effort, including all newsletters, will be posted on the Internet through the Info Zone at *www.nps.gov.*

Our practice is to make the public comments we receive in response to planning documents, including names and home addresses of respondents, available for public review during regular business hours. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. Anonymous comments will be included in the public record. However, the National Park Service is not legally required to consider or respond to anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The draft and final environmental impact statement will be distributed to all known interested parties and appropriate agencies. Full public participation by federal, state, and local agencies as well as other concerned organizations and private citizens is invited throughout the preparation process of this document.

The responsible official for this environmental impact statement is Jerry Belson, Regional Director, National Park Service, Southeast Region, 100 Alabama Street, SW., Atlanta, Georgia 30303.

Dated: November 5, 2002.

Wallace A. Hibbard,

Regional Director, Southeast Region.

[FR Doc. 02–6042 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan/ Environmental Impact Statement, Colorado National Monument, Colorado

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare an environmental impact statement for the general management plan, Colorado National Monument.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the general management plan for Colorado National Monument. The environmental impact statement will be approved by the Director, Intermountain Region.

Colorado National Monument was established May 24, 1911 by Presidential William H. Taft, under the authority of the Antiquities Act (1906), because ''[t]he extraordinary examples of erosion are of great scientific interest, and it appears that the public interest would be promoted by reserving these natural formations as a National Monument, together with as much public land as may be necessary for the proper protection thereof.'' Two later Presidential proclamations (1933 and 1959) added additional land to the Colorado National Monument, primarily for the protection of ''* * * features of historical and scientific interest and for the protection of the Rim Road * * *''

The general management plan will prescribe the resource conditions and visitor experiences that are to be achieved and maintained in the monument over time. The clarification of what must be achieved according to law and policy will be based on review of the park's purpose, significance, special mandates, and the body of laws and policies directing park management. Management decisions to be made where law, policy, or regulations do not provide clear guidance or limits will be based on the purposes of the monument, the range of public expectations and concerns, resource analysis, an evaluation of the natural, cultural, and social impacts of alternative courses of action, and consideration of long-term economic costs. Based on determinations of desired conditions, the general management plan will outline the kinds of resource management activities, visitor activities, and development that would be appropriate in the monument in the future. Alternatives will be developed through this planning process and will include, at a minimum, no-action and the preferred alternative. Major issues include protection of natural and cultural resources; the adequacy of interpretive programs; potential partnerships with other agencies, organizations, and local interests; and boundary concerns.

The National Park Service is planning to begin public scoping in January 2002, via a newsletter to state and Federal agencies; associated American Indian tribes; neighboring communities; county commissioners; local organizations, researchers and institutions; the Congressional Delegation; and visitors who signed up to be on the mailing list. In addition, the National Park Service will hold public scoping meetings regarding the general management plan, beginning in January 2002. Specific dates, times, and locations will be announced in the local media and will also be available by contacting the Superintendent of Colorado National Monument. There will also be a web site for the general management plan, established at a later date. The purpose of the newsletter, public meetings, and web site is to explain the planning process and to obtain comments concerning appropriate resource management; desired visitor experience and use, and facilities; as well as any other issues that need to be addressed. In addition to attending the scoping meetings, people wishing to provide input to this initial phase of developing the general management plan may address comments to the superintendent. Scoping comments should be received no later that 60-days from the publication of this Notice of Intent.

FOR FURTHER INFORMATION CONTACT: Contact Superintendent Palma Wilson, Colorado National Monument, Fruita, CO, 81521–0001; Tel: (970) 858–3617; FAX: (970) 858–0372; e-mail: palma_wilson@nps.gov.

Dated: October 19, 2001.

Karen P. Wade,

Director, Intermountain Region.

[FR Doc. 02–6043 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent; Livestock Management Plan With Allotment Management Plans, Environmental Impact Statement, Dinosaur National Monument, Utah and Colorado

January 17, 2002.

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Livestock Management Plan and associated Allotment Management Plans, Dinosaur National Monument.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement for the Livestock Management Plan and associated allotment management plans for Dinosaur National Monument. This effort will result in a comprehensive livestock management plan that encompasses preservation of natural and cultural resources, meets current policies, and provides a framework for making grazing-related decisions, and serves as an operational manual. Development of these plans is compatible with the broader goals and objectives derived from the Monument mission that governs resources management. In cooperation with the Bureau of Land Management, attention will also be given to resources outside the boundaries that affect the integrity of Dinosaur National Monument resources. Alternatives will be developed through the scoping and planning process, and at a minimum will include a No Action Alternative and a Preferred Alternative. Major issues are: effects to soil and water resources, to proposed wilderness, presence of threatened, endangered and/or sensitive species, invasive nonnative species; conflicts with recreational uses; proposed Research Natural Areas; archaeological/historic resources; socioeconomic effects; and other sensitive natural resources such as riparian areas, A scoping letter as been prepared that details the issues identified to date. Copies of that information may be obtained from Nanci Regnier *SWCA, Inc., Environmental Consultants, 8461 Turnpike Drive, Suite 100, Westminster, CO 80031.* The scoping period will be 30 days from the date this notice is published in the **Federal Register**. In addition, NPS will hold public scoping meetings regarding the plans in April 2002; specific dates, times, and locations will be announced in local media and will also be available by contacting the Superintendent of Dinosaur National Monument at (970) 374–3001 or by contacting SWCA as above.

Comments: If you wish to comment on the scoping letter, you may submit your comments by any one of several methods. You may mail comments to SWCA, at the above address. You may also comment via the Internet to *nregnier@swca.com.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: DINO LMP'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Nanci Regnier at SWCA, Inc. directly at above address or at (303) 487–1183. Finally, you may hand-deliver comments to above address. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law.

If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Nanci Regnier, SWCA, Inc., Environmental Consultants (303) 487–1183.

Dated: January 22, 2002.

R. Everhart,

Director, Intermountain Region, National Park Service.

[FR Doc. 02–6040 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Northeast Region; Notice of Intent To Prepare an Environmental Impact Statement and Hold Public Meetings

In accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–109 Section 102(c)), the National Park Service is preparing an Environmental Impact Statement (EIS) for the resource study of the Upper Housatonic Valley National Heritage Area, as authorized by Public Law 106–470. The Upper Housatonic Valley study area encompasses a watershed area with eight municipalities (Litchfield County) in Connecticut and eighteen municipalities (Berkshire County) in Massachusetts. The purpose of the EIS/study is to determine if this region is eligible to become a National Heritage Area. If the National Park Service determines that the Upper Housatonic Valley has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, Congress could designate the region a National Heritage Area. The study will identify alternative management options to interpret and manage the heritage area. The alternatives will describe: proposed heritage area boundaries; evaluations of significance, suitability, and feasibility; characteristics of the proposed management entity; participation of State and local governments and private and public organizations; anticipated levels of public use; economic and social benefits of public use.

The National Park Service will hold three public meetings in September, 2002, that will provide opportunities for public input into the scoping for the EIS/study. The purpose of these meetings is to obtain both written and verbal comments concerning the future direction and development of the Upper Housatonic Valley National Heritage Area.

Additional information about the EIS/study will be available from the National Park Service Boston Support Office, James O'Connell, Project Manager, National Park Service Boston Support Office, 15 State Street, Boston, Massachusetts 02109–3572, (617) 223–5222. Those persons who wish to comment verbally or in writing, or who require further information, should contact Mr. James O'Connell, Project Manager.

The draft EIS/study is expected to be completed and available for public review in August, 2002. After public and interagency review of the draft document, comments will be considered and a final EIS followed by a Record of Decision will be prepared.

Dated: December 11, 2001.

Sandra Corbett,

Superintendent, Boston Support Office.

[FR Doc. 02–6041 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Increasing the Storage Capacity of Gerber Reservoir, Klamath Project, OR

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a draft environmental impact statement (EIS) on increasing the storage capacity of Gerber Reservoir, Klamath Project, Oregon.

