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Presidential Documents

Title 3—

The President

Proclamation 7599 of October 1, 2002

National Breast Cancer Awareness Month, 2002

By the President of the United States of America

A Proclamation

During National Breast Cancer Awareness Month, we recognize the progress being made towards a cure for this disease, which robs so many women of their health and, in too many cases, their lives. This year, an estimated 203,000 American women will be diagnosed with breast cancer, and almost 40,000 will die. Although we have made great medical strides in understanding breast cancer, much remains to be done to advance prevention, early detection, and effective treatment.

Regular screenings remain the most effective way to identify breast cancer in its earliest and most treatable stages. For women 40 and over, having mammograms every 1 to 2 years can reduce the risk of dying from breast cancer. To ensure mammography is available to all American women, the Centers for Disease Control and Prevention (CDC) provides screening and treatment services through the National Breast and Cervical Cancer Early Detection Program. Now in its 12th year, this Program has offered free and low-cost mammograms to almost 1.5 million low-income and minority women across our country.

In addition, the Federal Breast and Cervical Cancer Prevention and Treatment Act allows States to expand Medicaid coverage to low-income, uninsured women who were screened through the CDC program and found to need treatment for breast or cervical cancer. To date, the Department of Health and Human Services has approved this Medicaid eligibility in 45 States.

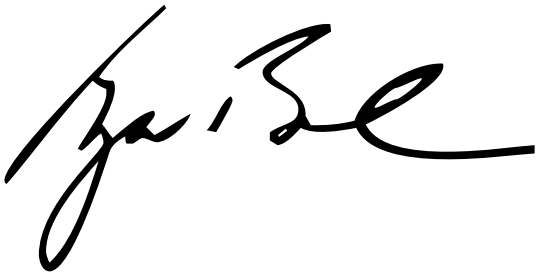
To prevent breast cancer, we must increase awareness of its risk factors and causes. Age and genetic factors have been shown to increase the risk of breast cancer. And researchers are now exploring how diet and hormonal factors are linked to possible causes. This information will help women and their doctors make informed health care choices.

My Administration continues to support research efforts to discover a cure and advance our understanding of breast cancer. The National Cancer Institute invested more than $475 million last year on breast cancer research, and we will devote an estimated $535.8 million this year and approximately $604.3 million next year. In addition to these important funding increases taken by my Administration, Americans have raised more than $23 million over the past 4 years by purchasing the Breast Cancer Research stamp, which will be available until December 31, 2003, from the United States Postal Service. I also commend all of the private and nonprofit groups, especially everyone who has worked on the Susan G. Komen Race for the Cure, for all their efforts and contributions in the fight against breast cancer.

Much of this funding is directed towards clinical trials dedicated to finding new and more effective ways of preventing, detecting, and treating breast cancer. America is grateful to the brave and generous women who help fight this disease by participating in clinical trials. Researchers rely on these courageous patients, who help us learn about the safety and effectiveness of new approaches of treatment and, in doing so, bring us closer to eliminating this terrible disease.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2002 as National Breast Cancer Awareness Month. I call upon government officials, businesses, communities, healthcare professionals, educators, volunteers, and all the people of the United States to publicly reaffirm our Nation's strong and continuing commitment to controlling and curing breast cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



[FR Doc. 02–25466
Filed 10–3–02; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7600 of October 1, 2002

National Disability Employment Awareness Month, 2002

By the President of the United States of America

A Proclamation

All of our citizens should have the opportunity to live and work with dignity and freedom. Every October, we observe National Disability Employment Awareness Month, to recognize the talents, skills, and dedication of disabled Americans who are a vital part of our workforce. During this month, we reaffirm our commitment to ensuring that people with disabilities who want to work can receive the training they need to achieve their goal.

This year marks the 12th anniversary of the Americans with Disabilities Act of 1990 (ADA). The ADA has allowed disabled persons to participate more fully in our society; and it has opened doors for countless Americans by removing barriers, improving employment opportunities, expanding government services, and regulating public accommodations, transportation, and telecommunications. Much work remains to be done; for many individuals with disabilities still find it difficult to pursue an education, obtain a job, or own a home.

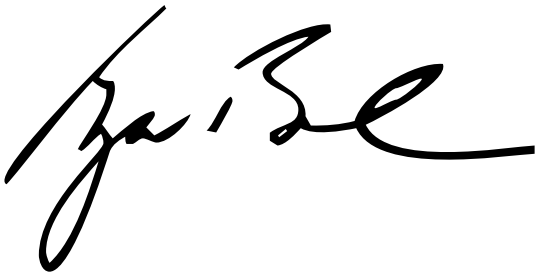
My Administration remains committed to helping America's more than 50 million disabled persons to obtain meaningful work and to achieve the ADA's promise of equality of opportunity, independent living, and economic self-sufficiency. Last year, I announced my New Freedom Initiative to promote these goals. It is a comprehensive plan that fosters the full participation of people with disabilities in all aspects of American life. This initiative provides increased access to innovative assistive technologies, expands educational options, increases access to gainful employment, and promotes full access to community life.

My Administration continues to enforce the ADA and is working with employers to build partnerships that support creative job accommodations and provide all Americans with meaningful and successful careers. Breaking down barriers requires this kind of cooperative, sustained, and consistent effort. We must continue to work for an America where all individuals are respected for who they are, celebrated for their abilities, and encouraged to realize their full potential and achieve their dreams.

By joint resolution approved August 11, 1945, as amended (36 U.S.C. 121), the Congress has, each year since 1945, called upon this Nation to recognize the contributions that workers with disabilities have made, and requested the President to issue a proclamation calling for appropriate ceremonies and activities.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 2002 as National Disability Employment Awareness Month. I call upon all government leaders, labor leaders, and employers to collaborate to ensure the full inclusion of our Nation's persons with disabilities in the 21st century workforce.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



[FR Doc. 02–25467
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Billing code 3195–01–P

Presidential Documents

Proclamation 7601 of October 1, 2002

National Domestic Violence Awareness Month, 2002

By the President of the United States of America

A Proclamation

Domestic violence in America is intolerable and must be stopped. According to the 2000 National Crime Victimization Survey, almost 700,000 incidents of violence between partners were documented in our Nation, and thousands more go unreported. And in the past quarter century, almost 57,000 Americans were murdered by a partner. Children who witness domestic violence often grow up believing that physical cruelty in relationships is acceptable behavior, and thus they may tend to perpetuate a cycle of violence in society.

Many Federal, State, and local programs addressing the domestic violence problem have achieved success, bringing greater safety to families. The success of coordinated community-based efforts is helping us win the battle against domestic violence. Community leaders, police, judges, advocates, healthcare workers, and concerned Americans are working together across America to develop solutions to this serious problem and to implement services that will improve our responses when it occurs. For example, many police departments and district attorneys offices have created specialized domestic violence units that cooperate with community advocates to enhance services for victims; and representatives from the faith community frequently provide essential support in areas where there may be no other services available. Programs designed to educate men and women about ways they can help prevent domestic violence are being developed across our Nation. Every citizen has the ability to aid and assist those suffering from domestic abuse and to let victims know that support is available through shelters, hotlines, and other services.

To better assist victims in need, my Administration recently implemented funding for new programs to improve outreach and services for people who are older or who have disabilities.

We have also intensified our efforts to provide meaningful access to Federally sponsored programs for individuals with limited English proficiency, making it easier for them to escape violence, report crime, and gain access to community services.

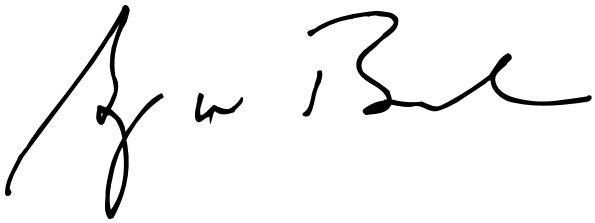
We must continue to hold domestic abusers accountable; we must punish them to the full extent of the law; and we must prevent them from inflicting more abuse. Protective orders are helpful and can be enforced in every jurisdiction in our country, which means their power extends across State lines and onto tribal lands. This legal authority makes it easier for police and prosecutors to keep aggressors away from their intended targets. Many abusers become more dangerous after court-enforced separation from their victims and often use visitation or exchange of children as an opportunity to inflict abuse. We are working to expand programs that improve the safety of family members in these situations.

During Domestic Violence Awareness Month, I urge all Americans to join together in recommitting themselves to eliminating domestic violence and reaching out to its victims, letting them know that help is available. With

dedication and vigilance, we can increase safety for thousands of our citizens and bring hope to countless Americans.

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 October 2002 as National Domestic Violence Awareness Month. I urge all Americans to become a part of the coordinated community response to domestic violence and to send the message that this crime will not be tolerated in our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.



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Rules and Regulations

Federal Register

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Friday, October 4, 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

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 02–068–2]

Change in Disease Status of Poland Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding Poland to the list of regions where bovine spongiform encephalopathy exists because the disease had been detected in a native-born animal in that region. Poland had already been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States, so the effect of the interim rule was a continued restriction on the importation of ruminants, meat, meat products, and certain other products of ruminants that have been in Poland. The interim rule was necessary in order to update the disease status of Poland regarding bovine spongiform encephalopathy.

EFFECTIVE DATE: The interim rule became effective on May 5, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, Sanitary Trade Issues Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

In an interim rule effective May 5, 2002, and published in the **Federal Register** on July 1, 2002 (67 FR 44016–44018, Docket No. 02–068–1), we amended the regulations in § 94.18(a)(1) by adding Poland to the list of regions where BSE exists. Poland had previously been listed in § 94.18(a)(2) as a region that presents an undue risk of introducing BSE into the United States. However, due to the detection of BSE in a native-born animal in that region, the interim rule was necessary to update the disease status of Poland regarding BSE.

Comments on the interim rule were required to be received on or before August 30, 2002. We received one comment by that date. The commenter fully supported the interim rule.

Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 67 FR 44016 on July 1, 2002.

Authority: 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 30th day of September 2002 .

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–25247 Filed 10–3–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 163

[Docket Nos. 86P–0297 and 93P–0091]

White Chocolate; Establishment of a Standard of Identity

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is establishing a standard of identity for white chocolate. This standard will provide for the use of the term ''white chocolate'' as the common or usual name of products made from cacao fat (i.e., cocoa butter), milk solids, nutritive carbohydrate sweeteners, and other safe and suitable ingredients, but containing no nonfat cacao solids. The standard for white chocolate will promote honesty and fair dealing in the interest of consumers and, to the extent practicable, will achieve consistency with existing international standards of identity for white chocolate. This standard is established in response to citizen petitions submitted separately by the Hershey Foods Corp. (Hershey) and by the Chocolate Manufacturers Association of the United States of America (CMA).

DATES: This rule is effective January 1, 2004. This rule is applicable to all affected products initially introduced or initially delivered for introduction into interstate commerce on or after January 1, 2004. Voluntary compliance may begin immediately.

FOR FURTHER INFORMATION CONTACT: Geraldine A. June, Center for Food Safety and Applied Nutrition (HFS–822), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2371.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 10, 1997 (62 FR 10781), FDA published a proposal to establish a standard of identity for white chocolate. The proposal responded to petitions submitted separately by Hershey and by CMA. The petitions requested that FDA establish a standard of identity for ''white chocolate.'' Both Hershey and CMA described ''white chocolate'' as a food that deviates from the standardized cacao products in part 163 (21 CFR part 163) in that: (1) It is prepared without the nonfat components of the ground cacao nibs but contains the fat (cocoa butter) expressed from the ground cacao nibs; and (2) it may contain safe and suitable antioxidants. The petitioners further described ''white chocolate'' as the solid or semiplastic food prepared by mixing and grinding cocoa butter with one or more nutritive sweeteners and one or more of the optional dairy ingredients provided in part 163. The petitioners stated that ''white chocolate'' contains not less than 20 percent cocoa butter, not less than 14 percent of total milk solids, not less than 3.5 percent milkfat, and not more than 55 percent nutritive carbohydrate sweeteners.

The petitioners maintained that a standard of identity for ''white chocolate'' would provide several benefits: (1) Reducing economic deception and promoting honesty and fair dealing in the interest of consumers, (2) increasing the availability of products containing white chocolate by eliminating the requirement that firms receive temporary marketing permits (TMPs), and (3) enhancing the international marketability of white chocolate by establishing a standard consistent with international standards for white chocolate.

Based on FDA's review of the information provided in the petitions, we (FDA) tentatively concluded that it would be reasonable to establish a standard of identity for ''white chocolate.'' We tentatively concluded that use of the term would aid consumer recognition of the food and would promote honesty and fair dealing in the interest of consumers by eliminating the potential for economic fraud and consumer deception through the substitution of cheaper ingredients for cacao-derived ingredients. Furthermore, the agency tentatively concluded that: (1) Consumer confusion created by the use of alternative names for white chocolate-type confections would also be eliminated and (2) use of the standardized term ''white chocolate'' would enhance the international marketability of such products. Based on these tentative conclusions, FDA published a proposed rule to establish a standard of identity for ''white chocolate,'' consistent with the product described in the petitions (62 FR 10781 at 10786).

FDA received seven responses to the proposal, each containing one or more comments. Six responses were from companies that manufacture or market chocolate products, and the other was from a trade association. Most of the comments supported the establishment of a standard of identity for white chocolate. Other comments either opposed the establishment of a standard of identity for white chocolate or suggested modifications or revisions to various provisions of the proposed standard.

After considering the comments, FDA concludes that issuing a food standard for white chocolate will promote honesty and fair dealing in the interest of consumers. Specifically, a food standard for white chocolate will permit the sale of a product labeled ''white chocolate'' without TMPs and ensure that such products contain cacao-derived ingredients. The standard will distinguish white chocolate from the other standardized chocolate products, which contain chocolate liquor. Also, by eliminating requirements for TMPs, the standard will benefit consumers by allowing manufacturers to introduce white chocolate more quickly. Finally, the white chocolate food standard, which is consistent with the standards of Canada, the European Union (EU), and Codex Alimentarius Commission (Codex), will promote international harmonization.

II. Comments and the Agency's Response

(Comment 1) One comment opposed creating a standard of identity for white chocolate. The comment contended that a TMP is not required to sell white chocolate in the United States because the name ''white chocolate'' is sufficiently different from the names of standardized chocolate products. Thus, the comment contended, elimination of the TMP process is not a valid justification for the establishment of a standard of identity. The comment maintained that FDA is promoting the use of TMPs for all new products that may be perceived as variations of existing standardized products, no matter how easily distinguishable they may be, and even though there is no consumer confusion or deception. The comment further maintained that FDA could conserve agency resources by giving guidance that the TMP process will no longer be required for white chocolate products.

We disagree with the assertion that TMPs are not needed to market white chocolate products in the absence of a standard of identity. A product labeled as ''white chocolate'' contains the term ''chocolate,'' an alternative nomenclature for chocolate liquor that indicates the presence of cacao-derived ingredients. All existing chocolate standards include the cacao-derived ingredient chocolate liquor, which contains both the nonfat and the fat components of the cacao nibs. In contrast, the cacao-derived ingredient contained in products that consumers have come to know as ''white chocolate'' is cacao fat (i.e., cocoa butter), not chocolate liquor. Because the term ''chocolate'' implies that the product contains cacao-derived ingredients similar to those in standardized chocolate products, in the absence of a standard of identity or TMP, the product described in the proposed standard could not use the term ''chocolate'' on its labeling. Specifically, a product labeled ''white chocolate'' would purport to be chocolate, but it would not comply with the current food standards for cacao products in part 163. Therefore, the product would be misbranded under section 403(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343 (g)).

(Comment 2) The one comment that objected to the establishment of a standard of identity for white chocolate suggested that FDA should reconsider the need for a standard of identity and should regulate white chocolate like other nonstandardized products. The comment maintained that: (1) Only a few foods are currently governed by standards of identity; (2) most existing standards were adopted more than 25 years ago; (3) thousands of newly introduced foods have been regulated successfully under common or usual name regulations part 102 (21 CFR part 102) and under general misbranding provisions (section 403 of the act); and (4) standards do not play the same role in the regulatory scheme as they did many years ago when product names were the primary source of product information for consumers. The comment credited the success of using common or usual name regulations and general misbranding provisions to regulate nonstandardized foods to the additional ingredient and nutrition information now required on food labels. The comment pointed out that even though there is a standard for French dressing, there is no standard for ranch dressing. Analogously, the

comment asserted that white chocolate is not inherently different from the thousands of other nonstandardized foods and, therefore, there is no need for a standard of identity for white chocolate.