Reclamation will develop several alternatives to increase the storage capacity of Gerber Reservoir while improving water quality, consistent with protecting fish and wildlife. This potential increase in water supply is needed to help meet the growing water needs in the Klamath River basin, to improve water quality, to facilitate the efforts of the State of Oregon to resolve water rights claims in the Upper Klamath River basin, including facilitation of Klamath tribal water rights claims, and to reduce conflicts over water between the Upper and Lower Klamath River basins.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Baker, Program Manager, Klamath Basin Area Office, 6600 Washburn Way, Klamath Falls, OR 97603; telephone (541) 883–6935.

SUPPLEMENTARY INFORMATION:

Background

Reclamation is studying the feasibility of increasing the storage capacity of Gerber Reservoir, a feature of the Klamath Project. The Klamath Project is a Federal reclamation project in southern Oregon and northern California. Reclamation is undertaking this feasibility study under the authority of Section 2 of the Klamath Basin Water Supply Enhancement Act of 2000 (Pub. L. 106–498) (hereafter referred to as the Enhancement Act). The Enhancement Act authorizes and directs the Secretary of the Interior to engage in feasibility studies of increasing the storage capacity and/or yield of Klamath Project facilities, including Gerber Reservoir.

Reclamation's Technical Service Center engineers in Denver, Colorado, completed a preliminary evaluation in May 1999 to increase the height of Gerber Dam to raise the maximum surface level of the reservoir by up to 3 feet. Reclamation then initiated an appraisal study in October 2000. After the Enhancement Act was enacted, Reclamation discontinued the appraisal study and proceeded directly to a feasibility study. The feasibility study now underway will evaluate the May 1999 study in detail and will consider a range of increased surface levels for the reservoir to increase the storage capacity. Alternatives will be bounded by engineering, economic, and/or environmental considerations.

Public Scoping Process

Scoping for this project began in June 2001 and continued into early fall. News releases and scoping information packets announced public open houses and invited public comments from individuals and groups throughout the Klamath Basin Project area. Later, other news releases and information packets cancelled the informal open houses and extended the date to provide written scoping comments. The extension would allow the written scoping comments to be included in a scoping summary. As a result of the comments received, Reclamation developed a report entitled, ''Scoping Summary, Feasibility Study of Increasing the Storage Capacity of Gerber Reservoir, Klamath Project, Oregon, January 2002.'' (Summary). During the spring of 2002, Reclamation will solicit public review and comments on the Summary to ensure that significant issues have not been overlooked.

Dated: February 25, 2002.

Frank Michny,

Environmental Officer.

[FR Doc. 02–6021 Filed 3–12–02; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendments to Consent Decree

Notice is hereby given that on February 21, 2002, amendments to the consent Decree filed in *United States* v. *Marine Shale Processors, Inc.,* Civ. No. CV90–1240, were lodged with the United States District Court for the Western District of Louisiana. The original Consent Decree was filed on February 19, 1998, and was modified by an Order of the Court dated February 23, 1999, and again on June 13, 2001.

In this action against Marine Shale Processors, Inc., (''MSP'') the United States sought to recover civil penalties and enjoin violations of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6901 *et seq.,* the Clean Water Act, 33 U.S.C. 1251 *et seq.,* and the Clean Air Act, 42 U.S.C. 7413. The United States also sought relief under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9604, 9606, and 9607. MSP operated a facility in Morgan City, Louisiana that treated hazardous waste by combustion.

These amendments would extend: (1) The date for the purchase of the facility from MSP, and (2) the date by which Earthlock may make a Continuation Election. Under these proposed amendments, on or before March 22, 2002, Earthlock must either make a Continuation Election, seek a Vacating Order, or seek an extension until April 22, 2002 in which to make its decision. If Earthlock seeks an extension until April 22, and subsequently seeks a Vacating Order, Earthlock would be required to pay the sum of $50,000 to Plaintiffs.

The Department of Justice will receive comments relating to these amendments until noon on March 21, 2002. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Marine Shale Processors, Inc.,* D.J. Ref. 90–11–2–204. Comments may be sent via telecopier to Darlene Lyons, fax number (202) 514–2583, phone confirmation no. (202) 514–1605.

The consent decree amendments may be examined at the Office of the United States Attorney, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130, at U.S. EPA Region VI, 1445 Ross Avenue Dallas, TX 75202–2733, and at the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. A copy of the consent decree amendments may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. A copy of the proposed Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202)

616–6584; phone confirmation no. (202) 514–1547. There is a charge for the copy (25 cent per page reproduction cost). Upon requesting a copy, please mail a check payable to the ''U.S. Treasury'', in the amount of $1.50 to: Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. The check should refer to *United States* v. *Marine Shale Processors, Inc.,* D.J. Ref. 90–11–2–204.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–6045 Filed 3–12–02; 8:45 am]

BILLING CODE 4410–15–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–036)]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council, Task Force on International Space Station Operational Readiness.

DATES: Wednesday, April 3, 2002, 7 p.m.–8 p.m. Eastern Standard Time.

ADDRESSES: This meeting will be conducted via teleconference; hence participation will require contacting Mr. Philip Cleary (202/358–4461) before 12 noon Eastern, April 2, 2002, and leaving your name, affiliation, and phone number.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Cleary, Code IC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capability of the teleconferencing system. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support the new crew and the American and Russian flight team's preparedness to accomplish the Expedition Five mission.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–6025 Filed 3–12–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL INSTITUTE FOR LITERACY

Notice of Meeting; Correction

AGENCY: National Institute for Literacy (NIFL).

ACTION: Notice of meeting. Correction.

SUMMARY: For the notice published in the **Federal Register** dated March 4, 2002, Volume 67, Number 42, pages 9790–9791, make the following corrections:

On page 9791, under **DATE AND TIME,** the second day of the Board meeting, ''March 15, 2002,'' is cancelled. On page 9791, under **SUPPLEMENTARY INFORMATION**, the Advisory Board meeting on March 15, 2002, is cancelled.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, e-mail: *scoles@nifl.gov.*

Dated: March 8, 2002.

Sharyn M. Abbott,

Executive Officer.

[FR Doc. 02–6068 Filed 3–12–02; 8:45 am]

BILLING CODE 6055–01–P

NUCLEAR REGULATORY COMMISSION

Correction to Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration

On March 5, 2002 (67 FR 10006), the **Federal Register** published the ''Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations.'' On pages 10017 and 10018, for Duke Energy Corporation, et al., Catawba Nuclear Station, Units 1 and 2, ''Amendment Nos. 195 and 188'' should read ''Amendment Nos. 194 and 187.''

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 6th day of March 2002.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–6038 Filed 3–12–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45511; File No. SR–ISE–2002–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange LLC, Relating to Requirements for Joint Back Office Arrangements

March 6, 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 13, 2002, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to adopt Rule 1303, ''Joint Back Office Arrangements,'' to establish margin and net capital requirements for ISE members participating in joint back office (''JBO'') arrangements.[3] The text of the proposed rule change is available at the Office of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In February 2000, the Commission issued a single order approving substantially uniform requirements with respect to JBO arrangements submitted by the American Stock Exchange, the Chicago Board Options Exchange (''CBOE''), the Chicago Stock Exchange, the New York Stock Exchange (''NYSE''), the Pacific Exchange and the Philadelphia Stock Exchange. Securities Exchange Act Release No. 42453 (Feb. 24, 2000), 65 FR 11620 (Mar. 3, 2000). In May 2000, the Commission approved JBO requirements submitted by the National Association of Securities Dealers. Securities Exchange Act Release No. 42858 (May 30, 2000), 65 FR 36194 (June 7, 2000). There were only minor differences between the proposals adopted by each of these SROs. The proposed ISE Rule is identical to the requirements adopted by the NYSE.

the Secretary, ISE, and at the Commission.

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 ISE 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 ISE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt Exchange Rule 1303 to establish requirements for JBO arrangements.[4] The proposed rule would provide certain regulatory requirements for establishing and maintaining such JBO arrangements.[5] A broker-dealer that carries and clears, or carries JBO accounts would be required to: (i) Provide written notification to its Designated Examining Authority prior to establishing a JBO; (ii) maintain minimum tentative net capital[6] of $25 million, or maintain minimum net capital of $7 million if engaged in the primary business of clearing options market maker accounts;[7] (iii) provide prompt written notice when tentative net capital or net capital, whichever may apply, falls below the prescribed standard; (iv) take appropriate action within three business days to resolve any capital deficiency;[8] (v) maintain a written risk methodology for assessing the amount of credit extended to participating broker-dealers, and (vi) deduct from net capital, the ''haircut'' requirements pursuant to the Commission's Net Capital Rule (Rule 15c3–1)[9] in excess of the equity maintained in the accounts of participating broker-dealers.

Furthermore, under the proposal JBO participants must be registered broker-dealers subject to Rule 15c3–1, and will be required to maintain an ownership interest in the JBO pursuant to Regulation T. Exclusive of their ownership interest in the JBO arrangement, JBO participants must maintain a minimum liquidating equity of $1 million. If the liquidating equity falls below $1 million, the JBO participant must eliminate the deficiency within five business days or become subject to the margin requirements for customers in Regulation T, and the maintenance margin requirements pursuant to the provisions of Exchange Rule 1202.[10]

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5)[12] in particular, which requires that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Exchange also believes that the proposed rule is consistent with the rules and regulations promulgated by the FRB for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) of the Act.[13]

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.

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

The proposed rule change has been filed by the Exchange as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) by its terms does not become operative for 30 days after February 13, 2002, the date on which it was filed, or such shorter time as the Commission may designate, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A)(iii)[16] of the Act and Rule 19b–4(f)(6)[17] thereunder. At any time within 60 days of the filing of the proposed rule change, 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 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

[4] Regulation T, issued by the Board of Governors of the Federal Reserve System (''FRB''), permits a broker-dealer to ''effect or finance transactions of any of its owners if the [broker-dealer] is a clearing and servicing broker or dealer owned jointly or individually by other [broker-dealers].'' 12 CFR 220.7(c).

[5] Because all other SROs (other than the Cincinnati Stock Exchange) currently have the proposed requirements in their rules, and every ISE member is also a member of at least one of these SROs, the proposal will not place any requirements on ISE members to which they are not already subject.

[6] The term ''tentative net capital'' generally refers to net capital before the application of ''haircuts'' and undue concentration charges on securities and options positions.

[7] Under the proposed rule, clearance of options market maker accounts would be deemed a broker-dealers primary business if a minimum of 60% of the aggregate deductions in the ratio of gross options market maker deductions to net capital (including gross deductions for JBO participant accounts) are options market maker deductions.

[8] Under the proposed rule, failure to correct such deficiencies within the allotted period will preclude the JBO carrying and clearing, or carrying, member from accepting any new transactions pursuant to the JBO arrangement.

[9] 17 CFR 240.15c3–1 *et seq.,* ''Net Capital Requirements for Brokers or Dealers.'' Rule 15c3–1 requires a broker-dealer to reduce its net worth by certain percentages, known as ''haircuts,'' of the market value of its securities position.

[10] Rule 1202 permits Members to elect to be bound by the margin rules of either the CBOE or the NYSE.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78g(a).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–2002–05 and should be submitted by April 3, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–5929 Filed 3–12–02; 8:45 am]

BILLING CODE 8010–01–M

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 Program Announcement No. OWBO–99–012, as amended by OWBO–2000–015 issued 3/5/02, to correct the project period of the Women's Business Center (WBC) project that will replace a previous project in the State of Vermont. Whereas the Program Announcement states that the replacement WBC is to carry out a project for two years of a 5-year term, the correct project period for the replacement WBC will be for the remainder of the current term which is scheduled to end 6/30/02 and two additional years, 07/01/02–06/30/03 and 07/01/03–06/30/04. The Federal funds available to complete the current year is an amount not to exceed $100,000. The amount of Federal funds to be awarded for each of the two additional years will not exceed $150,000. The recipient must match each annual award at 100%.

A pre-proposal telephone conference will take place on March 12, 2002, at 10:00 a.m. to provide clarification pertaining to the budget period.

FOR FURTHER INFORMATION CONTACT: Sally S. Murrell at (202) 205–6673.

Wilma Goldstein,

Assistant Administrator, Small Business Administration/Office of Women's Business Ownership.

[FR Doc. 02–6071 Filed 3–12–02; 8:45 am]

BILLING CODE 8025–01–P

[18] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3943]

Determination Under Section 508 of the Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (Pub. L. 107–115) With Respect to the Gambia

Pursuant to the authority vested in me as Deputy Secretary of State, including by section 508 of the Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (Pub. L. 107–115), Executive Order 1318 of March 31, 1999, and State Department Delegation of Authority No. 245 of April 23, 2001, I hereby determine that, subsequent to the termination of assistance to the Government of The Gambia after that country's July 22, 1994 military coup, a democratically elected Government has taken office in The Gambia.

This Determination shall be reported to the Congress and published in the **Federal Register**.

Dated: March 5, 2002.

Richard D. Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 02–6073 Filed 3–12–02; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11688]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) and its Subcommittee on Prevention Through People will meet to discuss various issues relating to offshore safety. Both meetings will be open to the public.

DATES: NOSAC will meet on Thursday, April 25, 2002, from 9:30 a.m. to 3 p.m. The Subcommittee on Prevention Through People will meet on Wednesday, April 24, 2002, from 1:30 p.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 April 11, 2002. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before April 11, 2002.

ADDRESSES: NOSAC will meet in room 4618, of the Coast Guard Headquarters Bldg, 2100 Second Street, SW, Washington, DC. The Subcommittee on Prevention Through People will meet in room 6103 of the Coast Guard Headquarters Bldg, 2100 Second Street, SW, Washington, DC. Send written material and requests to make oral presentations to Captain M. W. Brown, Executive Director of NOSAC, Commandant (G–MSO), 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: Captain M. W. Brown, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone 202–267–0214, 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

National Offshore Safety Advisory Committee. The agenda includes the following:

(1) Report on issues concerning the International Maritime Organization and the International Organization for Standardization.

(2) Progress report from the Prevention Through People Subcommittee on ''Crew Alertness in the Offshore Industry.''

(3) Report from Subcommittee on Deepwater Activities.

(4) Report from Task Force on development and implementation of the Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Convention for offshore supply vessels (OSVs).

(5) Progress report from the Subcommittee on Pipeline-Free Anchorages.

(6) Revision of 33 CFR subchapter N.

(7) Status report on Coast Guard/Minerals Management Service rulemaking on Inspection of Fixed Facilities (final rule published February 7, 2002, 67 FR 5912).

(8) Update on Coast Guard Initiatives on Crew Fatigue. *Subcommittee on Prevention Through People.* The agenda includes the following:

(1) Review and discuss previous work.

(2) Work on outline of Draft Report.

Procedural

Both meetings are open to the public. Please note that the meetings may close early if all business is finished. At the

Chair's discretion, 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 no later than April 11, 2002. Written material for distribution at a meeting should reach the Coast Guard no later than April 11, 2002. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of the meeting, please submit 25 copies to the Executive Director (see **ADDRESSES**) no later than April 11, 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 meetings, telephone the Executive Director at 202 267–0214 as soon as possible.

Dated: February 26, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 02–6049 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–7514]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability and request for public comments.

SUMMARY: The U.S. Coast Guard, the Environmental Protection Agency, the Research and Special Programs Administration, and the Mineral Management Service, in concert with the States, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the availability of the revised PREP Guidelines for comment and announces the participating agencies' intent to hold a public meeting in 2002.

DATES: Comments and related material must reach the Docket Management Facility on or before May 13, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2000–7514), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket, including the PEA, on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice and general information regarding the National Preparedness for Response Exercise Program (PREP) and the schedule, contact Mr. Robert Pond, Office of Response, Plans and Preparedness Division (G–MOR–2), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593–0001, telephone: 202–267–6603, facsimile: 202–267–4065, or email: *rpond@comdt.uscg.mil.*

The PREP Area exercise schedule and exercise design manuals are available on the Internet at *http://www.uscg.mil/hq/g-m/gmhome.htm* (see index, then oil response). To obtain a hard copy of the exercise design manual, contact Ms. Melanie Barber at the Research and Special Programs Administration, Office of Pipeline Safety, at 202–366–4560. The 1994 PREP Guidelines can be found on the following Web site: *http://www.uscg.mil/hq/g-m/nmc/response/#PREP.* Hard copies of the PREP Guidelines are available at no cost by writing or faxing the TASC DEPT Warehouse, 33141Q 75th Avenue, Landover, MD 20785, fax: 301–386–5394. The stock number of the manual is USCG–X0191. Please indicate the quantity when ordering. Quantities are limited to 10 per order.