FDA does not agree that a common or usual name regulation for white chocolate is sufficient to ensure honesty and fair dealing in the interest of consumers. First, FDA disagrees with the assertion that there are only a few standards of identity and that many more foods are regulated under common or usual name regulations. There are over 280 standards of identity, but there are only 16 common or usual name regulations.

When deciding whether it is appropriate to establish a standard of identity or a common or usual name regulation, FDA must consider which is more likely to ensure that consumers are not deceived or misled. Food standards are appropriate and necessary when there is a need to prescribe the entire compositional requirement for a food, in addition to the name of the food. In contrast, common or usual name regulations are appropriate if there is a need simply to establish a uniform and informative name for the food.

Because products bearing the name ''chocolate'' would be expected to contain some cacao-derived ingredients, we believe that it is necessary to ensure that ''white chocolate'' contains cacao-derived ingredients. If FDA establishes a common or usual name regulation for ''white chocolate,'' rather than a standard of identity, it would be necessary to include in the common or usual name a statement of the percentage of the characterizing ingredient, cacao fat, as provided in § 102.5(b). We disagree that establishing a common or usual name in this manner is the appropriate way to protect consumers' interests. The required additional labeling regarding the name and percentage of the characterizing ingredient, cacao fat, in the common or usual name might be confusing to consumers, especially because the amount of cacao fat would be disclosed differently than the amount of total fat in the nutrition label. A food standard eliminates the need for additional labeling. Therefore, FDA concludes that the appropriate way to ensure the composition of ''white chocolate'' and to protect consumers' interests is by establishing a standard of identity and not a common or usual name.

Moreover, at the time that they were established, one of the benefits of common or usual name provisions in part 102 was that names of new products could be established by regulation using ''informal'' notice and comment rulemaking, rather than the lengthy formal rulemaking procedures required for food standards. Since passage of the Nutrition Labeling and Education Act of 1990 (Public Law 101–35), which amended the act, FDA can establish new standards of identity for most foods by ''informal'' notice and comment rulemaking proceedings. In view of this change, FDA does not see any benefit to establishing a common or usual name regulation instead of a food standard to ensure that the product known as ''white chocolate'' contains cacao-derived ingredients.

Finally, FDA agrees that there are many products on the market that are regulated without standards of identity. However, we disagree with the comment's suggestion that requirements imposed after most of the food standards were created have rendered food standards unnecessary. The nutrition information that is required on the labels of standardized and nonstandardized foods gives consumers information on the levels of nutrients in products to assist them in making purchasing choices related to nutrient content. Nutrition information does not inform consumers of a product's formulation. In addition, ingredient labeling alone may be insufficient to differentiate two standardized products. For example, the ingredient lists for both milk chocolate and sweet chocolate may be identical (containing chocolate, nutritive carbohydrate sweeteners, and dairy products).

(Comment 3) The comment that opposed creation of a food standard further stated that, from a legal perspective, a standard of identity is not needed to authorize the sale of white chocolate in this country because: (1) White chocolate is an appropriately descriptive statement of identity, independent of existing standards; (2) the name ''white chocolate'' is sufficiently different from the names of other chocolate products; (3) white chocolate does not purport to be a standardized food; (4) the identity and fundamental positioning of white chocolate are predicated on the difference between white chocolate and chocolate; and (5) the appearance of white chocolate is in such stark contrast to traditional chocolate, which is brown in color, as to guarantee that no ''passing-off'' issue exists. The comment contended that FDA cited no evidence of consumer confusion with white chocolate, no evidence that consumer confusion would exist in the absence of a standard of identity for white chocolate, and no evidence of consumer confusion regarding the thousands of other nonstandardized foods on the market. The comment asserted that, in the absence of such evidence, FDA has no grounds for creating a standard of identity for white chocolate because the statutory threshold for regulation is not satisfied, i.e., that a standard of identity for white chocolate would promote honesty and fair dealing in the interest of consumers. The comment contended that FDA is maintaining and extending food standards without consideration of their actual utility or consumer benefit, and without regard to the labeling requirements now in effect. Therefore, the comment urged FDA to regulate white chocolate as a nonstandardized food and not to establish a standard of identity for white chocolate.

FDA disagrees with the comment's assertion that a standard of identity is not needed to sell a product bearing the name ''white chocolate.'' Our reasoning as to why a food standard or TMP is required to label a product as ''white chocolate'' is set forth in response to comment 1, section II of this document. In short, absent a food standard or TMP, a food labeled ''white chocolate'' purports to be chocolate, which is the subject of a food standard under § 163.111(c) requiring that the product be prepared by finely grinding cacao nibs (contains both the nonfat and fat components). The product is misbranded in violation of section 403(g) of the act because it does not conform to the definition and standard for chocolate in that it does not contain the nonfat portion of the cacao nibs.

Furthermore, we disagree with the comment that there is no legal basis on which to establish a food standard for white chocolate. The term ''chocolate'' has traditionally been used for standardized foods that contain cacao-derived ingredients, specifically chocolate liquor (§ 163.111). These standardized foods include sweet chocolate (§ 163.123), milk chocolate (§ 163.130), buttermilk chocolate (§ 163.135), skim milk chocolate (§ 163.140), mixed dairy product chocolate (§ 163.145), sweet chocolate and vegetable fat coating (§ 163.153), and milk chocolate and vegetable fat coating (§ 163.155). Because of this longstanding practice, consumers expect that products bearing names that include the term ''chocolate'' contain certain cacao-derived ingredients. While the product described in the proposed standard deviates from the other standardized chocolate products in that it contains only the cacao fat (i.e., cocoa butter) component of chocolate liquor, consumers' expectations that the food's basic component is derived from cacao

are met by establishing a standard with that requirement.

Moreover, use of the term ''white chocolate,'' without an accompanying food standard, does not provide consumers with sufficient information as to the ingredients of the product. Historically, FDA has created separate standards of identity for different kinds of chocolate (e.g., milk chocolate, sweet chocolate). These standards ensure that consumers who purchase products labeled as ''chocolate'' receive a familiar product with a certain basic nature and composition. Neither the term ''white'' nor the white appearance of the product itself is sufficient to distinguish a white chocolate-type product that does not contain cacao-derived ingredients from a product that does contain cacao-derived ingredients. Use of the term ''chocolate'' in the name ''white chocolate'' implies that the product is cacao-derived. Thus, without a standard of identity prescribing that white chocolate be made from cocoa butter, manufacturers may produce products not containing cacao-derived ingredients and use the term ''white chocolate'' in a misleading manner.

(Comment 4) The one comment that objected to establishing a standard of identity for white chocolate stated that a standard of identity for white chocolate is not needed because white chocolate-type products made with ingredients not derived from cacao could be identified as ''white chocolate-flavored'' or ''artificially flavored'' to sufficiently distinguish them from white chocolate products derived from cacao. The comment further stated that consumers could look at the ingredient list to discover the substitution of less expensive ingredients not derived from cacao; thus, current regulations are sufficient to prevent economic deception.

FDA does not agree that identifying white chocolate products made from cheaper noncacao ingredients as ''artificially flavored'' or ''white chocolate-flavored'' would be sufficiently descriptive with regard to the composition of white chocolate. These terms refer to the characterizing flavor of a food, not its composition. The terms suggest products that are flavored to taste like white chocolate, but they do not provide guidance as to white chocolate's composition. Thus, use of such terms does not negate the need for a standard of identity, but rather further supports its need because, without a definition and standard for ''white chocolate,'' there is no way to define ''white chocolate-flavored.'' Moreover, FDA regulations governing use of the term ''flavored'' § 101.22(i)(1)(i) (21 CFR 101.22(i)(1)(i)) provide that a product that is expected to contain an ingredient, e.g., ''white chocolate,'' must bear the term ''flavored'' in the name of the food if the food contains natural flavor derived from that ingredient and either an amount of the ingredient insufficient to independently characterize the food or none of the ingredient. Therefore, unless a food contains the flavoring constituents derived from white chocolate, it cannot be named ''white chocolate-flavored.''

Once a standard for white chocolate has been established, the term ''white chocolate-flavored'' could be used to describe a food that is commonly expected to contain the characterizing food ingredient, white chocolate, and which contains natural flavor derived from such an ingredient (i.e., cocoa butter or cacao fat) (§ 101.22(i)(1)(i)). The term ''artificially-flavored white chocolate'' could be used in cases where the food contains an artificial flavor that simulates, resembles, or reinforces the characterizing flavor (§ 101.22(i)(2)).

The only constituent in white chocolate that is derived from the cacao bean is cacao fat (i.e., cocoa butter); therefore, the agency assumes that if a cheaper ingredient that was not derived from cacao were used to replace the cacao-derived ingredient, the substitute ingredient would be some type of fat or oil used to replace the cacao fat. In this case, the agency would treat such products as substitute or imitation white chocolate products (21 CFR 101.3(e)) and would not regulate them by requiring that they be labeled ''white chocolate-flavored.''

(Comment 5) The one comment that opposed issuing a standard of identity for white chocolate argued that food standards should be reformed. The comment stated that, in the advance notice of proposed rulemaking (ANPRM) (60 FR 67492, December 29, 1995) that responded to the Regulatory Reinvention Initiative, FDA acknowledged that existing food standards of identity are the types of regulations that need reform. The comment stated that there is no special circumstance that justifies a reversal of regulatory direction for white chocolate.

A few comments addressed the nature of the proposed standard of identity for white chocolate, objecting to its being prescriptive, recipe-based, and rigid. One of these comments, while supporting establishment of a standard of identity for white chocolate, made broader general statements about reforming food standards. In addition, several comments from manufacturers who support creating a standard for white chocolate supported FDA's intention to address all standards, including any new standard of identity for white chocolate, as a separate subject in accordance with the Regulatory Reinvention Initiative.

FDA stated in the ANPRM that standards of identity may need reform, and we are reviewing existing food standards in response to the Regulatory Reinvention Initiative. After deciding to establish a standard of identity for white chocolate, FDA considered whether to: (1) Continue the TMP process until all standards are reviewed in response to the Regulatory Reinvention Initiative and then establish a standard for white chocolate, (2) use different guiding principles to issue a standard, or (3) issue a standard consistent with the petitioners' requests and with existing standards. We concluded that the third approach was the most reasonable and efficient, considering our limited resources, industry's desire to establish a standard, and recognized consumer demand for the product. This approach avoids the time consuming task of reviewing and revising standards for a group of foods, e.g., chocolate products, in a piecemeal fashion, especially when no guiding principles have been published, and relieves industry and the agency from the burdensome TMP process. Therefore, FDA concludes that a standard for white chocolate should be issued that is generally consistent with current standards for U.S. chocolate products. FDA will address comments concerning the revision of the standard for white chocolate at such time as we consider revision of all chocolate standards.

FDA recognizes that the proposed standard of identity is prescriptive in nature. However, we believe that until all standards of identity are reviewed and decisions are made regarding whether to retain, revoke, or revise them, it is in the interest of consumers to establish a standard of identity for white chocolate that is generally consistent with other chocolate products in part 163. We also note that standards of identity for white chocolate established by Canada, Codex, and the EU are also prescriptive. Therefore, FDA finds that, at this time, it is appropriate to retain the recipe-like nature of the standard for white chocolate because it is consistent with current U.S. standards for other chocolates and with international standards of identity for white chocolate.

(Comment 6) Two comments suggested changes to the proposed standard to make the U.S. standard for white chocolate more consistent with international standards. One comment

noted that the maximum level for emulsifiers in the proposed standard for white chocolate is adequate, but suggested that in the interest of international harmonization, FDA consider raising this level from 1 percent to 1.5 percent. The comment stated that if this were done, the proposed standard would then be consistent with those of Canada and Codex. The comment emphasized that it raised the issue solely in the interest of international harmonization, but did not want the issue to delay a prompt promulgation of the standard.

We agree that international harmonization should be taken into consideration in establishing standards and should be supported when such support promotes honesty and fair dealing in the interest of consumers, does not endanger the public health, and does not reduce the integrity of the standard. FDA believes that raising the level of permitted emulsifiers to 1.5 percent will not result in an inferior product, and the standard for white chocolate will still promote honesty and fair dealing in the interest of consumers. Therefore, the agency agrees that, to reduce barriers to trade, the level of emulsifiers should be changed to 1.5 percent.

The other comment recommended that FDA revise the proposed standard to permit the use of whey as an optional ingredient up to a level of 5 percent. The comment stated that whey should be listed in § 163.124(b)(6) as an optional ingredient so that it would not count toward the minimum milk solids content otherwise specified in the standard (§ 163.124(b)(2)). The comment contended that whey is a safe and suitable ingredient for use in chocolate and confectionery products.

The comment further stated that if the U.S. standard were adopted without permitting whey, it would be the only major white chocolate standard in the world that did not permit its use. According to the comment, Canada plans to issue a standard that expressly permits the addition of whey up to 5 percent. The comment stated that both the Codex and the EU standards permit the addition of whey in chocolate products. The comment asserted that the United States should include whey in its standard for white chocolate in the interest of international harmonization. Finally, the comment noted that delaying consideration of the use of whey until the generalized review of chocolate standards takes place would likely result in a delay of several years.

FDA agrees with the comment that whey should be permitted as an optional ingredient up to a level of 5 percent but should not count toward the minimum milk solids content otherwise specified in the standard. Listing whey as a separate ingredient, as suggested by the comment, permits the inclusion of whey in addition to, not in place of, the total milk solids specified in § 163.124(b)(2). FDA notes that since publication of our proposed rule to establish a standard for white chocolate, Canada has established a standard for white chocolate that permits as an optional ingredient less than 5 percent whey or whey products. Codex permits no more than 5 percent milk solids in its white chocolate standard, whereas the EU permits edible substances that do not exceed 40 percent of the total weight of the finished white chocolate product. Thus, FDA believes that the change to the proposed standard to permit whey as an optional ingredient would maintain the core ingredients required in the U.S. standard while promoting international harmonization and trade. Accordingly, FDA is modifying the proposed standard to include whey up to a level of 5 percent as a separate, optional ingredient in § 163.124(b)(6).

(Comment 7) One comment recommended deleting the requirement that white chocolate contain a minimum of 23.5 percent fat (20 percent cacao fat + 3.5 percent milkfat). The comment asserted that this high level of fat is inconsistent with current dietary guidelines and with FDA's stated goal to encourage the creation of products lower in fat and calories. The comment stated that it recognized that in order for the product to be designated as ''chocolate,'' it should contain some cacao-derived ingredients. However, the comment contended that the requirement to contain some minimum amount of cacao-derived ingredients could be met by having a minimum amount of cocoa solids. The comment argued that since milk chocolate must contain a minimum of 10 percent cocoa solids in the form of chocolate liquor, it would be consistent for white chocolate to contain a minimum of 10 percent cocoa solids, albeit in the form of cocoa butter. The resulting product, according to the comment, would contain a total of 13.5 percent fat (3.5 percent milkfat and 10 percent cacao fat).

FDA disagrees with changing the minimum level of fat required in white chocolate. The purpose of a standard of identity is to promote honesty and fair dealing in the interest of consumers. The product labeled ''white chocolate'' that has been marketed under TMPs for more than 10 years contains a minimum of 23.5 percent fat. We believe that consumers have come to know the product with this composition. This level is the same as that suggested by the petitioners and required by international standards for white chocolate. Accordingly, FDA has not been persuaded to change the minimum level of fat required.

We appreciate the comment's concern regarding dietary guidelines and note that manufacturers who wish to market products that are lower in fat relative to the standard product may develop lower fat white chocolate products in accordance with the provisions in 21 CFR 130.10.

III. Effective Date

In the proposed rule, FDA proposed that the effective date for a final rule for white chocolate be January 1, 1998 (62 FR 10781 and 10784). The only comment that addressed the proposed compliance date of January 1, 1998, stated that if FDA acted quickly in finalizing the proposal, the proposed compliance date would allow sufficient time for manufacturers to make label and formula changes. Further, the comment encouraged the FDA to state that compliance with the regulation could begin immediately after publication of the final rule issuing the standard.

Due to other agency priorities and to limited resources and staff, FDA is publishing this final rule later than it intended and after the proposed effective date. Consequently, we are revising the effective date of this regulation to the next uniform compliance date, i.e., January 1, 2004, to minimize costs associated with any necessary label changes. However, compliance with this final regulation may begin immediately. All affected products initially introduced or initially delivered for introduction into interstate commerce on or after January 1, 2004, shall fully comply.

There are many firms using TMPs to market products in the United States that are labeled ''white chocolate'' and that comply with the proposed standard. These products will not have to be relabeled. Other products that are labeled with descriptive names (e.g., ''white confection'') will have to relabel their products in compliance with the new standard by the effective date of this rule.

IV. Benefit-Cost Analysis

FDA has examined the economic implications of this final rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select

regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive effects; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation also is considered a significant regulatory action under Executive Order 12866 if it raises novel legal or policy issues. FDA finds that this final rule is neither an economically significant rule nor a significant regulatory action as defined by Executive Order 12866.

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4), requiring cost-benefit and other analyses, in section 1531(a) defines a significant rule as ''a Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation) in any one year.'' FDA has determined that this rule does not constitute a significant rule under the Unfunded Mandates Reform Act.

A. Regulatory Options

FDA is establishing a standard of identity for white chocolate. This standard will provide for the use of the term ''white chocolate'' as the common or usual name of products made from cacao fat, milk solids, nutritive carbohydrate sweeteners, and other safe and suitable ingredients, but containing no nonfat cacao solids. In the benefit-cost analysis of the proposed rule, FDA considered three options:

1. Do not establish a standard and allow manufacturers to market products bearing the name ''white chocolate'' only with TMPs.

2. Establish a standard for white chocolate that is consistent with the standard described in the petitions where the levels of the ingredients are prescribed.

3. Establish a standard of identity for white chocolate with different criteria than those proposed in the petitions.

FDA received no comments that directly addressed the economic analysis of the proposed rule. Results of benefit-cost analysis suggest that the best choice for this proposed rule is the second option: Establish a standard for white chocolate consistent with the standard in the petitions where the levels of ingredients are prescribed. This option is the best choice for several reasons.

First, as stated in the comments that we received, the second option eliminates the time-consuming and burdensome task to manufacturers of applying for TMPs. By establishing a standard of identity for white chocolate and eliminating the need for TMPs, the proposed rule furthers a goal of the Paperwork Reduction Act by eliminating paperwork burden.

Second, while the standard of identity of white chocolate in the second option is somewhat prescriptive, the comments indicated that, at this time, the manufacturers favor a minimum of 23.5 percent total fat in white chocolate. This ''prescriptive'' standard of identity for white chocolate is similar to other published standards for chocolate and will prevent fraudulent or deceptive confections from being offered for sale as ''white chocolate.''

Finally, the standard of identity for white chocolate proposed in the second option is in harmony with the white chocolate standards in use by Canada, Codex, and the EU. Comments on this rule supported the globalization of the white chocolate standard as an important market share-increasing tool.

B. Benefits

We do not estimate benefits and costs for option 1, because it is the baseline. Although the benefits of options 2 and 3 are similar, we expect option 2 to generate higher benefits because it will lead to harmonization with international standards. The other benefits associated with option 2 would also be realized with option 3.

Currently, manufacturers must obtain TMPs if they want to use the term ''chocolate'' to market white chocolate products that meet the proposed standard. The TMPs are required because white chocolate products are considered to deviate from the existing standards of identity for chocolate products. In a recent year, FDA received more than one dozen requests for TMPs for white chocolate. Thus, one benefit of issuing a standard of identity for white chocolate is that it will eliminate a manufacturer's need to prepare and submit requests for TMPs in order to market products bearing the name ''white chocolate.'' This will reduce the paperwork burden to white chocolate manufacturers and reduce the burden to FDA of processing the TMPs.

Establishment of standards of identity for a product is thought to reduce consumer confusion and deception. Well-defined standards of identity, which establish consistent product names, can assist consumers in finding and comparing products by the name of the food. The standard of identity for white chocolate will establish a new product name that, according to the petitions, is consistent with the name that a majority of consumers are already using to describe this product. Comments to this rule indicated that the proposed standard of identity is compatible with not only the perception of United States consumers, but also aligns with the standard of identity for white chocolate as set by Canada, Codex, and the EU. This international harmonization of the white chocolate standard should make U.S.-produced white chocolate more competitive with internationally produced white chocolate, both at home and abroad.

C. Costs

Although we cannot estimate the total costs of this final rule, we expect that the costs of options 2 and 3 will be approximately the same.

The establishment of a standard of identity requires that all products that meet the standard bear the standardized name. If there are products that are formulated in accordance with the standard of identity but are not currently labeled as ''white chocolate,'' then those products will have to be relabeled.

Because ''white chocolate'' will need to appear on each product's principal display panel, the cost for label changes will depend on the number of products that must be relabeled and the amount of time manufacturers are given to complete the label changes. Many of the large chocolate manufacturers are already marketing their white chocolate products under TMPs and will not need to relabel their products.

There are approximately 250 firms that produce chocolate products in the United States, but the number of products whose formulation satisfies this new white chocolate standard of identity is unknown. To estimate the labeling change costs to chocolate producers as a result of the new white chocolate standard of identity, the ''FDA Labeling Cost Model'' (Ref. 1) is used. This model replaces the 1990 version of the model used in the white chocolate proposed rule estimates.

There are 9558 stock keeping units (SKUs) for products represented by the North American Industry Classification System (NAICS) code for Chocolate & Confectionery Products made from cacao beans. Using this SKU information, the ''FDA Labeling Cost Model, Final Report'' estimates the costs per product for a chocolate manufacturer to change the standard of

identity on their principal display panel.

The actual cost of relabeling will be determined largely by the length of time between the date that the rule becomes final and date it becomes effective (the compliance period). Given that January 1, 2004, is the uniform compliance date for food labeling regulations that are issued between January 1, 2001, and December 31, 2002, the cost of relabeling per product for firms averages $4,300 for a minimum-allowed 12-month compliance period, $2,000 for a 24-month compliance period, and $120 for the maximum-allowed 36-month compliance period. Relabeling costs are comprised of administrative costs, printing costs, and costs of lost label inventory.

This final rule will not affect products that do not meet the standard, because they may continue to be produced and marketed as they currently are. FDA is not able to estimate the total cost of this final rule because we received no comments that supplied the additional information necessary.

V. Small Entity Analysis

FDA has examined the economic implications of this final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities. FDA finds that this final rule will have a significant economic impact on a substantial number of small businesses.

This final rule will establish a standard of identity for white chocolate. Although the amount of the costs depend on the length of the compliance period, this final rule may impose significant compliance costs on industry, and there may be a significant impact of these provisions on a substantial number of small businesses.

FDA believes that the provision of this final rule most likely to have a significant impact on a substantial number of small businesses is the labeling requirement. There are approximately 250 firms that produce chocolate products (NAICS code 311320) in the United States. Almost all of these businesses have fewer than 500 employees, and thus are small businesses, as defined by the Small Business Administration, FDA has no data on the number of products that will meet the proposed standard and that, therefore, may need to be relabeled.

As discussed in section IV.C of this document, FDA has estimated the average relabeling costs per product for firms to be $4,300, $2,000, and $120, for a 12-month, 24-month, and 36-month compliance period, respectively. Using these average relabeling costs and the ''Model for Estimating the Impacts of Regulatory Costs on the Survival of Small Businesses'' (Ref. 2), the possibility of a small firm closing due to this standard of identity regulation can be estimated. If the compliance period is 12 months in length, the model predicts that approximately 6 firms with less than 500 employees are likely to go out of business. For the 24-month compliance period and the 36-month compliance period, it is expected that no firms are likely to go out of business.

FDA received no comments on the effects of the proposed rule on small businesses or on the length of the compliance period. Because so many small entities are in the industry, we believe that the final rule establishing a standard of identity will have a significant economic impact on a substantial number of small businesses.

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies 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. Accordingly, we have concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism impact statement is not required.

VII. Environmental Impact

FDA has previously considered the environmental effects of this rule, as announced in the proposed rule (62 FR 10781 at 10785, March 10, 1997). No new information or comments have been received that would affect our previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VIII. The Paperwork Reduction Act of 1995

In the proposal, FDA stated its tentative conclusion that the proposed rule contains no reporting, recordkeeping, labeling, or third party disclosure requirements and asked for comments on whether the proposed rule imposed any paperwork burden. No comments were received addressing the question of paperwork burden. FDA concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320(c)(2)).

IX. References

The following references have been placed on display at the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. ''FDA Labeling Cost Model, Final Report;'' M. K. Muth, E. C. Gledhill, and S. A. Karns; RTI, Health, Social, and Economics Research, Research Triangle, NC; April 2002.

2. ''Model for Estimating the Impacts for Regulatory Costs on the Survival of Small Businesses and its Application to Four FDA-Regulated Industries,'' final report, Eastern Research Group, July, 2002.

List of Subjects in 21 CFR Part 163

Cacao products, Food grades and standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 163 is amended as follows:

PART 163—CACAO PRODUCTS

1. The authority citation for 21 CFR part 163 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 341, 343, 348, 371, and 379(e).

2. Section 163.124 is added to subpart B to read as follows:

§ 163.124 White chocolate.

(a) *Description.* (1) White chocolate is the solid or semiplastic food prepared by intimately mixing and grinding cacao fat with one or more of the optional dairy ingredients specified in paragraph (b)(2) of this section and one or more optional nutritive carbohydrate sweeteners and may contain one or more of the other optional ingredients specified in paragraph (b) of this section. White chocolate shall be free of coloring material.

(2) White chocolate contains not less than 20 percent by weight of cacao fat as calculated by subtracting from the weight of the total fat the weight of the milkfat, dividing the result by the weight of the finished white chocolate,

and multiplying the quotient by 100. The finished white chocolate contains not less than 3.5 percent by weight of milkfat and not less than 14 percent by weight of total milk solids, calculated by using only those dairy ingredients specified in paragraph (b)(2) of this section, and not more than 55 percent by weight nutritive carbohydrate sweetener.

(b) *Optional ingredients*. The following safe and suitable ingredients may be used:

(1) Nutritive carbohydrate sweeteners;

(2) Dairy ingredients:

(i) Cream, milkfat, butter;

(ii) Milk, dry whole milk, concentrated milk, evaporated milk, sweetened condensed milk;

(iii) Skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, nonfat dry milk;

(iv) Concentrated buttermilk, dried buttermilk; and

(v) Malted milk;

(3) Emulsifying agents, used singly or in combination, the total amount of which does not exceed 1.5 percent by weight;

(4) Spices, natural and artificial flavorings, ground whole nut meats, ground coffee, dried malted cereal extract, salt, and other seasonings that do not either singly or in combination impart a flavor that imitates the flavor of chocolate, milk, or butter;

(5) Antioxidants; and

(6) Whey or whey products, the total amount of which does not exceed 5 percent by weight.

(c) *Nomenclature*. The name of the food is ''white chocolate'' or ''white chocolate coating.'' When one or more of the spices, flavorings, or seasonings specified in paragraph (b)(4) of this section are used, the label shall bear an appropriate statement, e.g., ''Spice added'', ''Flavored with ___ '', or ''With ___ added'', the blank being filled in with the common or usual name of the spice, flavoring, or seasoning used, in accordance with § 101.22 of this chapter.

(d) *Label declaration*. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of parts 101 and 130 of this chapter.

Dated: September 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–25252 Filed 10–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–02–521]

Safety Zone; Captain of the Port Milwaukee Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing a safety zone for annual fireworks displays in the Captain of the Port Milwaukee Zone during October 2002. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port Milwaukee Zone.

DATES: The safety zone for the Sheboygan South High School Fireworks—Sheboygan, WI (165.909(a)(29)) will be enforced on October 3, 2002, from 7:50 p.m. until 8:40 p.m., but in the event of inclement weather the safety zone will be enforced from 7:50 p.m. until 8:40 p.m. on October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Chief Dave McClintock, U.S. Coast Guard Marine Safety Office Milwaukee, at (414) 747–7155

SUPPLEMENTARY INFORMATION: The Coast Guard is implementing the permanent safety zone in 33 CFR 165.909 (a)(29) (67 FR 44560, July 3, 2002) for fireworks displays in the Captain of the Port Milwaukee Zone during October 2002. The following safety zone is in effect for fireworks displays occurring in the month of October 2002:

Sheboygan South High School Fireworks—Sheboygan, WI. This safety zone will be enforced on October 3, 2002, from 7:50 p.m. until 8:40 p.m. In the event of inclement weather on October 3, 2002, the safety zone will be enforced from on October 4, 2002 from 7:50 p.m. until 8:40 p.m.

In order to ensure the safety of spectators and transiting vessels, this safety zone will be in effect for the duration of the event. Vessels may not enter the safety zone without permission from Captain of the Port Milwaukee Zone. Requests to transit the safety zone must be made in advance by contacting the person listed in **FOR FURTHER INFORMATION CONTACT** and must be approved by the Captain of the Port Milwaukee before transits will be authorized. Spectator vessels may anchor outside the safety zone but are cautioned not to block a navigable channel.

Dated: September 27, 2002.

M.R. DeVries,

Commander, Coast Guard, Captain of the Port Milwaukee.

[FR Doc. 02–25278 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Parts 952, 957, 958, 960, 962, 964, 965

Rules of Practice Before the Judicial Officer

AGENCY: Postal service.

ACTION: Final rule.

SUMMARY: The Postal Service is amending the Rules of Practice in Proceedings Relative to the Program Fraud Civil Remedies Act to reflect the change in primary responsibility to investigate violations of the Program Fraud Civil Remedies Act from the Postal Inspection Service to the Postal Service Inspector General. In addition, these rules of practice as well as the rules of practice in other proceedings before the Judicial Officer are being amended to correct typographical errors and omissions and make other technical changes.

EFFECTIVE DATE: October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Diane M. Mego, (703) 812–1905.

SUPPLEMENTARY INFORMATION: As part of the creation of the Office of Inspector General in 1996, certain functions were transferred from the Postal Inspection Service to the Postal Service Office of Inspector General. Part 962 is being revised to reflect that investigations under this part are now conducted by the Office of Inspector General. In addition, these rules of practice as well as the rules of practice in other proceedings before the Judicial Officer are being amended to correct typographical errors and omissions and make other technical changes.

These revisions are changes in agency rules of practice before the Judicial Officer and do not substantially affect any rights or obligations of private parties. Therefore, it is appropriate for their adoption by the Postal Service to become effective immediately.

List of Subjects

39 CFR Part 952

Administrative practice and procedure, Fraud, Lotteries, Postal Service.

39 CFR Part 957

Administrative practice and procedure, Debarment, Suspension, Postal Service.

39 CFR Part 958

Administrative practice and procedure, Postal Service.

39 CFR Part 960

Administrative practice and procedure, Claims, Equal Access to Justice Act, Postal Service.

39 CFR Part 962

Administrative practice and procedure, Fraud, Program Fraud Civil Remedies Act, Postal Service.

39 CFR Part 964

Administrative practice and procedure, Fictitious names or addresses, Fraud, Lotteries, Postal Service.

39 CFR Part 965

Administrative practice and procedure, Mail disputes, Postal Service.

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

The Postal Service adopts amendments to 39 CFR part 952 as specifically set forth below:

1. The authority citation for part 952 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3005, 3012, 3016.

§ 952.5 [Amended]

2. Section 952.5 is amended by revising ''know'' to read ''known'' in the next to last sentence of the paragraph.

§ 952.33 [Amended]

3. Section 952.33 is amended by revising ''Law Librarian'' to read ''Librarian'' and by revising ''Law Library'' to read ''Library''.

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT AND SUSPENSION FROM CONTRACTING

The Postal Service adopts amendments to 39 CFR part 957 as specifically set forth below:

1. The authority citation for part 957 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

§ 957.2 [Amended]

2. Section 957.2 is amended to revise the word ''Procurement'' to read ''Purchasing''.

PART 958—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE REFUSAL TO PROVIDE POST OFFICE BOX OR CALLER SERVICE AND THE TERMINATION OF POST OFFICE BOX OR CALLER SERVICE

The Postal Service adopts amendments to 39 CFR part 958 as specifically set forth below:

1. The authority citation for part 958 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

§ 958.3 [Amended]

2. Section 958.3(d) is amended by revising ''asgency'' to read ''agency''.

PART 960—RULES RELATIVE TO IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN POSTAL SERVICE PROCEEDINGS

The Postal Service adopts amendments to 39 CFR part 960 as specifically set forth below:

1. The authority citation for part 960 continues to read as follows:

Authority: 5 U.S.C. 504(c)(1); 39 U.S.C. 204, 401(2).

§ 960.3 [Amended]

2. Section 960.3(b) is amended to revise ''preclued'' in the second sentence to read ''preclude''.

PART 962—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE PROGRAM FRAUD CIVIL REMEDIES ACT

The Postal Service adopts amendments to 39 CFR part 962 as specifically set forth below:

1. The authority citation for part 962 continues to read as follows:

Authority: 31 U.S.C. Chapter 38; 39 U.S.C. 401.