If you have questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone: 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments and related material. If you do so, please include your name and address, identify the docket number for this notice (USCG–2000–7514) and give the reasons for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Background and Purpose

In 1994, the U.S. Coast Guard (USCG), the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA), and the Minerals Management Service (MMS) coordinated the development of the National Preparedness for Response Exercise Program (PREP) Guidelines. Through a series of public workshops involving representatives from many State governments, the regulated community, environmental interest groups, and the general public, the PREP Guidelines were crafted to reflect the consensus agreement of the entire oil spill response community regarding an appropriate exercise program, including exercise types, frequency, scope, and objectives. For their part, USCG, EPA, RSPA, and MMS agreed that while the PREP Guidelines are not regulatory, each agency would accept that an industry entity following the PREP Guidelines would be in compliance with the pollution response exercise requirements in 33 U.S.C. 1321(j). (For Coast Guard rules, see 33 CFR 154.1055(f) and 33 CFR 155.1060(h); for EPA rules, see 40 CFR 112.21; for RSPA rules, see 49 CFR 194; or for MMS rules, see 30 CFR 254).

Since 1994, USCG, EPA, RSPA, and MMS have hosted public workshops in 1995, 1997, and 2000, to review the PREP Guidelines and consider need for changes. The first two workshops endorsed preserving the 1994 PREP Guidelines without amendment. The 2000 workshop recommended consideration of amending the PREP Guidelines to clarify or amend certain exercise parameters and standards.

The National Schedule Coordination Committee (NSCC) requested comments to proposed changes to the 1994 PREP Guidelines that were posted on the Docket Management System Web site on July 3, 2001. Based on review of comments to those proposed changes, the NSCC has posted the proposed final draft changes to the PREP Guidelines to the docket and at the following Web sites: *http://www.uscg.mil/hq/g-m/nmc/response/#PREP* and *http://www.uscg.mil/hq/nsfcc/nsfweb.*

This proposed final draft is also available electronically or in hard copy from Mr. Robert Pond at the address indicated above. Based on the comments received in response to the July 3, 2001, draft, a public meeting to discuss proposed changes is not anticipated prior to publication of final revised PREP Guidelines in August 2002. The next public meeting to discuss PREP is scheduled on November 8, 2002, in Galveston, TX, in conjunction with Clean Gulf 2002.

Dated: February 28, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 02–6048 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Wayne County, Michigan

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed intermodal freight terminal in Wayne County, Michigan.

FOR FURTHER INFORMATION CONTACT: James A. Kirschensteiner, Assistant Division Administrator, Federal Highway Administration, 315 West Allegan Street, Room 207, Lansing, Michigan 48933, Telephone: (517) 702–1835, Fax: 377–1804, e-mail, *james.kirchensteiner@fhwa.dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to develop a complex of terminals operated by several railroads, which will provide consolidated and efficient intermodal freight service to business and industry. The project could include land acquisition, consolidation, roadway, and rail improvements to improve access and egress to the existing terminal site, known as the Detroit-Livernois Yard.

Improvements to the corridor are considered necessary to provide for improved intermodal efficiencies regionally and on an international scale. Alternatives under consideration include (1) taking no action and (2) refinements of Rail Strategy 3 as identified in the Detroit Intermodal Freight Terminal Project—Feasibility Study, Technical Report No. 4. The draft EIS will describe other alternatives that were considered during the feasibility phase.

The Detroit Intermodal Freight Terminal Project study area is bounded roughly by I–94 and U.S. 12 to the north, M–39 to the west, I–75 to the south, and M–10 to the east. Presently about 65 train movements occur daily at some point within the study area, with less than half being through movements. Rail Strategy 3, as it is now conceived, calls for expanding the existing railroad-controlled property in this area from about 500 acres to 840 acres (an increase of 340 acres). The freight terminal would be served by six entrance/exit gates. Daily *intermodal* train traffic is expected to grow by the year 2025 from fewer than a dozen today to 50-plus, and be associated with 16,000 intermodal truck movements per day into and out of the terminal in 2025 compared to 2000 truck trips today.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A series of public meetings were held during the Feasibility Study phase on March 13, April 24, May 23–24, July 25–26, October 24–25, and December 13, 2001. Additional meetings and a public hearing are planned. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: February 27, 2002.

James J. Steele,

Division Administrator, Lansing, Michigan.

[FR Doc. 02–5945 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2002–11507]

Alternative Physical Qualification Standards for the Loss or Impairment of Limbs; Exemption Application for Kevin Howell

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: This notice announces the FMCSA's receipt of an application from Mr. Kevin Howell for an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) alternative physical qualification standards for the loss or impairment of limbs. Mr. Howell's right arm was amputated at the shoulder. Mr. Howell is applying for an exemption to allow him to operate a commercial motor vehicle (CMV) in interstate commerce without a prosthesis. Mr. Howell believes his driving record indicates that a level of safety can be achieved that is equivalent to, or greater than, the level of safety that would be obtained by complying with the standards for the loss or impairment of limbs set forth in 49 CFR 391.41 (b)(1) and 391.49.

DATES: Comments must be received on or before April 12, 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 exemption in this notice, Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, (202) 366–2990; 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:

Background

Title 49 of the United States Code (U.S.C) sections 31315 and 31136, requires the FMCSA to publish a notice in the **Federal Register** for each exemption requested, explaining that the request has been filed; providing the public with an opportunity to inspect the safety analysis and any other relevant information known to the agency; and commenting on the request (49 U.S.C. 31315(b)(4)(A)). Prior to granting a request for an exemption, the agency must publish in the **Federal Register** the name of the person granted the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption (49 U.S.C. 31315 (b)(4)(B)). The terms and conditions established by FMCSA must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption (49 U.S.C. 31315(b)(6)).

The regulations at 49 CFR part 381 establish the procedures to be followed to request waivers and to apply for exemptions from the FMCSRs, and the procedures used to process them.

FMCSA is responsible for the administration and enforcement of the Federal Motor Carrier Safety Regulations (FMCSRs), including the physical qualifications of CMV drivers. Section 391.41(b)(1) of the FMCSRs states that a person is physically qualified to drive a CMV if he or she has, among other things, ''no loss of a foot, a leg, a hand or an arm, or has been granted a skill performance evaluation (SPE) certificate [previously called a 'waiver'] pursuant to section 391.49.'' The alternative physical qualification standards for the loss or impairment of limbs, at 49 CFR 391.49(d)(3)(i)(B), include a requirement that applicants for SPE certificates include with their applications a medical evaluation summary that, among other things, establishes that ''*–*–*the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) *with each upper limb separately''* [emphasis added].

Kevin Howell's Application for an Exemption

Mr. Kevin Howell is a commercial motor vehicle (CMV) driver whose right arm was amputated at the shoulder. He is an owner-operator motor carrier and his principal place of business is located in Hooper, Utah. On November 3, 2001, Mr. Howell applied for a SPE certification by filing an application with the FMCSA's Utah State Director. By letter dated November 19, 2001, Mr. Howell's SPE application was deferred until he obtained a prosthetic or orthotic device and could demonstrate the power grasp and precision prehension required under the alternative physical qualification standards of 49 CFR 391.49. On November 21, 2001, Mr. Howell applied for an exemption from the Federal alternative physical qualification standards for the loss or impairment of limbs and the use of a prosthetic device when operating CMVs in interstate commerce (49 CFR 391.41(b)(1) and 49 CFR 391.49). A copy of the application is in the docket.

Mr. Howell indicated in his application that he was granted a limb waiver in 1973 that allows him to operate without a prosthetic device when driving CMVs in interstate commerce. The agency has no record of the waiver. If a waiver had been issued, Mr. Howell would have been required to renew the waiver every 2 years in accordance with conditions applicable to waivers at the time. The FMCSA has records for other drivers who were granted limb waivers in the 1970's and who have renewed their waivers every 2 years, however, we find no record that Mr. Howell sought a renewal in the years following 1973.