§ 962.2 [Amended]

2. Section 962.2(d) and (m) are revised to read as follows:

§ 962.2 Definitions.

* * * * *

(d) *Investigating Official* refers to the Inspector General of the United States Postal Service or any designee within the Office of the Inspector General.

* * * * *

(m) *Reviewing Official* refers to the General Counsel of the Postal Service or any designee within the Law Department who serves in a position for which the rate of basic pay is not less than the minimum rate payable under section 5376 of title 5 of the United States Code.

§ 962.12 [Amended]

3. Section 962.12(f)(1) is amended by adding ''not'' after ''is''.

§ 962.13 [Amended]

4. Section 962.13(f)(2) is amended by revising the word ''marshall'' to read ''marshal'' wherever it appears.

§ 962.21 [Amended]

5. Section 962.21(b)(4) is amended by revising ''.hat'' to read ''that''.

PART 964—RULES OF PRACTICE GOVERNING DISPOSITION OF MAIL WITHHELD FROM DELIVERY PURSUANT TO 39 U.S.C. 3003, 3004

The Postal Service adopts amendments to 39 CFR part 964 as specifically set forth below:

1. The authority citation for part 964 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3003, 3004.

§ 964.1 [Amended]

2. Section 964.1 is amended by adding ''States'' after ''United''.

§ 964.2 [Amended]

3. Section 964.2 is amended by removing ''Service'' after ''Postal''.

PART 965—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAIL DISPUTES

The Postal Service adopts amendments to 39 CFR part 965 as specifically set forth below:

1. The authority citation for part 965 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

§ 965.3 [Amended]

2. Section 965.3 is amended by removing ''475 L'Enfant Plaza West, SW.,''.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–25168 Filed 10–3–02; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–083–7213a; A–1–FRL–7374–9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Reasonably Available Control Technology (RACT) Plans and Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving several State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These revisions establish reasonably available control technology (RACT) requirements for major volatile organic compound (VOC) sources. The intended effect of this action is to approve these requirements into the Massachusetts SIP. EPA is taking this action in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective December 3, 2002, unless EPA receives relevant adverse comments by November 4, 2002. If EPA receives relevant adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC [the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC 20460 will be closed to the public from close of business Friday, August 9, 2002 until it re-opens Tuesday, August 27, 2002 at its new location—Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington DC 20460]; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Anne Arnold, (617) 918–1047.

SUPPLEMENTARY INFORMATION: This section is organized as follows:

What Action Is EPA Taking?
What are the Relevant Clean Air Act Requirements?
What is a Control Techniques Guideline (CTG)?
How has Massachusetts Addressed the New CTG Categories?
What is EPA's Response to Massachusetts' Submittals for the New CTG Categories?
What are the Regulations and Plan Approvals Massachusetts Submitted?
Why is EPA Approving Massachusetts' Regulations and Plan Approvals?
What is the Process for EPA to Approve These SIP Revisions?

What Action Is EPA Taking?

EPA is approving VOC RACT plan approvals for four facilities in eastern Massachusetts. EPA is also approving Massachusetts' VOC RACT regulation 310 CMR 7.18 (17) as it applies to the Boston-Lawrence-Worcester (eastern Massachusetts) ozone nonattainment area. In addition, EPA is also approving negative declarations Massachusetts submitted for certain VOC source categories and is determining that Massachusetts has met the CAA VOC RACT requirements for the aerospace coating and wood furniture manufacturing source categories through a combination of measures that are already federally enforceable.

What Are the Relevant Clean Air Act Requirements?

Sections 182(b)(2) and 184(b) of the Clean Air Act contain the requirements relevant to today's action. 42 U.S.C. sections 7511a(b)(2) and 7511c(b). Section 182(b)(2) requires states to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing Control Techniques Guideline (CTG)—*i.e.*, a CTG issued prior to the enactment of the 1990 amendments to the CAA; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG, *i.e.*, non-CTG sources.

Pursuant to the CAA Amendments of 1990, all of Massachusetts was classified as serious nonattainment for ozone. Specifically, the following two areas were designated as serious ozone areas: the Boston-Lawrence-Worcester (or eastern Massachusetts) area; and the Springfield (or western Massachusetts) area. *See* 56 FR 56694 (Nov. 6, 1991). These areas were, thus, subject to the section 182(b)(2) RACT requirement.

In addition, Massachusetts is located in the Northeast Ozone Transport Region (OTR). The Commonwealth is, therefore, subject to section 184(b) of the CAA. Section 184(b) requires that RACT be implemented in the entire state for all VOC sources covered by a CTG issued before or after the enactment of the CAA Amendments of 1990 and for all major VOC sources (defined as 50 tons per year for sources in the OTR).

What Is a Control Techniques Guideline (CTG)?

A CTG is a document EPA issues which establishes a ''presumptive norm'' for RACT for a specific VOC source category. Under the pre-amended CAA, EPA issued CTG documents for 29 categories of VOC sources. Section 183 of the CAA requires that EPA issue 13 new CTGs. Appendix E of the General Preamble of Title I (57 FR 18077) lists the categories for which EPA plans to issue new CTGs.

On November 15, 1993, EPA issued a CTG for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations and Reactor Processes. Also, on August 27, 1996, EPA issued a CTG for shipbuilding and repair operations. On May 26, 1996, EPA issued a CTG for wood furniture finishing operations. Furthermore, on March 27, 1998, EPA issued a CTG for aerospace coating operations.

How Has Massachusetts Addressed the New CTG Categories?

In response to the requirements to adopt RACT for all sources covered by a new CTG, Massachusetts submitted negative declarations to EPA for the shipbuilding and repair operations and the SOCMI reactor processes CTG categories. Through these negative declarations, Massachusetts is confirming that there are no sources in the Commonwealth that would be subject to a rule for these categories.

In addition, for the SOCMI distillation processes CTG category, Massachusetts stated in a letter, dated April 16, 1999, that Solutia Incorporated, in Springfield, is subject to this CTG. The letter also states that VOC emissions at this facility are currently controlled by a pollution control system with a required control efficiency of more than 85 percent and that this control requirement was determined to be best available control technology (BACT) in a federally enforceable plan approval issued pursuant to 310 CMR 7.02.

Furthermore, for the wood products CTG category, Massachusetts submitted a letter, dated July 24, 2002, stating that there are six facilities in Massachusetts that exceed the 25 ton per year (tpy) applicability threshold for the wood furniture CTG. Three of these facilities (Athol Table, Mark Richey Woodwork, and Adden Furniture) are subject to 310 CMR 7.18(23), ''Wood Products Surface Coating.'' This rule applies to 50 tpy facilities and was approved into the

Massachusetts SIP on September 3, 1999 (64 FR 48297). In addition, one of the six facilities, Nichols and Stone, is subject to 310 CMR 7.18(17), ''Reasonable Available Control Technology.'' RACT was determined for this facility several years prior to the issuance of EPA's wood furniture CTG and was submitted to EPA as a single source SIP revision on July 19, 1993. EPA approved this SIP revision on January 6, 1995 (60 FR 2017). Also, Massachusetts has issued the remaining two wood furniture facilities (Saloom Furniture and Eureka Manufacturing) federally enforceable BACT plan approvals pursuant to 310 CMR 7.02. These BACT plan approvals contain the same emission limitations as those included in the wood furniture CTG.

Finally, for the aerospace CTG, Massachusetts submitted a letter, dated July 24, 2002, stating that there are two facilities in Massachusetts that exceed the 25 tpy applicability threshold of the aerospace CTG. They are General Electric in Lynn and Raytheon in Lowell. The coating operations at these two facilities are covered by Massachusetts' miscellaneous metal parts and products coating regulation, 310 CMR 7.18(11). Also, the degreasing emissions at these two facilities are covered by Massachusetts' degreasing regulation 310 CMR 7.18(8). Both 310 CMR 7.18(11) and 310 CMR 7.18(8) have been approved into the Massachusetts SIP. *See* 58 FR 34911 (June 30, 1993).

What Is EPA's Response to Massachusetts' Submittals for the New CTG Categories?

EPA is approving Massachusetts' negative declarations as meeting the CAA section 182(b)(2) and section 184(b) requirements, as applicable, for the shipbuilding and repair operations and SOCMI reactor processes CTG categories. However, if evidence is submitted by November 4, 2002 that there are existing sources within Massachusetts that would be covered by the CTGs for these same categories,[1] EPA would consider such comments adverse and we would withdraw this approval action on that negative declaration.

For the SOCMI reactor distillation operations CTG category, the only source in Massachusetts subject to this CTG is meeting an 85 percent control requirement which was determined to be BACT in a federally enforceable plan approval. EPA agrees that Massachusetts has met the VOC RACT requirements for this source category.

For the wood furniture and aerospace CTG categories, Massachusetts has imposed requirements on the six facilities that are subject to the wood furniture CTG and on the two facilities that are subject to the aerospace CTG through a combination of measures (*i.e.*, VOC regulations and BACT and RACT plan approvals) that are already federally enforceable. EPA has evaluated these measures and has found that they are generally consistent with the applicable CTGs. Therefore, EPA is approving these measures as meeting RACT for the aerospace and wood furniture CTG categories. The specific requirements imposed on the aerospace and wood furniture facilities and EPA's evaluation of these requirements are detailed in a memorandum dated August 20, 2002, entitled ''Technical Support Document—Massachusetts—VOC RACT'' (TSD). The TSD, as well as the various plan approvals on which EPA is relying to enforce RACT, are available in the docket supporting this action.

What Are the Regulations and Plan Approvals Massachusetts Submitted?

On February 17, 1993, Massachusetts submitted 310 CMR 7.18(17) ''Reasonable Available Control Technology.'' In addition, Massachusetts subsequently submitted SIP revisions for the following four facilities which are subject to 310 CMR 7.18(17):

- Barnet Corporation of Peabody;
- Rex Finishing Incorporated of Peabody;
- Norton Company of Worcester; and
- Gillette Company's Andover Manufacturing Center.

Massachusetts' regulation and the plan approvals for the four facilities listed above are discussed in more detail below.

310 CMR 7.18(17), Reasonable Available Control Technology

This regulation describes a process by which RACT can be defined, but does not specifically define RACT for each source applicable to the regulation. Therefore, in order to receive full approval, Massachusetts must define, and EPA must approve, RACT for all of the sources that are subject to 310 CMR 7.18(17). EPA previously approved this rule for the Springfield ozone nonattainment area. See 64 FR 48297 (September 3, 1999). In this rulemaking, EPA noted that there were sources in the eastern Massachusetts ozone nonattainment area for which EPA had not yet approved RACT plans and that EPA would address 310 CMR 7.18(17) for the eastern Massachusetts area in a separate rulemaking, along with the case-specific RACT determinations. Massachusetts has defined RACT for Barnet, Rex Finishing, Gillette, and Norton as described below.

Barnet and Rex Finishing

On April 16, 1999, Massachusetts submitted VOC RACT plan approvals for Barnet and Rex Finishing to EPA as a SIP revision. At these facilities, VOCs are emitted from leather finishing operations. Massachusetts determined that implementing low VOC coatings and certain work practice and equipment standards represent RACT for Barnet and Rex Finishing. The plan approvals require these facilities to meet specific emission limitations and to maintain daily records in order to demonstrate compliance with these limits.

Gillette

On October 7, 1999, Massachusetts submitted a VOC RACT plan approval for Gillette to EPA as a SIP revision. Gillette manufactures shaving cream and deodorants at its Andover, Massachusetts facility. The majority of VOC emissions from the facility are hydrocarbon propellants (*e.g.*, isobutane) and ethanol solvents from aerosol propellant filling. The plan approval requires Gillette to use through the valve filling (TTV) for all products that can be successfully TTV-filled. TTV-filling is currently recognized as the lowest-emitting aerosol filling process available. The plan approval also caps VOC emissions to a maximum of 150 tons per rolling 12 month calendar period and 50 tons per month. Additionally, the plan approval requires Gillette to implement a leak detection and repair program. Finally, the plan approval also sets recordkeeping, reporting, and testing requirements.

Norton

On October 7, 1999, Massachusetts submitted a VOC RACT plan approval for Norton Company to EPA as a SIP revision. Norton is a manufacturer of abrasive products, ceramic grinding wheels, and high performance refractories. VOCs are emitted in the manufacture of these products. Norton has reduced its VOC emissions by using material substitution, reformulation, emission controls, good housekeeping and better operating practices. The plan

[1] The shipbuilding CTG applies to facilities that emit 50 tons of VOC or more per year. The applicability of the SOCMI reactors CTG is more complicated as it is determined on a per vent basis. For complete details on determining applicability for this CTG, see pages D–2 and D–3 of ''Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry,'' EPA–450/4–91–031, August 1993.

approval requires Norton to meet several enforceable short and long term RACT limits which are specified and tracked by business unit or similar unit operation. In addition, the plan approval also sets the appropriate recordkeeping, reporting, and testing requirements in order to demonstrate compliance with these emission limits.

In addition to the SIP revisions submitted for the four facilities discussed above, Massachusetts also submitted documentation regarding two other facilities subject to 310 CMR 7.18(17), namely Polaroid of Waltham and Globe Manufacturing of Fall River. The VOC RACT plan approval submitted for Polaroid on April 16, 1999 was subsequently superseded by two federally enforceable BACT plan approvals that were issued to Polaroid on December 22, 1999 and September 15, 2000. When taken together, these two BACT plan approvals cover all of the processes that were included in the previously issued RACT plan approval. In addition, the BACT plan approvals require emission reductions above and beyond those required by the RACT plan. Therefore, in a letter dated July 24, 2002, the Massachusetts DEP withdrew its April 16, 1999 SIP revision request for Polaroid. In addition, Massachusetts submitted documentation showing that the three VOC emitting processes at Globe (the reaction spin process; the dry spin process; and the rubber fiber process) are subject to federally enforceable requirements contained in two BACT plan approvals issued to the facility on June 6, 1996 and November 24, 1997.

Why Is EPA Approving Massachusetts' Regulations and Plan Approvals?

EPA has evaluated the plan approvals submitted for the facilities listed above and has found that these plan approvals are consistent with EPA guidance and impose RACT at these facilities. Therefore, EPA is approving the plan approvals for Barnet, Rex, Gillette, and Norton into the Massachusetts SIP. EPA has also evaluated Massachusetts 310 CMR 7.18(17) and has found that this regulation is generally consistent with EPA guidance, with the exception discussed above, and requires RACT to be developed at the facilities covered by the CAA. Since Massachusetts has, however, adequately addressed all of the applicable sources in the eastern Massachusetts serious ozone nonattainment area required to have RACT, EPA is approving this regulation as meeting the CAA requirements for this area. Finally, EPA has evaluated BACT plan approvals issued under 310 CMR 7.02 and has determined that they impose a level of control at least equivalent to RACT.

The specific requirements of the plan approvals and of Massachusetts 310 CMR 7.18(17) and EPA's evaluation of these requirements are detailed in the TSD.

Although EPA is not incorporating the BACT plan approvals issued under 310 CMR 7.02 into the SIP, because they are already federally enforceable under the SIP-approved section 7.02, these plan approvals are available for inspection in the docket supporting this action.

What Is the Process for EPA To Approve These SIP Revisions?

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should EPA receive relevant adverse comments. This action will be effective December 3, 2002 without further notice unless the EPA receives relevant adverse comments by November 4, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. EPA will then address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If EPA receives no such comments, the public is advised that this rule will be effective on December 3, 2002 and EPA will take no further action on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Final Action: EPA is approving the VOC RACT plan approvals for Barnet, Rex Finishing, Gillette Company, and Norton Company. EPA is also approving Massachusetts' VOC RACT regulation 310 CMR 7.18 (17) as it applies to the eastern Massachusetts ozone nonattainment area. In addition, EPA is approving Massachusetts' negative declarations for the shipbuilding and repair operations and SOCMI reactor processes CTG categories. EPA is also approving the Solutia BACT permit as meeting the CAA VOC RACT requirements for the SOCMI distillation reactors category. Finally, EPA is approving a combination of already federally enforceable measures (namely, the VOC RACT regulations and the RACT and BACT plan approvals discussed above) as meeting the CAA VOC RACT requirements for the aerospace and wood furniture manufacturing operations CTG categories.

III. Administrative Requirements

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety

Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: September 3, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(129) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(129) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on February 17, 1993, April 16, 1999, and October 7, 1999.

(i) Incorporation by reference.

(A) 310 CMR 7.18(17) ''Reasonable Available Control Technology,'' as it applies to the eastern Massachusetts ozone nonattainment area, effective in the Commonwealth of Massachusetts on February 12, 1993.