Mr. Howell stated in his application for exemption that he has had his Class A CDL for 27 years, with no restrictions other than corrective lenses. He owns and operates a CMV with manual transmission on the right side of the steering column. He indicated that he transports cargo for various other motor carrier companies and that he will be the only driver affected if the FMCSA grants the exemption requested here. Mr. Howell stated that he does not anticipate any adverse safety impacts created by this exemption. As support for his contention, he cited his current motor vehicle driving record, with no current deficiencies, including no speeding tickets or accidents. Mr. Howell stated that he has driven over 1,000,000 miles and has never had an accident, injury or caused property damage as a result of driving without a right arm. He maintains that this clearly shows a very high level of safety and awareness, as well as excellent driving skills, ability and judgment.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA is requesting public comment from all interested persons on whether the exemption application from Mr. Kevin Howell should be granted. All comments received before the closing date will be considered and will be available for examination in the docket at the location listed under the address section of this notice.

Issued on: March 8, 2002.

Julie Anna Cirillo,

Assistant Administrator.

[FR Doc. 02–6047 Filed 3–12–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location for the quarterly meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), and the provisional meeting agenda.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, March 22, 2002, starting at 9:00 a.m., at the Port of New Orleans Office Building, Main Auditorium, 1350 Port of New Orleans Place, New Orleans, LA 70130. The duration of the meeting will be approximately four hours.

FOR FURTHER INFORMATION, CONTACT: Gordana S. Earp, Deputy Director, Tariff and Trade Affairs (Enforcement), Office of the Under Secretary (Enforcement), Telephone: (202) 622–0336.

At this meeting, the Advisory Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

Agenda

(1) Update on the COAC Report on Improving U.S. Border and Supply Chain Security, including report on the work of the Technology Technical Advisory Team

(2) Report of the Office of Rulings & Regulations

(3) Compliance Assessment Programs (Focused Assessment, ICMP)

(4) Issues Relating to Uniformity

(5) Other COAC Priorities

(6) Next Meetings

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members, Customs and Treasury Department staff, and persons invited to attend the meeting for special presentations. A person other than an Advisory Committee member who wishes to attend the meeting should contact Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230.

Dated: March 7, 2002.

Timothy E. Skud,

Acting Deputy Assistant Secretary, Regulatory, Tariff, and Trade (Enforcement).

[FR Doc. 02–5964 Filed 3–12–02; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Docket No. 940; ATF O 1130.12]

Delegation of the Director's Authorities in 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer

To: All Bureau Supervisors

1. Purpose

This order delegates certain authorities of the Director to subordinate ATF officials and prescribes the subordinate ATF officials with whom persons file documents which are not ATF forms.

2. Background

Under current regulations, the Director has authority to take final action on matters relating to procedure and administration. The Bureau has determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

3. Cancellation

ATF O 1100.86A, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR part 251, Importation of Liquors, dated 4/12/84, is canceled.

4. Delegations

Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120–01 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR part 251 to subordinate officials. Also, this ATF order prescribes the subordinate officials with whom applications, notices, and reports required by 27 CFR part 251, which are not ATF forms, are filed. The attached table identifies the regulatory sections, authorities and documents to be filed, and the authorized ATF officials. The authorities in the table may not be redelegated.

5. Questions

If you have questions about this order, contact the Regulations Division (202–927–8210).

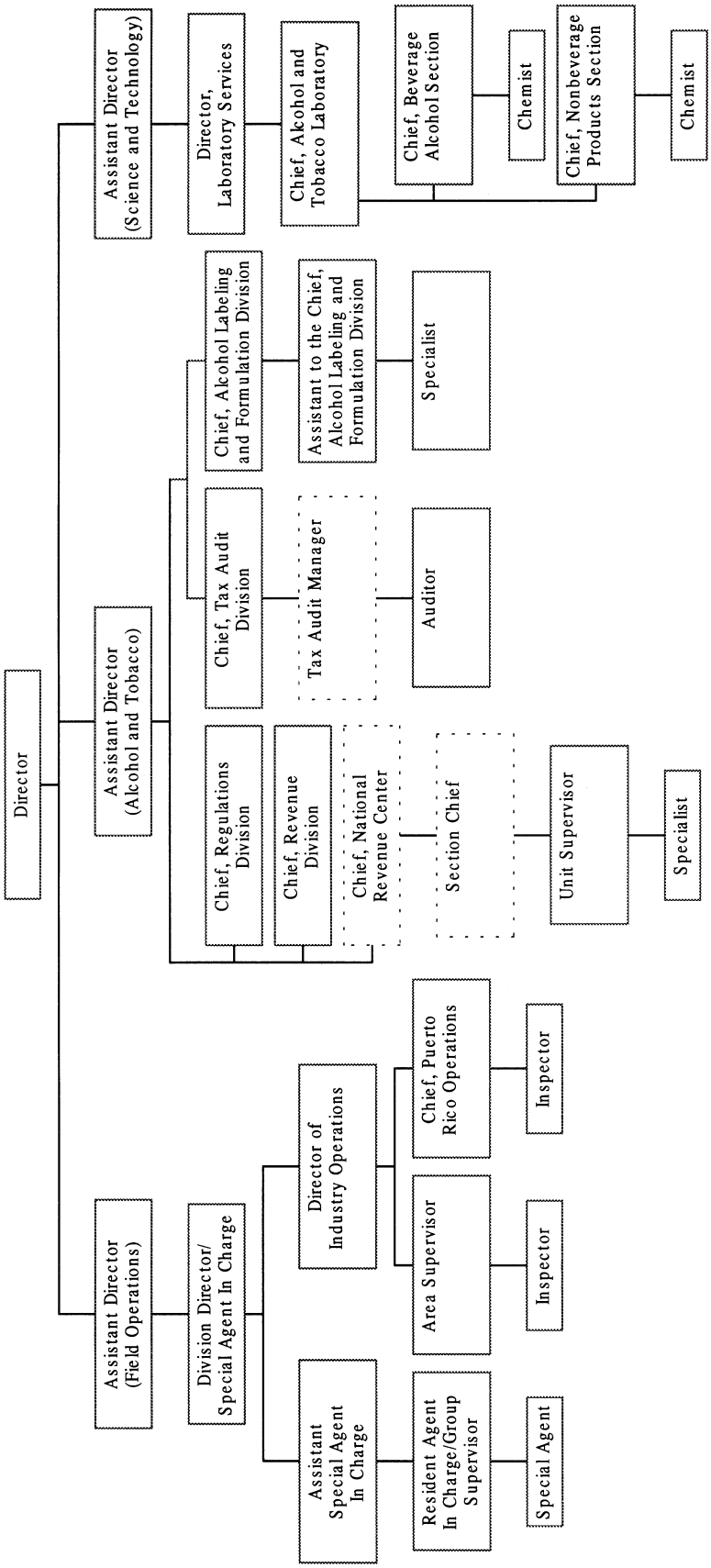
Bradley A. Buckles,

Director.

Regulatory section	Officer(s) authorized to act or receive document
§ 251.2(a)	Chief, Regulations Division.
§ 251.11—Liquor bottle definition	Specialist, Alcohol Labeling and Formulation Division (ALFD).
§ 251.77(d)	Section Chief, National Revenue Center (NRC).
§ 251.136(a)	Area Supervisor to approve alternate location. Inspector, Specialist, Auditor or Special Agent to examine documents.
§ 251.137	Inspector, Specialist, Auditor or Special Agent to examine and copy records. Director of Industry Operations to require additional retention.
§ 251.172	Unit Supervisor, NRC.
§ 251.181(a)	Unit Supervisor, NRC.
§ 251.182(b)(1) and (d)	Unit Supervisor, NRC.
§ 251.204	Specialist, ALFD.
§ 251.206	Specialist, ALFD.
§ 251.208	Area Supervisor.
§ 251.209	Unit Supervisor, NRC.
§ 251.221	Chief, Regulations Division to approve. If the alternate method or procedure does not affect an ATF approved formula, or import or export recordkeeping, Chief, National Revenue Center (NRC) may act upon the same alternate method that has been approved by the Chief, Regulations Division. Chief, Regulations Division, Chief, National Revenue Center or Area Supervisor to withdraw.

BILLING CODE 4810–31–P

ATF Organization



This is not a complete organizational chart of ATF.