(B) Plan Approval issued by the Massachusetts Department of Environmental Protection to the Gillette Company Andover Manufacturing Plant on June 17, 1999.

(C) Plan Approval issued by the Massachusetts Department of Environmental Protection to Norton Company on August 5, 1999 and letter from the Massachusetts Department of Environmental Protection, dated October 7, 1999, identifying the effective date of this plan approval.

(D) Plan Approval issued by the Massachusetts Department of Environmental Protection to Rex Finishing Incorporated on May 10, 1991 and letter from the Massachusetts Department of Environmental Protection, dated April 16, 1999, identifying the effective date of this plan approval.

(E) Plan Approval issued by the Massachusetts Department of Environmental Protection to Barnet Corporation on May 14, 1991.

(ii) Additional materials.

(A) Letter from the Massachusetts Department of Environmental Protection, dated April 16, 1999, submitting negative declarations for certain VOC source categories.

(B) Letter from the Massachusetts Department of Environmental Protection, dated July 24, 2002, discussing wood furniture manufacturing and aerospace coating requirements in Massachusetts.

(C) 310 CMR 7.02 BACT plan approvals issued by the Massachusetts Department of Environmental Protection to Solutia, Saloom Furniture, Eureka Manufacturing, Moduform, Polaroid, and Globe.

* * * * *

3. In § 52.1167, Table 52.1167 is amended by adding new entries to existing state citation for 310 CMR 7.18(17).

§ 52.1167 EPA—approved Massachusetts State regulations.

* * * * *

TABLE 52.1167—EPA–APPROVED MASSACHUSETTS REGULATIONS

State citation	Title/Subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(17)	Reasonable Available Control Technology.	2/17/93	10/4/02	[Insert *FR* citation from published date].	129	Approves VOC RACT requirements for the eastern Massachusetts ozone nonattainment area. (These requirements were previously approved for the western Massachusetts ozone nonattainment area.)
310 CMR 7.18(17)	Reasonable Available Control Technology.	10/7/99	10/4/02	[Insert *FR* citation from published date].	129	VOC RACT plan approval for Gilette.
310 CMR 7.18(17)	Reasonable Available Control Technology.	10/7/99	10/4/02	[Insert *FR* citation from published date].	129	VOC RACT plan approval for Norton.
310 CMR 7.18(17)	Reasonable Available Control Technology.	4/16/99	10/4/02	[Insert *FR* citation from published date].	129	VOC RACT plan approval for Rex.
310 CMR 7.18(17)	Reasonable Available Control Technology.	4/16/99	10/4/02	[Insert *FR* citation from published date].	129	VOC RACT plan Available for Barnet.
*	*	*	*	*	*	*

[FR Doc. 02–25158 Filed 10–3–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MA–075–7209a; A–1–FRL–7374–7]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Approval of PM10 State Implementation Plan (SIP) Revisions and Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan revision submitted by the Commonwealth of Massachusetts. This revision replaces the standard for total suspended particulates (TSP) with a standard for particulate matter with a mean aerodynamic diameter of 10 microns or less (PM10) as the National Ambient Air Quality Standard for particulates. EPA also proposes to redesignate several areas of the state from ''nonattainment'' for TSP to ''cannot be classified.'' This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule is effective on December 3, 2002, without further notice, unless EPA receives relevant adverse comment by November 4, 2002. If EPA receives any relevant adverse comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Steven Rapp, Manager, Air Permits Program Unit (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, (617) 918–1655.

SUPPLEMENTARY INFORMATION: On July 25, 1990, the Commonwealth of Massachusetts submitted a formal revision to its State Implementation Plan (SIP). On October 1, 1990, Massachusetts submitted additional information and requested that all areas designated as nonattainment for Total Suspended Particulates (TSP) be redesignated to ''Cannot be Classified.'' The SIP revision consists of changes to Massachusetts Rules 310 CMR 6.04, 7.00, 8.02 and 8.03.

I. Summary of SIP Revision

Why is This Action Necessary?

On July 1, 1987, EPA promulgated revised National Ambient Air Quality Standards (NAAQS) for particulate matter, based upon measurement of particles having a mean aerodynamic diameter of 10 microns or less (PM10) (52 FR 24634). The revised standards replace TSP as the national particulate

standard. In 1990, Massachusetts submitted a SIP revision which adopted the PM10 standard and made other changes in their program to reflect the new PM10 NAAQS. Massachusetts submitted this change as part of a larger package which also contained changes to their New Source Review program. At that time, although some areas in Massachusetts were not in attainment for TSP, no exceedences of the PM10 standard were monitored. Massachusetts has also requested that EPA redesignate these areas to ''cannot be classified.''

What Did Massachusetts Submit?

On July 25, 1990, Massachusetts submitted a formal request for a SIP Revision. This package revised four sections of 310 CMR, specifically 310 CMR 6.04, 7.00, 8.02 and 8.03. Some of these changes made PM10 the particulate standard. Other changes affected the New Source Review program, and EPA will consider them in a separate action. On October 1, 1990, Massachusetts also submitted a formal request to redesignate all TSP nonattainment areas to ''cannot be classified.''

What Specific Changes Is EPA Approving?

EPA is approving changes to these sections of the Code of Massachusetts Rules: 310 CMR 6.04 7.00, 8.02 and 8.03. Specifically, Massachusetts is changing Section 6.04(2) to make PM10 the standard for particulate matter. In Section 7.00, Massachusetts adds definitions of PM10 and PM10 emissions. In Section 8.02, Massachusetts adds a definition of PM10. In Section 8.03, Massachusetts makes PM10 the particulate criteria used to determine air pollution episode alerts and warnings.

What Will These Changes Do?

These changes will make Massachusetts law consistent with the Federal NAAQS. They will eliminate the possibility of using TSP as an outdated ambient air quality standard for particulate matter.

What Is the Redesignation Request?

40 CFR 81.322 lists some areas in Massachusetts as being ''nonattainment'' for TSP. Massachusetts requested to redesignate these areas from ''nonattainment'' to ''cannot be classified.'' Since TSP is no longer a criteria pollutant, this nonattainment designation is no longer meaningful. The areas cannot be redesignated to attainment, since TSP is no longer being measured. All of the areas are in attainment for PM10, but we cannot assume they are also in attainment for TSP. We encourage the states to designate these areas as ''cannot be classified'' to reflect this situation.

Why Does Massachusetts Need the Redesignation Request?

The redesignation will allow Massachusetts to issue permits to new and modified sources under the rules of an attainment area. This will give Massachusetts more flexibility in its New Source Review (NSR) permitting program.

What Is EPA's Rationale for Redesignating a ''Non-attainment'' Area to ''Cannot Be Classified''?

There are multiple reasons for redesignating a ''non-attainment'' area to ''cannot be classified'' in this specific situation. First, Massachusetts no longer monitors for TSP. It has not monitored for TSP since 1989. The Commonwealth currently monitors for PM10 and there is evidence that all areas in the Commonwealth are in attainment for the PM10 NAAQS. Second, although Massachussetts no longer monitors for TSP, the last available TSP monitoring data indicated that Massachusetts was in attainment for TSP. However, in order to be able to redesignate an area to ''attainment,'' an attainment demonstration, which includes at least three years of data indicating that a state is in attainment, is required as part of the plan revision. Since the Commonwealth stopped monitoring for TSP it was never able to gather all the data required to substantiate the change. Therefore, Massachussetts is not able to meet the necessary requirements to redesignate the TSP nonattainment areas to attainment. Since the attainment designation is not an option, the Commonwealth is requesting that all the non-attainment areas be redesignated as ''cannot be classified.''

Clean Air Act section 107(d)(3) sets out the requirements for redesignation of an area. 42 U.S.C. 7407(d)(3). For example, section 107(d)(3)(A) indicates the basis upon which EPA may initiate a redesignation and sections 107(d)(3)(A)–(D), among other things, specify the affected state's role in the designation process, including authority for the state to initiate process. Sections 107(d)(3)(E) and (F) set out restrictions which apply to redesignation of a nonattainment area. Section 107(d)(3)(E) prohibits redesignation of an area from nonattainment to attainment unless five specific conditions are met. As mentioned above, Massachusetts cannot meet these conditions. Section 107(d)(3)(F) of the Act prohibits redesignation of an area from nonattainment to unclassifiable.

Section 107(d)(4)(B) of the Act expressly provides that any designation for particulate matter (measured in terms of TSP) that the Administrator promulgated pursuant to section 107(d) prior to the date of enactment of the 1990 Amendments shall remain in effect for purposes of implementing the maximum allowable concentrations of particulate matter, until the Administrator determines that such designation is no longer necessary.

It is EPA's view that the purpose for the TSP designations found in section 107(d)(4) are based on a congressional intent which is largely different from the purpose for the redesignation requirements found in section 107(d)(3). Section 107(d)(4) indicates that Congress envisioned that EPA would keep the TSP designations for the narrow purpose of implementing the particulate matter increments measured in terms of TSP. Section 107(d)(3) is, in part, directed to limiting redesignations consistent with the the statute's air quality goals by ensuring, for example, that before a nonattainment area is redesignated attainment, the applicable SIP requirements have been implemented and the area attains the applicable NAAQS. These requirements make sense and have force where there are relevant NAAQS in place. However, there are no TSP NAAQS and there is no TSP-directed SIP program. While at this time EPA believes that a TSP designation may be necessary to implement the particulate matter increments, this narrow purpose can be fostered with any designation for TSP. Therefore, EPA believes that it is reasonable to conclude that TSP redesignations are not subject to the section 107(d)(3) requirements. Thus, among other things, an area could be redesignated from nonattainment to cannot be classified for TSP. Under these very limited circumstances, EPA has stated that on or after the date it approves a state's PM–10 SIP, it encourages and will approve state requests to redesignate TSP nonattainment areas to cannot be classified (52 FR 24670).

Since TSP was replaced by PM10 as a criteria pollutant, the redesignation of the specified areas will benefit Massachusetts as it continues to monitor criteria pollutants and issue permits to new and modified sources under the current federal standards. Ultimately, the redesignations will have a beneficial effect on the air quality of Massachusetts.

Is This Action Affected by the Decision in American Trucking Assoc. v. U.S. EPA?

This action is not affected by the court's decision in *American Trucking Assoc.* v. *U.S. EPA,* 175 F.3d 1027 (D.C. Cir.1999) (''American Trucking''), *recv'd on other grounds,* 531 U.S. 457 (2001). This action is based on the original PM10 NAAQS promulgated in 1987. The American Trucking decision questions EPA's revised NAAQS introducing the PM2.5 (PM fine) standard. With regards to the relevant PM10 standard, the court stated that the record contains sufficient evidence to justify the Agency's decision to regulate coarse particle pollution: The relationship between PM 10 pollution and adverse health effects justifying the 1987 NAAQS is well established.

Did Massachusetts Request Other Changes to 310 CMR 7.00?

Massachusetts requested several changes to their New Source Review program at the same time they made this request. The EPA will address the other changes in another **Federal Register** package.

II. Final Action

EPA is approving revisions to 310 CMR 6.04, 7.00, 8.02, and 8.03 and is redesignating all areas in Massachusetts currently designated as nonattainment for TSP to ''Cannot be Classified.'' The Agency has reviewed this request for revision of the federally-approved state implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective December 3, 2002, without further notice unless the Agency receives relevant adverse comments by November 4, 2002.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Parties interested in commenting on the proposed rule should do so at this time. If EPA receives no such comments, the public is advised that this rule will be effective on December 3, 2002, and the Agency will take no further action on the proposed rule. Furthermore, please note that if EPA receives relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of a relevant adverse comment.

III. Administrative Requirements

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time

within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks.

Dated: August 29, 2002.

Robert W. Varney,

Regional Administrator.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(120) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(120) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on July 25, 1990.

(i) Incorporation by reference.

(A) 310 CMR 6.04, 7.00, and 8.02 and 8.03 (August 17, 1990).

* * * * *

3. In § 52.1167 Table 52.1167 is amended by adding new entries to existing state citations for 310 CMR 6.04, 7.00, 8.02, and 8.03; to read as follows:

§ 52.1167 EPA—approved Massachusetts State regulations.

* * * * *

TABLE 52.1167.—EPA-APPROVED MASSACHUSETTS REGULATIONS

State citation	Title/Subject	Date submitted by State	Date approved by EPA	FEDERAL REGISTER citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 6.04	Standards	7/25/90	10/04/02	[Insert *FR* citation from published date].	120	Adopt PM10 as the criteria pollutant for particulates.
310 CMR 7.00	Definitions	7/25/90	10/04/02	[Insert *FR* citation from published date].	120	Add a definition of PM10.
*	*	*	*	*	*	*
310 CMR 8.02	Definitions	7/25/90	10/04/02	[Insert *FR* citation from published date].	120	Add a definition of PM10.
310 CMR 8.03	Criteria	7/25/90	10/04/02	[Insert *FR* citation from published date].	120	Make PM10 the particulate criteria for determining emergeny episodes.
*	*	*	*	*	*	*

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Section 107 Attainment Status Designations

2. Section 81.322 is amended by revising the table for Massachusetts TSP to read as follows:

§ 81.322 Massachusetts.

MASSACHUSETTS—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Berkshire AQCR:				
Adams			x	
North Adams			x	
Pittsfield			x	
All other cities and towns				x
Central Massachusetts AQCR:				

MASSACHUSETTS—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Worcester			x	
Athol			x	
Gardner			x	
Gratton			x	
Leominster			x	
Millbury			x	
Shrewsbury			x	
All other cities and towns				x
Merrimack Valley AQCR:				
Haverhill			x	
Lawrence			x	
All other cities and towns				x
Pioneer Valley AQCR:				
Springfiled			x	
Chicopee			x	
Holyoke			x	
Northampton			x	
South Hadley			x	
West Springfiled			x	
All other cities and towns				x
Southeastern Massachusetts AQCR:				
Fall River			x	
Attleboro			x	
New Bedford			x	
Taunton			x	
All other cities and towns				x
Metropolitan Boston AQCR:				
Topsfield			x	
Wakefield			x	
Walpole			x	
Watertown			x	
Wayland			x	
Wellesley			x	
Wenham			x	
Weston			x	
Westwood			x	
Weymouth			x	
Winchester			x	
Winthrop			x	
Boston			x	
Danvers			x	
Cambridge			x	
Framingham			x	
Lynn			x	
Marblehead			x	
Norwood			x	
Medford			x	
Peabody			x	
Quincy			x	
Revere			x	
Swampscott			x	
Waltham			x	
Arlington			x	
Belmont			x	
Beverly			x	
Braintree			x	
Brockton			x	
Brookline			x	
Canton			x	
Chelsa			x	
Dedham			x	
Everett			x	
Malden			x	
Marlborough			x	
Melrose			x	
Middletown			x	
Milton			x	
Natick			x	
Needham			x	

MASSACHUSETTS—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Newton			x	
Salem			x	
Saugus			x	
Somerville			x	
Southborough			x	
Stonehamd			x	
All other cities and towns				x

* * * * *

[FR Doc. 02–25154 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1518

RIN 0331–ZA00

Office of Environmental Quality Management Fund

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final rule.

SUMMARY: In 1984, the Environmental Quality Improvement Act was amended to establish an Office of Environmental Quality Management Fund (OEQ Management Fund) for the purpose of financing interagency policy development studies and projects. In accordance with that statute, the Director of the Office of Environmental Quality promulgates the following policies and procedures for operation of the OEQ Management Fund.

DATES: Effective September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503. Telephone: (202) 395–7421.

SUPPLEMENTARY INFORMATION: The Environmental Quality Improvement Act, as amended (Pub. L. 91–224, Title II, April 3, 1970; Pub. L. 97–258, September 13, 1982; and Pub. L. 98–581, October 30, 1984) establishes an Office of Environmental Quality Management Fund (OEQ Management Fund) to receive advance payments from other agencies or accounts that may be used solely to finance (1) study contracts that are jointly sponsored by the Office of Environmental Quality and one or more federal agencies and (2) federal interagency environmental projects (including task forces) in which the Office participates. 42 U.S.C. 4375. The Director of the Office of Environmental Quality (OEQ) is required to promulgate regulations setting forth policies and procedures for operation of the OEQ Management Fund. 42 U.S.C. 4375(c). The OEQ Director adopted policies and procedures for operation of the OEQ Management Fund in January of 1985. These policies and procedures have been revised to provide for the development and implementation of interagency agreements to assist the OEQ's oversight and administration of the Management Fund. In accordance with the Environmental Quality Improvement Act, these policies and procedures are hereby promulgated as regulations. Because these regulations are related solely to agency management, their promulgation is not subject to notice and comment in accordance with 5 U.S.C. 553(a)(2).

The OEQ considers this rule to be a procedural rule which is exempt from notice-and-comment under 5 U.S.C. 533(b)(3)(A).

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

List of Subjects in 40 CFR Part 1518

Accounting, Administrative practice and procedure, Environmental impact statements and Environmental Quality Office.

For the reasons stated in the preamble, add part 1518 of title 40 of the Code of Federal Regulations to read as follows:

PART 1518—OFFICE OF ENVIRONMENTAL QUALITY MANAGEMENT FUND

Sec.
1518.1 Purpose.
1518.2 Definitions.
1518.3 Policy.
1518.4 Procedures.

Authority: 42 U.S.C. 4375(c).

§ 1518.1 Purpose.

The purpose of the OEQ Management Fund is to finance:

(a) Study contracts that are jointly sponsored by OEQ and one or more other Federal agency; and

(b) Federal interagency environmental projects (including task forces) in which OEQ participates. *See* 42 U.S.C. 4375(a).

§ 1518.2 Definitions.

(a) *Advance Payment:* Amount of money prepaid pursuant to statutory authorization in contemplation of the later receipt of goods, services, or other assets.

(b) *Director:* The Director of the Office of Environmental Quality. The Environmental Quality Improvement Act specifies that the Chairman of the Council on Environmental quality shall serve as the Director of OEQ. 42 U.S.C. 4372(a).

(c) *OEQ Management Fund (''Fund''):* The Management Fund for the Office of Environmental Quality.

(d) *Interagency Agreement:* A document jointly executed by OEQ and another agency or agencies, which sets forth the details of a joint study or project and the funding arrangements for such a study or project.

(e) *Project Officer:* The Council on Environmental Quality staff member charged with day-to-day supervision of an OEQ Management Fund study or project.

(f) *Source:* The agency or account from which funds are contributed into the Fund.

§ 1518.3 Policy

(a) All studies and projects financed through the OEQ Management Fund shall be consistent with the purposes and goals of the National Environmental Policy Act and/or the Environmental Quality Improvement Act.

(b) Agency funds accepted by the Director for transfer into the OEQ Management Fund shall specify the purposes permissible under the source appropriation and any restrictions relating thereto.

(c) The Director may authorize expenditures to support OEQ Management Fund studies and projects, including:

(1) Leasing office space and providing utilities;

(2) Leasing or purchasing equipment;

(3) Funding travel;

(4) Contracting for goods and services; and

(5) Funding consultants and personnel costs for task force employees.

(d) In carrying out the purposes of the OEQ Management Fund, the Director is authorized to contract with public or private agencies, institutions, organizations and individuals, by negotiation, without regard to 31 U.S.C. 3324(a) and (b) 41 U.S.C. 5, and 42 U.S.C. 4372(e). All such contracting activities shall be accomplished through the Office of Administration, Executive Office of the President. The Director may, by interagency agreement with another federal agency or agencies and with the concurrence of the Office of Administration's Financial Management Division, obtain specific administrative services (including contracting activities) in support of OEQ Management Fund studies or projects.

(e) Task forces and projects funded by the OEQ Management Fund are permitted to make expenditures for all project and study activities, except for compensation or benefits for full-time OEQ employees or to reimburse OEQ or CEQ for ordinarily appropriated expenses, such as salaries, benefits, rent, telephone and supplies.

§ 1518.4 Procedures.

(a) *Charters:* (1) A charter must be prepared for each project or study to be financed and supported by the OEQ Management Fund.

(2) The charter must clearly state the relation of the study or project to the goals and purposes of the Office of Environmental Quality and the National Environmental Policy Act; describe the study or project; identify the participating agency or agencies; provide the names, titles and phone numbers of the Project Officer and administrative contact.

(3) Charters may be amended by preparing a formal amendment, which sets forth the new language to be incorporated in the existing charter.

(4) The Director shall approve all Management Fund charters and amendments in writing.

(5) Copies of each charter and charter amendment approved by the Director shall be provided to the Contracts Branch and the Financial Management Division of the Office of Administration, Executive Office of the President.

(b) *Finances and accounting:* (1) Annual budget estimates shall be prepared for the OEQ Management Fund.

(2) An operating budget for each project or study shall be submitted to the Financial Management Division of the Office of Administration, Executive Office of the President.

(3) All contributions from other agencies to the OEQ Management Fund for a joint study or project shall be accomplished by interagency agreements, which shall provide for full payment of funds on an advance basis. 42 U.S.C. 4375(a).

(4) All contributions by the Office of Environmental Quality or the Council on Environmental Quality to the OEQ Management Fund for a joint study or project shall be accomplished by a letter of transmittal which specifies the particular study or project to be funded. A copy of this transmittal letter shall be provided to the Financial Management Division of the Office of Administration, Executive Office of the President.

(5) The OEQ Management Fund is a no-year appropriations account, which can accept one-year or multiple-year funds, and is available until the objectives for which the authority was made available are attained. Funds transferred into the Management Fund are individually accounted for and expire under the terms of their appropriation.

(6) Any agency, including the Office of Environmental Quality and the Council on Environmental Quality, may provide technical expertise, physical resources, facilities, equipment, or other assets; perform support or administrative services; or assign detailees or agency representatives to an OEQ Management Fund project or study. These contributions may be in addition to funding.

(7) Subaccounts shall be established within OEQ Management Fund for each project or study. All expenditures for a particular project or study must be matched with the source contribution and approved by the Director or the Project Officer.

(8) The Director may transfer Management Fund resources for any study or project to other federal accounts or other OEQ subaccounts provided that the transfer:

(i) Is approved in writing by the source agency that provided the portion of the funds being transferred;

(ii) Promotes the statutory mission of OEQ; and

(iii) Is justified by the Director as being in the best interests of the government.

(9) Financial transactions shall be classified under each Management Funds subaccount in sufficient detail to satisfy management planning, control requirements and financial audit requirements.

(10) All fund expenditures must comport with the purposes of the Management Fund and follow CEQ approval procedures. Any fund expenditures pursuant to interagency agreement for the provision of administrative services shall comport with the CEQ approval procedures specified in the interagency agreement.

Dated: September 30, 2002.

James L. Connaughton,

Director, Office of Environmental Quality, and Chairman, Council on Environmental Quality.

[FR Doc. 02–25161 Filed 10–3–02; 8:45 am]

BILLING CODE 3125–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1804

RIN 2700–AC33

Contract Numbering

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule revises the NASA FAR Supplement (NFS) by making administrative changes to the contract identification numbering scheme used by NASA. This change is necessary for implementation of NASA's Integrated Financial Management System.

EFFECTIVE DATE: October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, NASA, Office of Procurement, Contract Management Division (Code HK); (202) 358–1645; e-mail: *cdalton@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

NASA is in the process of implementing a new Agency-wide Integrated Financial Management System. This implementation requires a minor change to the number of digits and sequence of characters used in the contract identification number. This final rule makes these administrative changes to the contract numbering scheme used for NASA contracts.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Part 1804 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 1804

Government Procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR Part 1804 is amended as follows:

1. The authority citation for 48 CFR Part 1804 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1804—ADMINISTRATIVE MATTERS

1804.7101 [Amended]

2. Amend section 1804.7101 in paragraph (b) by removing the number ''11'' and adding ''10'' in its place.

1804.7102 [Amended]

3. Amend section 1804.7102 by—

a. In the table of paragraph (a) under the column CONTRACT PREFIX—

(i) Removing ''NAS 2'' and adding ''NAS2–'' in its place;

(ii) Removing ''NAS 4'' and adding ''NAS4–'' in its place;

(iii) Removing ''NAS 3'' and adding ''NAS3–'' in its place;

(iv) Removing ''NAS 5'' and adding ''NAS5–'' in its place;

(v) Adding a hyphen immediately after ''NASW'';

(vi) Removing ''NAS 9'' and adding ''NAS9–'' in its place;

(vii) Removing ''NAS 1'' and adding ''NAS1–'' in its place;

(viii) Removing ''NAS 8'' and adding ''NAS8–'' in its place;

(ix) Removing ''NAS 7'' and adding ''NAS7–'' in its place; and

(x) Removing ''NAS 13'' and adding ''NAS13'' in its place;

b. In paragraph (c) removing ''DEN 8'' and adding ''DEN8–'' in its place; and

c. In paragraph (d) removing ''NCA 8'' and adding ''NCA8–'' in its place.

1804.7103 [Amended]

4. Amend section 1804.7103 in paragraph (a) by removing ''NAS 2 97001 and NAS 2 97002'' and adding ''NAS2–97001 and NAS2–97002'' in its place.

[FR Doc. 02–25183 Filed 10–3–02; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 397

[Docket No. FMCSA–02–13376; Docket No. RSPA–02–12773 (HM–232B)]

RIN 2126—AA74; RIN 2137–AD69

Revision to Periodic Tire Check Requirement for Motor Carriers Transporting Hazardous Materials

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Motor Carrier Safety Administration is eliminating an outdated requirement for certain motor vehicle operators to stop periodically to check their tires. Eliminating this requirement enhances the security of hazardous materials shipments.

DATES: The effective date of this final rule is November 4, 2002.

FOR FURTHER INFORMATION CONTACT: William Quade, (202) 366–6121, Office of Enforcement and Compliance (MC–ECH), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

After the terrorist attacks of September 11, 2001, the Federal Motor Carrier Safety Administration (FMCSA) and the Research and Special Programs Administration (RSPA) reviewed government and industry hazardous materials transportation safety and security programs with a view towards identifying areas where security should be enhanced. Over 800,000 shipments of hazardous materials occur each day in the United States. The overwhelming majority of these shipments—approximately 95 percent—are made by highway. Many of the hazardous materials transported by motor carriers potentially may be used as weapons of mass destruction or in the manufacture of such weapons. Since September 11, 2001, on several occasions, Federal law enforcement officials provided information indicating that terrorist organizations may be planning to use motor vehicles transporting certain hazardous materials for additional terrorist attacks on facilities in the United States.

Prior to 1975, the Secretary of Transportation regulated the transportation of hazardous materials by highway under the authority of the Motor Carrier Safety Act (MCSA). The authority to issue regulations under the MCSA is currently delegated to FMCSA. 49 CFR 1.73(g). In 1974, Congress passed the Hazardous Materials Transportation Act (HMTA). The HMTA gave the Secretary the authority to issue ''regulations for the safe transportation in commerce of hazardous materials'' applicable to ''any person who transports, or causes to be transported or shipped, a hazardous material * * *.'' Public Law 93–633; 88 Stat. 2156 (Jan. 3, 1975). The Secretary delegated this rulemaking authority to RSPA. 49 CFR 1.53(b).

Motor carriers that transport hazardous materials in interstate commerce must comply with both the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180), administered by RSPA, and the Federal Motor Carrier Safety Regulations (FMCSR; 49 CFR parts 390–397), administered by FMCSA. Motor carriers that transport hazardous materials in intrastate commerce must comply with the HMR, and the FMCSR to the extent that they apply (See 62 FR 1208, 1213 (January 8, 1997) and 49 CFR 177.804). As a result of a 1984 amendment to the MCSA and a 1990 amendment to the HMTA, RSPA is authorized to eliminate or amend regulations (other than highway routing regulations) that appear in part 397 of the FMCSR and that apply solely to the maintenance, equipment, loading, or operation of motor vehicles carrying hazardous materials. Therefore, we are issuing this final rule as a joint RSPA–FMCSA rulemaking.

Section 397.17 of the FMCSR requires periodic tire inspections for certain vehicles transporting hazardous materials. Drivers of vehicles with dual tires must stop every two hours or 100 miles to inspect the tires. When

originally promulgated, this requirement was intended to prevent possible fires caused by overheated tube-type tires. With advancements in tire technology, fires caused by tire overheating occur much less frequently.

To require a vehicle transporting a hazardous material to stop at frequent regular intervals increases the security risk associated with such transportation. Any stop provides an opportunity for potential highjacking or theft of the vehicle and its cargo. Eliminating the tire check stop reduces this potential security risk. On July 16, 2002, we published a Notice of Proposed Rulemaking (NPRM) (67 FR 46624) proposing to eliminate this outdated requirement for certain motor vehicle operators to stop periodically to check their tires.

Discussion of Comments

We received eight comments on the NPRM. Most commenters support the proposal to eliminate the requirement that certain motor vehicle operators periodically stop to check their tires. They agree with us that advancements in tire technology, specifically the elimination of inner-tubes, have largely eliminated the risk of fire caused by tire overheating. Hence, stopping every two hours or 100 miles to check the tires is no longer necessary. The commenters also support our position that frequent stops compromise the security of hazardous materials shipments and increase the vulnerability to theft and hijackings.

One commenter disagrees with the proposed changes, stating that a reduction in potential security risks for motor carriers should not come from the elimination of regulations that were established to promote carrier and public safety. As stated in the NPRM, we are not eliminating all tire checks. An operator of a motor vehicle transporting hazardous materials must still check each tire at the beginning of each trip and each time the vehicle is parked. Thus, we do not agree that elimination of the periodic 2 hour/100 mile tire check requirement reduces safety. This commenter also suggests that training for drivers that includes increased security awareness concerning hijackings and theft would be beneficial. In this regard, we note that in an NPRM published under Docket HM–232 on May 2, 2002 (67 FR 22030), we are proposing to add a provision to § 172.704 to require the training of hazmat employees to include a security component covering how to recognize and respond to possible security threats.

A commenter who supports the proposal notes that 49 CFR 392.9, Safe loading, requires drivers of trucks and truck tractors to stop periodically to examine the vehicle's cargo and its load-securing devices. The commenter suggests that we also analyze the risk and benefits related to periodic inspection of load-securing devices. The requirement for safe loading of cargo applies to all types of cargo and not just hazardous materials shipments, and therefore is outside the scope of this rulemaking.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this is not a significant regulatory action within the meaning of Executive Order 12866, or significant within the meaning of DOT regulatory policies and procedures (44 FR 11034).

Eliminating the periodic tire check requirement for motor vehicles transporting hazardous materials will not result in increased compliance costs on the industry. Instead, eliminating periodic stops to check tires will decrease costs for the industry by reducing en route shipment delays and, thus, improving overall delivery times. Because this final rule eliminates a requirement, preparation of a cost-benefit analysis is not warranted.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FMCSA evaluated the effects of this action on small entities. Accordingly, we certify that this action does not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action was analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this final action does not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States. Nothing in this document preempts any State law or regulation.

Executive Order 13175

This final rule has been analyzed under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Unfunded Mandates Reform Act of 1995

This final rule does not impose an unfunded mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*) that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Paperwork Reduction Act

This action does not contain an information collection requirement for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Environmental Assessment

There are no significant environmental impacts associated with this final rule.

List of Subjects in 49 CFR Part 397

Administrative practice and procedure, Highway safety, Intergovernmental relations, Motor carriers, Parking, Radioactive materials, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, FMCSA is amending chapter III, subchapter B, Title 49 of the Code of Federal Regulations, as follows:

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

1. The authority citation for part 397 is revised to read as follows:

Authority: 49 U.S.C. 322; 49 CFR 1.73. Subpart A also issued under 49 U.S.C. 5103, 31136, 31502, and 49 CFR 1.53. Subparts C, D, and E also issued under 49 U.S.C. 5112, 5125.

2. In § 397.17, paragraph (a) is revised to read as follows:

§ 397.17 Tires.

(a) A driver must examine each tire on a motor vehicle at the beginning of each trip and each time the vehicle is parked.

* * * * *

Issued on September 30, 2002.

Joseph M. Clapp,

Administrator, Federal Motor Carrier Safety Administration.

Ellen G. Engleman,

Administrator, Research and Special Programs Administration.

[FR Doc. 02–25226 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

RIN 1018–AI36

Injurious Wildlife Species; Snakeheads (family Channidae)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service adds all species of snakehead fishes in the Channidae family to the list of injurious fish, mollusks, and crustaceans. By this action, the Service prohibits the importation into or transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States. The best available information indicates that this action is necessary to protect wildlife and wildlife resources from the purposeful or accidental introduction and subsequent establishment of snakehead populations in ecosystems of the United States. Live snakehead fishes or viable eggs can be imported only by permit for scientific, medical, educational, or zoological purposes, or without a permit by Federal agencies solely for their own use; permits will also be required for the interstate transportation of live snakeheads or viable eggs currently held in the United States, for scientific, medical, educational, or zoological purposes. This final rule becomes effective immediately upon publication.