[FR Doc. 02–5881 Filed 3–12–02; 8:45 am]

BILLING CODE 4810–31–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1028

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 1028, Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

DATES: Written comments should be received on or before May 13, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 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 6405–07, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

OMB Number: 1545–0058.

Form Number: 1028.

Abstract: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in Internal Revenue Code section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 50 hours, 54 minutes.

Estimated Total Annual Burden Hours: 2,545.

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: March 5, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–6086 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8329 and 8330

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 8329, Lender's Information Return for Mortgage Credit Certificates (MCCs) and Form 8330, Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

DATES: Written comments should be received on or before May 13, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, or through the internet (CAROL.A.SAVAGE@irs.gov.), Internal Revenue Service, room 6405–07, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Form 8329, Lender's Information Return for Mortgage Credit Certificates (MCCs) and Form 8330, Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs).

OMB Number: 1545–0922.

Form Number: Forms 8329 and 8330.

Abstract: Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to provide the IRS with information on the issuance of mortgage credit certificates (MCCs) authorized under Internal Revenue Code section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Responses: 10,000—Form 8329; 2,000—Form 8330.

Estimated Time Per Response: 5 hours, 41 minutes—Form 8329; 7 hours, 16 minutes—Form 8330.

Estimated Total Annual Burden Hours: 56,800—Form 8329; 14,520—Form 8330.

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: March 5, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–6088 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–21

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 Revenue Procedure 2001–21, Debt Roll-Ups.

DATES: Written comments should be received on or before May 13, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of Revenue Procedure should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.)*, Internal Revenue Service, room 6405–07, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Debt Roll-Ups.

OMB Number: 1545–1647.

Revenue Procedure Number: Revenue Procedure 2001–21.

Abstract: Revenue Procedure 2001–21 provides for an election that will facilitate the consolidation of two or more outstanding debt instruments into a single debt instrument. Under the election, taxpayers can treat certain exchanges of debt instruments as realization events for federal income tax purposes even though the exchanges do not result in significant modifications under section 1.1001–3 of the Income Tax Regulations.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 75.

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: March 5, 2002.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 02–6089 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending December 31, 2001.

Last	First	Middle
Griess	Kevin	Michael
Lind	Gary	C
Paul-Reynaud	Catherine	
Marchi	Andrea	Gino
Lustrup	Preben	Reinholt
O'Neil	Ruth	Elith
Hansen	Kirsten	Schnedler

Last	First	Middle
Bailey	Dennis	
Hara	Karen	Walseth
Stene	Roberta	Anne Huntley
Richards	William	Reese
Valenti	Malvin	J
Sassoon	Alexandria	Juana Rosetti
Krieble	Daniel	Coty
Mitchell	Keith	C
Silvera	Craig	Bruce Scott
Salamanca	Augusto	Ernesto
Phillips	Lorna	Jean
Delaney	Louanne	Claire
Mueller	Erik	Eduard
Klemenz	Deborah	Kay

Dated: February 20, 2002.

Samuel Brown,

Compliance, Correspondence Exam Operations, Unit O, Philadelphia Compliance Services.

[FR Doc. 02–6084 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending September 30, 2001.

Last	First	Middle
Di Frangia	Mark	Vincent
Joiner	Derald	Eugene
March	Duane	Abe
Ling	Charlene	
Pillai	Nirmala	Venugopal
Bonney	Charles	Compton
Lorentzen	Peer	
Rapoport	Jonathan	Dale
Grossmann	Evalie	Janette
Pierre	Sy	Coolidge
Wadsworth	George	
Holmin	Robert	Eric Ross
Schilling	Angela	Melanie
Eichinger	Maria	
Eichinger	Mary	Cordula
Ney II	Paul	Edward
Sreedharan	Sapna	Erat
Casas	Juan	Antonio
Karren	John	Daniel
Capizzi	Patricia	Louise
Bernhardt	Pauline	Elilzabeth
Crawford	Mark	Edward
Byung	Suk	Ahn
Chang	Howard	S
Kuo	Ching-Chiang	
Kuo	Mei	Shein
Bazzett	Ronald	Robert
Julienne		
Senapatiratne	Theodore	Samuel
Lii	Yu-Hwei	Eunice
Neumann	Jennifer	Nicole
McLaughlin	Frank	
Armenio	Peter	
Davis	Gregory	Robert
Barbara	Hansen	Ulrike
Wenigwieser	Karen	Ingrid
Keller	Bettina	Elizabeth
Bussoz	Catherine	Simone
Mueller-Zivy	Nancy	Theresa
Keller	Richard	Robert

Last	First	Middle
Balmer-Fischer	Sabina	Ann
Daverio	Stephen	Alfons
Nelson	Peter	George
Noone	David	Lee
Hufnagl	Caroline	Marie
Fleischman	Stewart	Jay
Dureau	Rachelle	Sian
Bischofberger	Willy	Franz
Chanderli	Selim	Reda
Endress	George	Alexander
Blocher	Michael	Charles
Mantel	Margrit	Elisabeth
Dimitriyevich-Dimitri	Peter	A
Perasso	Rolando	
Bisconti	Nicolo	
Appendino	John	Robert
Bickel	Tiffany	Jean
Mantel	Winfried	
Gooding	Arvenia	Ketrruah
Skipwith	Thomas	Grey
Burckhardt	Stephan	Andreas
Laurimore	Jill	Frances
Teitler	Eva	Maria
Lank	Elizabeth	Antoinette
Wells	Florence	Heyde
Goodman	Joel	Jay
Taghavi	Shohreh	
Caldwell	Robert	
Sakai	Kosuke	
Chang	Donald	Choy
Min	Wu	Shuh
Ryan	Janis	Blazy
Patton	Derek	Worley
Bolger	Chie	Saito
Kunimura	Tei	
Kakisu	Kengo	
Cano	Michael	Steven
Fischer	Michael	Christoph
Meile	Judith	
Luder	Peter	
Kuenzle	Donna	Mac Quarrie
Vorbrugg	Suzanne	Alice
Schoenbeck	Christoph	Richard
Schaechtle	Hilde	Mary
Dole	Robert	
Uhrich	Ervin	Edward
Hunt	John	Ft
Banks	James	Frank
Allard	Emogan	
Wavre	Patrick	Andre
Sarnefors	Michael	Sven Peter
Pierce	Karla	Gertrud Charlotte
Dimitriyevich-Dimitri	Peter	A
Bestle	Anna	Lynn
Morelle	Phillip	David
Charles	Blake	Sven
Palffy	Eugenia	Ines
Sudeck	Philip	Oliver
Wayman	Barbara	Margot Johanna
Rolfes	Tina	Maria
Robisch	Joseph	Anthony
Chan	Yuen	Foon
Kolb	David	Douglas
Pentony	Hae	Sook
Scott	Joanna	Youn
Wolf	Robert	Edward
Aiken	Barbara	Bartlett
Edney	Jonathan	Paul
Edney	Margaret	Gillian
Varianini	Vittoria	
Ulack Chiarizia	Anita	
Elkann	John	Philip Jacob Maria

Last	First	Middle
Croset	Gaston	Octave
March	Juan	J
Hayers	Erika	
Eichinger	Monika (Sister Mary Cordula)	
Schuster	Martin	
Pluczenik	Arie	
Kattan	Hamad	Fuad
Ruthkosky	Joseph	Henry
Goek	Denise	
Klein	Arturo	
Shao	Alice	Chien Yu

Dated: February 20, 2002.

Samuel Brown,

Compliance, Correspondence Exam Operations, Unit O, Philadelphia Compliance Services.

[FR Doc. 02–6085 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held April 11, 2002.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on April 11, 2002, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 694–1861 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a closed meeting of the Art Advisory Panel will be held on April 11, 2002, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Daniel L. Black, Jr.,

National Chief, Appeals.