DATES: This rule is effective October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Kari Duncan, Division of Environmental Quality, Branch of Invasive Species at (703) 358–2464 or *kari_duncan@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Summary of Actions Taken and Comments

The Fish and Wildlife Service published a proposed rule in the July 26, 2002 (67 FR 48855), **Federal Register** based upon information we obtained indicating that snakehead fishes are injurious to the wildlife and wildlife resources of the United States. The proposed rule invited comments for 30 days ending August 26, 2002. We received 453 written comments during this period. Of those 453 comments, 386 were nonrelevant or nonsignificant, one offered editorial suggestions on the proposed rule, 32 were opposed to adding snakeheads to the list of injurious fishes, and 34 stated their support for the proposed rule. Of the 386 nonrelevant or nonsignificant comments, 353 were electronic messages that were generated erroneously, 13 were electronic messages pertaining to investment scams, 8 were electronic messages pertaining to advertising, one comment offered a resume for employment opportunities, 2 were unknown, 2 offered suggestions/opinions on treating the ponds in Crofton, Maryland, and 7 provided information on sightings of snakeheads. Of the 67 comments that were considered relevant and significant, one came from a Federal agency, 12 from private organizations, 8 from State agencies, and 46 from private individuals.

We reviewed all comments received for substantive issues and new information regarding the injurious nature of snakehead fishes. Similar comments were grouped into issues; these issues and our responses to each are presented below:

Issue 1: One respondent stated that some readers may not understand that snakeheads are fishes until it's stated later in the proposed rule. The respondent suggested clarifying the rule by using the terms ''snakehead fish'' or ''snakehead fishes'' either early in the rule or throughout the rule.

Response: The Service agrees with the respondent's comments on this issue. The suggested changes to improve clarification are used in the final rule.

Issue 2: Twenty-one respondents requested that we not list the entire family of snakehead fishes (Channidae) as injurious, but that we list those species (up to five species) that are large and cold tolerant. The respondents stated that the small, temperature-sensitive species used in the aquarium hobby would not pose a threat in most of the United States because, if released, they would not survive the cold climates.

Response: We acknowledge that five of the 28 species recognized in the Channidae family at this time are considered large, approximately 6 are considered dwarf species, and the remaining species are considered medium-size snakehead fishes. As we presented in the proposed rule, the family Channidae contains 9 species that are strictly tropical, 4 can be considered tropical to subtropical, one is subtropical, 12 can tolerate tropical or subtropical to warm temperate conditions, one is warm temperate, and one is warm temperate to cold temperate.

The tropical species would survive in the warmest waters such as extreme southern Florida, perhaps parts of southern California, Hawaii, and certain thermal spring systems and their outflows in the American west. The tropical to subtropical species would have a similar potential range of distribution as for tropical species but with a greater likelihood of survival during cold winters and more northward limits. The tropical or subtropical to warm temperate species could survive in most southern States. The warm temperate, and warm temperate to cold temperate, species could survive in most areas of the United States.

Although the tropical to subtropical species of snakehead fishes are not likely to become established in the northern waters of the United States, all of the Channidae species, including the dwarf species, are aggressive and highly predatory. Should a species of snakehead fishes be accidentally or intentionally released into U.S. waters, the 131 taxa of threatened and endangered amphibians, fishes, and crustaceans could face additional threats. Additionally, because snakehead fishes are morphologically very similar, it would be very difficult for biologists, wildlife inspectors at entry ports, and law enforcement agents to differentiate among species of snakeheads.

Based upon the aggressive, predatory nature of all species of snakehead fishes, the fact that one or more species could become established in most waters of the United States, and the fact that it is very difficult to differentiate among the species of snakeheads, the Fish and Wildlife Service has determined that all 28 of the currently recognized species of snakehead fishes in the Channidae family should be listed as injurious fishes under the Lacey Act.

Issue 3: Six respondents indicated that most hobbyists and fish keepers are responsible and know that releasing exotic species into the environment is dangerous to the environment. The respondents indicated that the responsible hobbyists should not be punished and all species of snakehead fishes should not be listed as injurious. Additionally, most of these respondents stated that an educational campaign should be initiated to explain the hazards of releasing exotic species into the environment and encourage the proper disposition of unwanted pets.

Response: The Service appreciates that most hobbyists and fish keepers are responsible and properly dispose of unwanted pets. It is to the tremendous credit of hobbyists that snakehead fishes

have been imported into the United States and only a small number have been found in the wild. This rule is not intended to punish hobbyists; it is based upon the scientific evidence that indicates that snakehead fishes are aggressive and highly predatory and therefore threaten the wildlife and wildlife resources of the United States. It is important to note that individuals or organizations who possessed snakeheads prior to the injurious wildlife listing in States where possession of snakeheads is legal will be able to continue to possess them; however, they will be prohibited from transporting them across State lines.

The Fish and Wildlife Service has initiated a national public awareness campaign known as Stop Aquatic Hitchhikers! This campaign targets aquatic recreation users to raise their awareness about the growing aquatic invasive species problem and to encourage them to become part of the solution in preventing the spread of harmful, nonnative species. While aquatic recreation users may not be responsible for bringing these species into the country, they may inadvertently transport them overland. The Service is working with State fish and wildlife agencies, conservation organizations, and the fishing and boating industries to address this issue. The campaign has a supporting web site with the address: *http://www.protectyourwaters.net.*

The Service is considering the development of a new campaign similar to Stop Aquatic Hitchhikers! that would target aquarium hobbyists. This campaign would be conducted in conjunction with the Pet Industry Joint Advisory Council, the largest trade association in the United States representing the pet industry in Washington, DC, and it would focus on raising awareness about aquatic invasive species, and encouraging aquarium hobbyists to adopt preventive actions to avoid having unwanted aquarium fish and plant species become part of our environment. The campaign would be a multi-layered, voluntary effort, and would encourage aquarium species importers, wholesalers, retailers and consumers to focus on how the aquarium industry is a responsible economic sector that collectively values the environment and seeks to protect it while simultaneously enjoying the benefits of the aquarium hobby.

Issue 4: Two respondents stated that they are opposed to the injurious wildlife listing because snakehead fishes are valuable food fish.

Response: The Service recognizes the value of snakehead fishes as a food source, just as we recognize their value to hobbyists. However, as stated above, the decision to list the Channidae family of snakehead fishes is based upon scientific data on the hazards that these fishes would present to the wildlife and wildlife resources of the United States. Dead or frozen snakehead fishes can continue to be imported and transported as an alternative to importing live snakeheads.

Issue 5: Two respondents stated that they consider the injurious wildlife listing of snakehead fishes to be racist against the Asian American community because it would prohibit the use of a valuable food source and protect the sport activity of European Americans. Additionally, the respondents indicated that the Service should consult with the Asian American community and that we should consider snakeheads as an economic resource and not a threat.

Response: The decision to list snakehead fishes as injurious under the Lacey Act is based solely on the biological characteristics of the fishes and the need to protect our native wildlife and wildlife resources, and is in no way based upon race or ethnicity, or preserving recreational opportunities for certain sectors of the population. We have substantial scientific data that describe the harm that snakehead fishes cause when introduced outside of their native range and are likely to cause if released into U.S. waters.

According to our Law Enforcement data, 372 individuals and 892 kilograms of snakehead fishes were imported into the United States in 1997; 1,488 individuals and 1,883 kilograms were imported in 1998; 6,044 individuals and 8,512 kilograms were imported in 1999; 8,650 individuals and 9,240 kilograms were imported in 2000; and 20,547 individuals were imported in 2001. We do not have information on how many of those imports contained young fishes destined for the aquarium trade and how many were larger individuals destined to be sold as live food fish. While the importations did increase between 1997 and 2001, the importation of snakehead fishes into the contiguous United States does not appear to represent a significant portion of live fish imports. We suggest that all persons who previously used live snakeheads as a food fish consider the use of dead or frozen fish as an alternative.

Issue 6: Two respondents indicated that the proposed listing of snakehead fishes was based more on hype than fact, and is an overreaction to media attention.

Response: As a result of the discovery of the bullseye snakeheads in south Florida, the U.S. Geological Survey and the Service began evaluating the risks associated with snakehead fishes in 2001. Consequently, the injurious wildlife listing was being developed within the Service before the recent media attention.

Outside of what is published in our official press releases, the Service has no control over what is published in the media. We agree that some of the facts have been exaggerated, and we have taken measures to correct misinformation that has appeared in the media.

Issue 7: Thirteen respondents stated that snakehead fishes threaten ecological harmony, present major risks to ecosystems and aquatic communities, and could eliminate some of our threatened and endangered species that are restricted in distribution. The respondents also stated that the United States has a well-documented history of adverse consequences to native species due to the introduction of other nonnative species.

Response: The Service agrees with the respondents' comments on these issues. The biological characteristics of snakehead fishes and their potential to be injurious to the wildlife and wildlife resources of the United States is the basis for our decision to add snakeheads to the list of injurious fishes under the Lacey Act.

Issue 8: Two respondents stated that the fines are too lenient compared to the potential ecological devastation caused by the potential establishment of snakeheads.

Response: The Secretary of the Interior has the authority under the Lacey Act to add species to the injurious wildlife list, but the Secretary does not have the authority to change the penalties. The penalties are established by statute and can be changed by an act of Congress.

Issue 9: Three respondents stated that the prohibition on importation and interstate transportation of snakehead fishes would not significantly impact the aquarium industry. They also stated that the humane disposition of snakeheads will be encouraged.

Response: The Service is pleased that this action will not result in significant financial losses to aquarium fish producers, wholesalers, and retailers. We are also encouraged that the respondents are willing to proactively promote the humane disposal of the fishes, thereby reducing the risk that they would be introduced into the environment.

Issue 10: Three respondents stated that they are opposed to listing the family Channidae by simply referring to ''Channidae'' because the taxonomy is not clear and not all people are

conversant with scientific names. The respondents suggested we revise 50 CFR 16.13 to resemble a list instead of a paragraph, and that we include the genus, species, and common names of all currently recognized snakehead species, as well as the family name.

Response: We have accepted this suggestion and made the changes in this rule. We have also included synonyms for the *Channa* and *Parachanna* genera.

Issue 11: One respondent expressed concern that permits for importation and interstate transportation can be issued for medical purposes under the Lacey Act. The respondent indicated that permits should be granted only to accredited medical institutions.

Response: As described in 50 CFR 16.22, the Director of the Fish and Wildlife Service may issue permits for the importation and interstate transportation of injurious species only for scientific, medical, educational, or zoological purposes. Persons or institutions wishing to apply for a permit must meet the application requirements, additional permit conditions, and issuance criteria as set forth in 50 CFR 16.22. Permits are issued only to legitimate individuals and/or institutions for medical research, scientific, zoological, or educational purposes.

Description of the Final Rule

The regulations contained in 50 CFR part 16 implement the Lacey Act (18 U.S.C. 42) as amended. Under the terms of that law, the Secretary of the Interior is authorized to prohibit by regulation certain activities involving wild mammals, wild birds, fish (including mollusks and crustaceans), amphibians, reptiles, and the offspring or eggs of any of the foregoing that are injurious to human beings, to the interests of agriculture, horticulture, or forestry, or to the wildlife or wildlife resources of the United States. The lists of injurious wildlife species are at 50 CFR 16.11 to 16.15. By adding snakehead fishes to the list of injurious wildlife, their importation into, and transportation between, States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever is prohibited, except by permit for zoological, educational, medical, or scientific purposes (in accordance with permit regulations at 50 CFR 16.22), or by Federal agencies without a permit solely for their own use, upon filing a written declaration with the District Director of Customs and the U.S. Fish and Wildlife Service Inspector at the port of entry. No live snakehead fish, progeny thereof, or viable eggs imported or transported under a permit may be sold, donated, traded, loaned, or transferred to any other person or institution unless such person or institution has a permit issued by the Director of the U.S. Fish and Wildlife Service. The interstate transportation of any live snakehead fish or viable eggs currently held in the United States for any purpose is prohibited without a permit.

Biology

Two genera of snakehead fishes are currently recognized in the family Channidae. They are *Channa* (snakehead fishes of Asia, Malaysia, and Indonesia) and *Parachanna* (African snakeheads). Synonyms include *Bostrychoides*, *Ophicephalus* and its misspelled form *Ophiocephalus*, and *Parophiocephalus*. Although 86 species and 4 subspecies have been described (Eschmeyer, 1998), current taxonomy is in flux with approximately 28 species recognized as valid (Musikasinthorn, 2001; Table 1). Because their morphology is very similar, it is very difficult to differentiate among species of snakeheads. Juvenile and adult color patterns are often quite different (Day, 1875; Lee and Ng, 1991, 1994), and some are quite variable in size and color, and may represent species complexes. A taxonomic revision of the family, expected to be published within the next two years, will likely result in additional species being recognized as valid and perhaps new species described.

TABLE 1.—CURRENTLY RECOGNIZED SPECIES OF THE FAMILY CHANNIDAE (AFTER MUSIKASINTHORN, 2000, 2001).

Channa amphibeus (McClelland, 1845)—no common name known.
Channa argus (Cantor, 1842)—northern snakehead.
Channa asiatica (Linnaeus, 1758)—Chinese snakehead.
Channa aurantimaculata Musikasinthorn, 2000—no English common name; nagacheng (Assam, India).
Channa bankanensis (Bleeker, 1852)—Bangka snakehead.
Channa baramensis (Steindachner, 1901)—Baram snakehead.
Channa barca (Hamilton, 1822)—barca snakehead.
Channa bleheri Vierke, 1991—rainbow snakehead.
Channa cyanospilos (Bleeker, 1853)—bluespotted snakehead.
Channa gachua (Hamilton, 1822)—dwarf snakehead.
Channa harcourtbutleri (Annandale, 1918)—Inle snakehead.
Channa lucius (Cuvier, 1831)—splendid snakehead.

TABLE 1.—CURRENTLY RECOGNIZED SPECIES OF THE FAMILY CHANNIDAE (AFTER MUSIKASINTHORN, 2000, 2001).—Continued

Channa maculata (Lacepéde, 1802)—blotched snakehead.
Channa marulius (Hamilton, 1822)—bullseye snakehead.
Channa maruloides (Bleeker, 1851)—emperor snakehead.
Channa melanoptera (Bleeker, 1855)—no common name known.
Channa melasoma (Bleeker, 1851)—black snakehead.
Channa micropeltes (Cuvier, 1831)—giant snakehead.
Channa nox (Zhang, Musikasinthorn, and Watanabe, 2002)—no English common name.
Channa orientalis Schneider, 1801—Ceylon snakehead.
Channa panaw Musikasinthorn, 1998—no English common name; ng panaw (Myanmar).
Channa pleurophthalmus (Bleeker, 1851)—ocellated snakehead.
Channa punctata (Bloch, 1793)—spotted snakehead.
Channa stewartii (Playfair, 1867)—golden snakehead.
Channa striata (Bloch, 1797)—chevron snakehead.
Parachanna africana (Steindachner, 1879)—Niger snakehead.
Parachanna insignis (Sauvage, 1884)—Congo snakehead.
Parachanna obscura (Günther, 1861)—African snakehead.

Snakehead fishes have distinctive morphological features as follows: Long, almost cylindrical body; long dorsal and anal fins, and all fins supported only by rays; most with large scales on head, somewhat similar to the large epidermal scales on the heads of snakes (hence the common name, snakeheads); eyes dorsolateral (back and side) and located on the anterior portion of the head; tubular, anterior nostrils; pectoral and caudal fin margins rounded; large mouth with protruding lower jaw; lower jaw always toothed, and prevomer and palatines often toothed; some lower jaw teeth canine-like, and canines present or absent on prevomer and palatines; most species with pelvic fins present; and ventral aorta typically divided into two portions, one serving the gills and the other the suprabranchial (above the gills) chambers. Suprabranchial chambers of *Channa* are non-labyrinthic (complex system of paths/tunnels), and made up of two plates, one formed by the first epibranchial (above the gills), the second from the hyomandibular; those of *Parachanna* consist of a single cavity with elements from the epibranchial of the first gill arch and hyomandibular absent.

Two larger snakehead species, *Channa marulius* and *C. maruloides,* superficially resemble the native bowfin, *Amia calva,* in that all three are elongated fishes, have long dorsal fins, tubular nostrils, and an ocellus (eyespot) at the base of the upper portion of the caudal fin. The bowfin, however, has its pelvic fins in a more abdominal rather than thoracic or anterior-abdominal position, and the anal fin is not elongated. Moreover, the bowfin does not have a rosette (circular arrangement) of enlarged scales on top of the head.