[FR Doc. 02–6087 Filed 3–12–02; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday,
March 13, 2002

Part II

The President

Proclamation 7531—Bicentennial Day of the United States Military Academy at West Point, 2002

Federal Register
Vol. 67, No. 49
Wednesday, March 13, 2002

Presidential Documents

Title 3—

The President

Proclamation 7531 of March 11, 2002

Bicentennial Day of the United States Military Academy at West Point, 2002

By the President of the United States of America

A Proclamation

For two centuries, the United States Military Academy at West Point, New York, has trained, educated, and inspired thousands of cadets to serve our Nation with integrity, skill, and fortitude as members of our military's officer corps. West Point emphasizes the very highest standards of personal honor, academic achievement, and public duty, preparing its graduates for lives of patriotic commitment and distinguished service. Since the school's beginnings, West Point alumni have played an immensely important role in protecting our national security and preserving democracy around the world.

Upon this 200th anniversary of the Academy's founding, we celebrate West Point's great contributions to the success and strength of America. We pay tribute to the Academy's extraordinary tradition of valor, victory, and sacrifice. This hallowed history is filled with the names of soldiers who fought and sometimes died to preserve and protect the founding principles of our country, ensuring that we can live today in a free and democratic Republic.

On March 16, 1802, President Thomas Jefferson signed an Act of Congress establishing the United States Military Academy at West Point, New York. Since its inception, the institution has played a central role in the training of America's future military leaders. And West Point graduates have marked our history with courage beyond the call of duty; integrity that brought honor to themselves, their school, and their Nation; and military skills that achieved victory after victory.

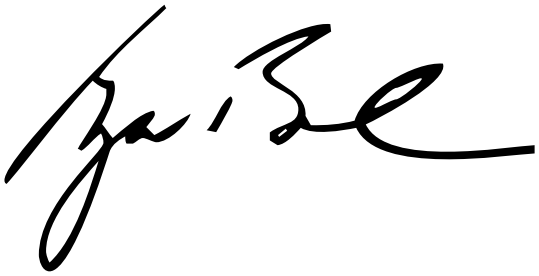
Academy graduates have long fulfilled West Point's noble tradition of selfless service to country. General John J. Pershing led the American Expeditionary Force to victory in World War I. And in World War II, Generals Dwight Eisenhower, Omar Bradley, Douglas MacArthur, and George Patton proved again the resourcefulness, bravery, and skill of West Point's graduates, helping to lead the Allies to victory over tyranny. In Korea and Vietnam, during Operation Desert Storm, and now in Operation Enduring Freedom, West Point graduates, like Generals Brent Scowcroft, Roscoe Robinson, H. Norman Schwarzkopf, and Franklin ''Buster'' Hagenbeck, have continued to make significant contributions and great sacrifices for America and her people. And the graduates of West Point continue to be prepared to make the greatest sacrifice. We remember with deep respect and honor, the sacrifice made by Academy graduate, Major Curtis Feistner, who recently gave his life in the fight against terror.

As part of the 200th anniversary of the United States Military Academy, I encourage all Americans to reflect on the Academy's incomparable history of contribution to our country's national security and to remember the West Point graduates who made the ultimate sacrifice in the defense of freedom. The Academy's role in protecting our homeland and in shaping our next generation of battlefield leaders deserves the gratitude and respect of every American. I am pleased to pay tribute to this noble school upon

the occasion of its historic anniversary; and I am honored to be serving today as Commander in Chief of so many of its fine graduates.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 16, 2002, as West Point Bicentennial Day. I encourage Federal, State, and local officials, as well as leaders of civil, social, educational, and military organizations, to conduct ceremonies and programs that celebrate the United States Military Academy and the values it represents and upholds.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh 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.



[FR Doc. 02–6217
Filed 3–12–02; 10:39 am]
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Federal Register

Wednesday,
March 13, 2002

Part II

The President

Proclamation 7531—Bicentennial Day of the United States Military Academy at West Point, 2002

Federal Register
Vol. 67, No. 49
Wednesday, March 13, 2002

Presidential Documents

Title 3—

The President

Proclamation 7531 of March 11, 2002

Bicentennial Day of the United States Military Academy at West Point, 2002

By the President of the United States of America

A Proclamation

For two centuries, the United States Military Academy at West Point, New York, has trained, educated, and inspired thousands of cadets to serve our Nation with integrity, skill, and fortitude as members of our military's officer corps. West Point emphasizes the very highest standards of personal honor, academic achievement, and public duty, preparing its graduates for lives of patriotic commitment and distinguished service. Since the school's beginnings, West Point alumni have played an immensely important role in protecting our national security and preserving democracy around the world.

Upon this 200th anniversary of the Academy's founding, we celebrate West Point's great contributions to the success and strength of America. We pay tribute to the Academy's extraordinary tradition of valor, victory, and sacrifice. This hallowed history is filled with the names of soldiers who fought and sometimes died to preserve and protect the founding principles of our country, ensuring that we can live today in a free and democratic Republic.

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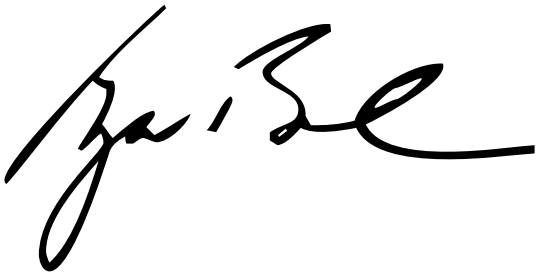

[FR Doc. 02–6217
Filed 3–12–02; 10:39 am]
Billing code 3195–01–P

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Federal Register

Vol. 67, No. 49

Wednesday, March 13, 2002

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Federal Register/Code of Federal Regulations

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Presidential Documents	
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The United States Government Manual	**523–5227**
Other Services	
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Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

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FEDERAL REGISTER PAGES AND DATE, MARCH

9389–9580 1
9581–9888 4
9889–10098 5
10099–10318 6
10319–10598 7
10599–10826 8
10827–11030 11
11031–11210 12
11211–11382 13

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7525 10311
7526 10313
7527 10315
7528 10317
7529 10553
7530 10825
7531 11381

Administrative Orders:
Presidential Determinations:
No. 2002-07 of February 23, 2002 9889
No. 2002-08 of March 4, 2002 10599
Memorandums:
Memorandum of March 5, 2002 10593

4 CFR

Proposed Rules:
21 9418

5 CFR

630 9581

7 CFR

29 9895
301 9389
900 10827
905 11211
966 11213
982 11215
1200 10827
1703 10830

Proposed Rules:
948 9418
985 10848
1124 9622
1135 9622

8 CFR

217 10260

10 CFR

Proposed Rules:
60 10853

12 CFR

614 9581
619 9581
907 9897
908 9897

Proposed Rules:
966 10337
985 10339

13 CFR

Proposed Rules
121 11057
124 11057
134 11057

14 CFR

11 9552
21 9552
23 .....9552, 11031, 11218
25 10601
36 9552
39 .....9390, 9392, 9394, 9395, 9396, 9582, 10099, 10603, 10606, 10831, 10969, 11220
63 9552
65 9552
71 .....9399, 10833, 10834, 10835, 10836, 10838, 10839, 10840, 10841, 10843
73 9552
91 9552
97 .....10319, 10320
119 9552
121 9552
125 9552
129 9552
135 9552

Proposed Rules:
23 .....10857, 10858
39 ....9420, 9627, 10859, 10862
71 .....10864, 11068

15 CFR

734 .....10608, 10611
738 10611
740 .....10608, 10611
742 .....10608, 10611
743 10611
748 10611
774 .....10608, 10611

16 CFR

20 9919
250 9923
259 9924

Proposed Rules:
Ch. 1 9630

17 CFR

37 11223
38 11223
41 11223
155 11223

18 CFR

1315 9924
388 11229

19 CFR

Proposed Rules:
10 10636
122 9423

20 CFR

21 CFR

56 9584
58 9584
60 9584
101 9584
522 9400

Proposed Rules:

56 10115

21 CFR

520 11229

22 CFR

41 10322

24 CFR

Proposed Rules:

17 10818
2002 11208

26 CFR

1 11034
602 11034

Proposed Rules:

1 ....9631, 9929, 10640, 11070
46 10652
301 ....9631, 9929

27 CFR

251 11230

28 CFR

104 11233

29 CFR

Proposed Rules:

1910 9934

30 CFR

18 10972
75 10972

31 CFR

103 9874

Proposed Rules:

103 9879

32 CFR

Proposed Rules:

3 9632

33 CFR

117 11040
165 ....9400, 9588, 9589, 10324, 10325, 10327, 10618
334 10843

Proposed Rules:

151 9632
325 10822
334 10866

34 CFR

Proposed Rules:

Ch. II 9935

37 CFR

202 10329

Proposed Rules:

201 10652

38 CFR

3 10330
36 ....9402, 10619

Proposed Rules:

3 ....9638, 10866

39 CFR

111 10619

Proposed Rules:

111 10340

40 CFR

51 10844
52 ....9403, 9405, 9591, 10099, 10844
62 10620
70 9594
81 11041
96 10844
97 10844
131 11247
180 11248
261 11251
141 11043
180 10622
271 9406
721 11008

Proposed Rules:

52 ....9424, 9425, 9640, 10116, 10653
62 10656
70 9641
141 ....10532, 11071
261 10341
271 9427
281 10353
721 11008

42 CFR

413 9556
419 9556
489 9556

Proposed Rules:

403 ....10262, 10293
457 9936

44 CFR

59 10631
61 10631
65 ....11046, 11049
67 11053

Proposed Rules:

67 ....11072, 11078

45 CFR

Proposed Rules:

32 11264

46 CFR

Proposed Rules:

28 9939
109 9939
122 9939
131 9939
169 9939
185 9939
199 9939

47 CFR

1 10634
22 9596
54 ....10846, 11254
64 9610
73 ....9925, 10846, 11054
74 9617
76 10332

Proposed Rules:

Ch. I 10656
1 10658
25 ....9641, 10969
51 10659
54 ....10867, 11268
73 ....9428, 9646, 9945, 10660, 10871, 10872
76 10660

48 CFR

Ch. 1 10529
17 10528
22 10528
36 10528

49 CFR

172 9926
214 11055
390 9410
1002 10332

Proposed Rules:

538 10873
571 10050

50 CFR

14 11260
17 10101
600 10490
622 ....10113, 11055
660 10490
679 ....9416, 9928, 10113, 10635, 10847, 11262

Proposed Rules:

17 ....9806, 10118
648 ....9646, 10119, 11276

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MARCH 13, 2002

ENVIRONMENTAL PROTECTION AGENCY
Hazardous waste:
Identification and listing—
Solid waste; toxicity characteristic; definition; published 3-13-02
Water programs:
Water quality standards—
Shields Gulch, ID; cold water biota designated use withdrawn; published 3-13-02

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
Ivermectin tablets; published 3-13-02

INTERIOR DEPARTMENT
Fish and Wildlife Service
Importation, exportation, and transportation of wildlife:
Anchorage, AK; designated port status confirmation; published 3-13-02

JUSTICE DEPARTMENT
Grants:
September 11th victim compensation fund; published 3-13-02

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
Pennsylvania; published 2-11-02
Pollution:
Shore Protection Act of 1988; implementation—
Municipal and commercial waste; permitting and numbering requirements; published 2-11-02

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Investigative and enforcement procedures:
Civil penalty inflation adjustment revisions; published 2-11-02

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Organization, functions, and authority delegations:
Appropriate ATF Officers; published 3-13-02

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Viruses, serums, toxins, etc.:
Virus-Serum-Toxin Act; records and reports amendment; comment request; comments due by 3-18-02; published 1-15-02 [FR 02-00938]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf of Mexico, and South Atlantic fisheries—
South Atlantic shrimp; comments due by 3-21-02; published 2-19-02 [FR 02-03979]
Importation, exportation, and transportation of wildlife:
Incidental take permits—
Chewuch River, WA; habitat conservation plan; comments due by 3-18-02; published 2-15-02 [FR 02-03815]

DEFENSE DEPARTMENT
Engineers Corps
Danger zones and restricted areas:
Kennebec River, ME; Bath Ironworks Shipyard; comments due by 3-18-02; published 2-14-02 [FR 02-03557]

ENVIRONMENTAL PROTECTION AGENCY
Acquisition regulations:
Contractor performance evaluations; comments due by 3-22-02; published 2-20-02 [FR 02-04068]
Air pollutants, hazardous; national emission standards:
Delegations' provisions; clarifications; comments due by 3-18-02; published 1-16-02 [FR 02-00188]
Air pollution control; new motor vehicles and engines:
Heavy-duty diesel engines and vehicles; 2004 and later model year emission standards; nonconformance penalties; comments due by 3-18-02; published 1-16-02 [FR 02-01109]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Massachusetts; comments due by 3-21-02; published 2-19-02 [FR 02-03758]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Massachusetts; comments due by 3-21-02; published 2-19-02 [FR 02-03759]
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Benomyl; comments due by 3-18-02; published 1-15-02 [FR 02-00964]
Casein, etc.; comments due by 3-18-02; published 1-15-02 [FR 02-00699]
Nicotine; comments due by 3-18-02; published 1-16-02 [FR 02-00628]
Sodium starch glycolate; comments due by 3-18-02; published 1-17-02 [FR 02-01247]
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-21-02; published 2-19-02 [FR 02-03655]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-21-02; published 2-19-02 [FR 02-03653]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-21-02; published 2-19-02 [FR 02-03654]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-21-02; published 2-19-02 [FR 02-03764]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-21-02; published 2-19-02 [FR 02-03765]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-22-02; published 2-20-02 [FR 02-03919]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 3-22-02; published 2-20-02 [FR 02-03920]
Toxic substances:
Significant new uses—
C.I. Pigment orange 20, etc.; comments due by 3-18-02; published 1-15-02 [FR 02-00963]

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Telecommunications Act of 1996; implementation—
Wireline services offering advanced telecommunications capability; deployment; comments due by 3-18-02; published 1-15-02 [FR 02-00902]
Radio stations; table of assignments:
Oklahoma; comments due by 3-18-02; published 2-8-02 [FR 02-03030]
Various States; comments due by 3-18-02; published 2-8-02 [FR 02-03031]

INTERIOR DEPARTMENT
Fish and Wildlife Service
Importation, exportation, and transportation of wildlife:
Incidental take permits—
Chewuch River, WA; habitat conservation plan; comments due by 3-18-02; published 2-15-02 [FR 02-03815]

JUSTICE DEPARTMENT
Executive Office for Immigration Review:

Immigration Appeals Board; case management; procedural reforms; comments due by 3-21-02; published 2-19-02 [FR 02-03801]

JUSTICE DEPARTMENT

Parole Commission

Federal prisoners; paroling and releasing, etc.:

District of Columbia Code—

Parolees arrested and held in District of Columbia on warrants charging them with parole violations; revocation process; comments due by 3-19-02; published 1-18-02 [FR 02-01308]

RAILROAD RETIREMENT BOARD

Railroad Unemployment Insurance Act:

Employers' contributions and contribution reports; filing via Internet; comments due by 3-18-02; published 1-16-02 [FR 02-01095]

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

North Carolina sea coast and Cape Fear River and Beaufort Inlet approaches; port access routes study; comments due by 3-19-02; published 1-18-02 [FR 02-01371]

TRANSPORTATION DEPARTMENT

Computer reservation systems, carrier-owned; expiration date extension; comments due by 3-18-02; published 2-15-02 [FR 02-03924]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bell; comments due by 3-18-02; published 1-16-02 [FR 02-01057]

Dassault; comments due by 3-18-02; published 2-15-02 [FR 02-03584]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Eurocopter France; comments due by 3-18-02; published 1-16-02 [FR 02-01056]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

MD Helicopters, Inc.; comments due by 3-18-02; published 1-16-02 [FR 02-01058]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

MD Helicopters, Inc.; comments due by 3-18-02; published 1-17-02 [FR 02-01054]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness standards:

Transport category airplanes—

Flightdeck design; security considerations; comments due by 3-18-02; published 1-15-02 [FR 02-00965]

TRANSPORTATION DEPARTMENT

Transportation Security Administration

Aviation security infrastructure fees

Correction; comments due by 3-18-02; published 2-25-02 [FR C2-04148]

Aviation security infrastructure fees; imposition; comments due by 3-18-02; published 2-20-02 [FR 02-04148]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 2998/P.L. 107–148

Radio Free Afghanistan Act (Mar. 11, 2002; 116 Stat. 64)

Last List March 12, 2002

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