Species and species complexes of the genus *Channa* are native from southeastern Iran and eastern Afghanistan eastward through Pakistan, India, southern Nepal, Bangladesh, Myanmar (Burma), Thailand, Laos, Malaysia, Sumatra, Indonesia, and China northward into Siberia. Of the currently recognized 25 species of *Channa,* 9 species and representatives of 4 species complexes occur in peninsular Malaysia, Sumatra, and/or Indonesia. Of the same 25 species, 16 species and members of 5 species complexes are tropical to subtropical; members of three species complexes are temperate; and one species is temperate to boreal and can live beneath ice in the northern portion of its range. The three species of *Parachanna* are native to Africa and are tropical.

Snakeheads are considered as non-ostariophysan primary freshwater fishes (Mirza, 1975, 1995), meaning they have little or no tolerance for seawater. Habitat preferences vary by species or species complex, with a majority occurring in streams and rivers. Others occur in swamps, rice paddies, ponds, and ditches. All can tolerate hypoxic (low oxygen) conditions because they are airbreathers from late juvenile stages. Where known, pH range varies by species with one (*Channa bankanensis*) preferring highly acidic (pH 2.8–3.8) waters. At least three species are tolerant of a wide pH range; *C. gachua, C. punctata,* and *C. striata* survived for 72 hours at pH levels ranging from 4.25 to 9.4 (Varma, 1979).

Spawning seasons vary by species. While information on reproductive biology of many species is lacking, several conclusions can be drawn from those for which this information is available. Breeding in several species occurs primarily in summer months (June through August), and in at least two (the *Channa striata* species complex and *C. punctata*), breeding pairs can be found throughout the year. Some species spawn twice each year. Okada (1960) reported that female northern snakeheads, *C. argus,* are capable of spawning five times per year. There are several reports that when snakeheads pair, the pair remains monogamous for a spawning season, perhaps longer, but a pair may not mate for life.

Snakehead fishes build nests by clearing a generally circular area in aquatic vegetation, often weaving the removed vegetation around the centrally cleared area. This results in a vertical column of water surrounded by vegetation. One species (*C. punctata*) prepares elaborate tunnels through vegetation leading into the nest column. At time of spawning, the male and female move upward into the central region of the nest column. The male entwines his body around that of the female, with some species appearing to ''dance'' in the water column as eggs are released and fertilized (Breder and Rosen, 1966; Ng and Lim, 1990). Eggs are buoyant, rising to the surface of the nest column, where they are vigorously guarded by one or both parents. Snakeheads in two species complexes (*C. gachua* and *C. orientalis*) are mouthbrooders, with the male being the mouthbrooder of fertilized eggs and, later, fry. Most snakehead fishes, however, are not mouthbrooders, but one or both parents guard their young vigorously; one species (*C. micropeltes*) reportedly attacked and in some instances killed humans who approached the mass of young (Kottelat, 1993). Thus, parental care, whether by mouthbrooding or guarding, is a behavioral characteristic of snakehead fishes. Successful spawning in the absence of vegetation has also been reported for three species of snakeheads (Parameswaran and Murgesan, 1976b).

Fecundity and early development: There is limited information on fecundity (capacity to produce offspring) except for those snakehead fishes of commercial importance. Nevertheless, that information shows a pattern that likely applies to the entire family Channidae. Smaller species, such as *Channa gachua* and *C. orientalis,* produce few oöcytes or unfertilized ''eggs'' (about 20 when sexual maturity is first reached and later up to 200; Lee and Ng, 1991, 1994). Both are considered to be ''species complexes'' and one or both ''species'' contain mouthbrooding adults; low fecundity is a general rule among mouthbrooding fishes (Breder and Rosen, 1966). Fecundity increases greatly in larger snakehead species and appears to follow increasing body length. For example, Quayyum and Quasim (1962) recorded fecundity ranging from 2,300 to 26,000 oöcytes for *C. striata,* increasing in number with increasing body length. The bullseye snakehead, *C. marulius,* the largest species of snakehead, has been reported to produce approximately 40,000 oöcytes (Jhingran, 1984). Frank (1970) reported that the northern snakehead, *C. argus,* produced approximately 50,000 oöcytes. Frank's data came from Nikol'skiy (1956) who recorded fecundity of 22,000 to 51,000 in northern snakehead from the Amur basin. Dukravets and Machulin (1978) gave fecundity rates of 28,600 to a high of 115,000 for northern snakehead (probably from Yangtze River stock) introduced to the Syr Dar'ya basin of Turkmenistan/Uzbekistan. They also noted that, although the growth of northern snakehead is slower than that reported for this species from the Amur basin, growth rates from both stocks become equal once sexual maturity is reached.

Oöcytes, when released from the female parent, are small, ranging from approximately 1 mm to slightly over 2 mm in diameter, depending on species. Fertilization takes place by the male releasing milt (sperm) on the oöcytes (or eggs) as they emerge from the female. Eggs contain an oil droplet within the yolk mass, which causes them to rise to the surface. Development time to hatching varies with water temperature and, to a lesser extent, with the species involved. For example, hatching occurred in 54 hours at 16–26°C and 30 hours at 28–33°C in *Channa punctata* (Khan, 1924). In the northern snakehead, *C. argus,* eggs hatch in 28 hours at 31°C, 45 hours at 25°C, and 120 hours at 18°C.

Early life history: In general, newly hatched fry, depending on species, are about 3.0—3.5 mm in length. Following yolk absorption, snakehead fry begin feeding on zooplankton. Fry typically remain together until they reach early juvenile stage, guarded by one or both adults, or until they can fend for themselves (Lee and Ng, 1994). Late juveniles of the giant snakehead, *Channa micropeltes,* school and feed in packs (Lee and Ng, 1991). Although there are few reports of early life history except for species of commercial importance, it appears that, as larval snakeheads mature to early juvenile stages, the diet changes to small crustaceans and insects, particularly insect larvae. Presence of phytoplankton, plant material, and detritus in the digestive system of young snakeheads, as well as adults, appears to occur from incidental ingestion.

Respiration and overland migrations: Snakeheads are highly evolved airbreathing teleostean (bony) fishes, and many are capable of overland migration by wriggling motions (Lee and

Ng, 1991; Berra, 2001). They possess suprabranchial (above the gills) chambers for aerial respiration, and the ventral aorta is divided into two portions to permit bimodal (aquatic and aerial) respiration (Das and Saxena, 1956; Graham, 1997). The suprabranchial chambers become functional during the juvenile stage of growth (Graham, 1997), following which some species of snakehead fishes are obligate (limited, bound to a restricted environment) and others are facultative (optional, ability to live under varied conditions) airbreathers. In *Channa,* the chambers open into the pharynx through inhalent openings. The chamber lining contains respiratory ''islets'' with vascular papillae. The chambers can be filled with air or water. In addition, in *C. striata,* there are also vascular structures in the mouth and pharynx that can be utilized for respiration; these, however, can be retracted into depressions to prevent damage when feeding (Munshi and Hughes, 1992).

Some channids, perhaps all, have a circadian rhythm in oxygen uptake. *Channa marulius,* for example, showed a peak in oxygen uptake at night. *C. striata* and *C. gachua* peaked in early night hours, and *C. punctata* at dusk (Munshi and Hughes, 1992). Munshi and Hughes (1992) attributed these rhythms to evolution in swamp ecosystems (*i.e.*, the rhythm is a property of the ecosystem).

It is unknown how many species of snakehead fishes are capable of overland migrations, but several are known to do so. These migrations from drying habitats in search of those with water are probably driven by instinctive behavior. Overland migrations likely apply to those species whose native range is subject to seasonal dry/wet (or monsoonal) conditions (encompassing much of western to southeastern Asia, where a majority of snakehead species exist).

Hypoxic survival: Snakehead fishes are either obligate or facultative airbreathers. Therefore, survival in hypoxic waters is not problematic to these fishes. When prevented from access to the surface, some adult snakeheads will drown due to lack of oxygen (Day, 1868, Lee and Ng, 1991). Moreover, snakeheads can remain out of water for considerable periods of time as long as they remain moist. Some snakeheads, especially *Channa striata,* can bury themselves in mud during times of drought (Smith, 1965). They are known to secrete mucus that helps to reduce desiccation and facilitates cutaneous breathing (Mittal and Banerji, 1975; Lee and Ng, 1991).

Fishers in Thailand are aware of this habit and, during drought periods, will slice into the mud until they locate the fish (Smith, 1965).

For larger species of snakeheads such as *Channa marulius,* young are facultative airbreathers and adults are obligate breathers (Wee, 1982), but all species are airbreathers.

Lifespan: No specific information on lifespan can be found in the literature. Nevertheless, one species (*C. marulius*) is reported to reach a total length of 1.8 meters in Maharashtra State, India (Talwar and Jhingran, 1992), indicating a relatively long lifespan. Smaller snakeheads, such as members of the *C. gachua* and *C. orientalis* species complexes, may not live for more than a few years. Most larger snakeheads are reported to reach sexual maturity in two years, after which growth slows but fecundity increases with increasing size.

Feeding habits: There are few studies of feeding habits of snakeheads. For those species studied, following yolk-sac absorption, snakehead fry feed mostly on zooplankton. As juveniles, they feed on insect larvae, small crustaceans, and fry of other fishes (Munshi and Hughes, 1992). What is universal in reports of adult feeding habits is that snakeheads are predators with many species showing a preference for other fishes, although they may also consume crustaceans, frogs, smaller reptiles, and larger species may sometimes consume birds and small mammals. Under conditions of food deprivation, snakeheads can become cannibalistic on their own young. The piscivorous (fish-eating) nature of snakeheads has led to the use of some species (*C. striata* and *C. micropeltes* in particular) to control tilapia populations in aquaculture.

Associated diseases and parasites: Investigations of diseases and parasites of snakeheads concentrate on those species of importance in aquaculture. Bykhovskaya-Pavlovskaya *et al.* (1964) cited *Channa argus* as hosting 18 parasite species (Table 2). Two of the same parasites listed by Bykhovskaya-Pavlovskaya *et al.* (1964) were reported from the digestive tracts of northern snakehead from Kyungpook Province, Korea, from 115 specimens collected between 1995 and 1997. The trematode *Azygia hwangtsinyi* was found in 47% of the samples and the nematode *Pingis sinensis* in 73%.

TABLE 2.—PARASITES OF NORTHERN SNAKEHEAD, *Channa argus* (ADAPTED FROM BYKHOVSKAYA-PAVOLOVSKAYA ET AL. (1964)

Parasite	Group	Host issues	Other fishes affected
Myxidium ophiocephali	Myxosporidia	Gall bladder, liver ducts.	
Zschokkella ophiocephalli	Myxosporidia	Kidney tubules.	
Neomyxobolus ophiocephalus	Myxosporidia	Gill filaments.	
Mysosoma acuta	Myxosporidia	Gill filaments	crucian carp.
Myxobolus cheisini	Myxosporidia	Gill filaments.	
Henneguya zschokkei?	Myxosporidia	Gills, subcutaneous, musculature.	salmonids (tubercle disease of salmonids).
Henneguya ophiocephali	Myxosporidia	Gill arches, suprabranchial chambers.	
Henneguya vovki	Myxosporidia	Body cavity.	
Thelohanellus catlae	Myxosporidia	Kidneys.	
Gyrodactylus ophiocephali	Monogenoidea	Fins.	
Polyonchobothrium ophiocephalina	Cestoidea	Intestine.	
Cysticercus Gryporhynchus cheilancristrotus	Cestoidea	Gallbladder, intestine	cyprinids, perches.
Azygia hwangtsiüi	Trematoda	Intestine.	
Clinostomum complanatum	Trematoda	Body cavity	perches.
Pingis sinensis	Nematoda	Intestine.	
Paracanthocephalus curtus	Acanthocephala	Intestine	cyprinids, esocids, sleepers, bagrid catfishes.

TABLE 2.—PARASITES OF NORTHERN SNAKEHEAD, *Channa argus* (ADAPTED FROM BYKHOVSKAYA-PAVOLOVSKAYA ET AL. (1964)—Continued

Parasite	Group	Host issues	Other fishes affected
Paracanthocephalus tenuirostris	Acanthocephala	Intestine.	
Lamproglena chinensis	Copepoda	Gills.	

Literature on parasites of snakeheads includes numerous descriptions of new species, not detailed herein, but indicates that most studies concentrate on cultured fishes such as Channa argus, C. punctata, and C. striata. The potential threat of these parasites to native North American fishes has yet to be examined.

A disease that received broad attention is epizootic ulcerative syndrome (EUS) that causes high mortality in snakeheads, particularly *Channa striata* and *C. punctata* under intensive culture. EUS involves several pathogens, including motile aeromonad bacteria (*e.g., Aeromonas hydrophila, A. caviae, Pseudomonas fluorescens;* Prasad *et al.*, 1998; Qureshi *et al.*, 1999), a fungus *Aphanomyces invadans* (considered a primary pathogen; Mohan *et al.*, 1999; Miles *et al.*, 2001), and perhaps a rhabdovirus (Kanchanakhan *et al.*, 1999; Lio-Po *et al.*, 2000). Another bacterium, *Aquaspirillum* sp., has also been implicated in the disease (Lio-Po *et al.*, 1998). EUS may have originated in India in the 1980s, but has since been found in Pakistan, Thailand, and the Philippines with outbreaks reported from all these areas during the 1990s. Snakeheads are not the only fishes affected by this disease. It is also known to occur in airbreathing catfish (*Clarias*), the bagrid catfish genus *Mystus,* two cyprinid genera (*Cyprinus* and *Puntius*), mastacembalid eels (*Mastacembalus*), and the nandid genus *Nandus* in India (Mukherjee, 1998). In Thailand, it has been found in giant gourami (*Osphronemus gouramy*) and climbing perch (*Anabas testudineus*) during an outbreak in 1996–1997 (Kanchanakhan *et al.*, 1999).

History of introduction in the United States: Four species of snakeheads (*Channa argus, C. marulius, C. micropeltes,* and *C. striata*) have been recorded from open waters of the United States (California, Florida, Hawaii, Maine, Maryland, Massachusetts, and Rhode Island), and two have become established as reproducing populations. At least 16 States prohibit possession of live snakeheads (Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kentucky, Mississippi, Nevada, North Carolina, Oregon, Pennsylvania, Texas, Utah, and Washington), and illegal activity, confiscations, citations, or investigations have occurred in six of those States within the past two years (Alabama, California, Florida, Kentucky, Texas, and Washington).

Florida: An established population of the bullseye snakehead, *Channa marulius,* was discovered in residential lakes and adjoining canals in Tamarac, Broward County, Florida, in 2001 (Florida Fish and Wildlife Conservation Commission, 2001). It is unknown how long this species has occupied these waters, perhaps several years, but both juveniles and adults have been collected, which indicates reproductive success. This species is the largest of snakeheads, with adults commonly reaching lengths of 120–122 cm (Talwar and Jhingran, 1992). Researchers have reported that in Maharashtra State, India, this species can reach a length of 1.8 m and a weight of 30 kg (Talwar and Jhingran, 1992). A length of 30 cm can be reached in one year (Talwar and Jhingran, 1992). The pathway of the introduction to Florida is unknown. The species may have escaped from a fish farm (although there are none known in Tamarac), been purposefully introduced to establish a food or aquarium fish resource, or they may have been introduced by aquarists. Tamarac is located just east of Water Conservation Area II, north of Everglades National Park, and interconnected canal systems lead into this area. Nevertheless, there are water control structures on canals leading into Water Conservation Area II that would have to be open to allow this snakehead access to that area. It is likely that *C. marulius* will expand its range in peninsular Florida as its native range includes tropical to temperate climates. The bullseye snakehead is considered predacious (Jhingran, 1984; Talwar and Jhingran, 1992), especially on other fishes (Schmidt, 2001).

The northern snakehead, *Channa argus,* is also reported from Florida waters. Two individuals were caught in the St. Johns River below Lake Harney, Seminole and Volusia counties, in 2000. Unconfirmed reports indicate three additional individuals having been caught nearby. An attempt to collect additional specimens by U.S. Geological Survey (USGS) personnel by electroshocking was unsuccessful, but will be repeated in 2002. Until reproduction has been confirmed, the species is considered present but not established. This species is not involved in the aquarium fish trade, but is sold in live food fish markets as a food fish. The most likely pathway is introduction of live food fish, perhaps to establish a local source. The northern snakehead is sold in live food fish markets and some restaurants in Boston and New York, where snakeheads are legal. Live *C. argus* were confiscated in Washington (100 individuals, alive on ice, destined for the international district of Seattle), a market in Houston, Texas (Howells *et al.*, 2002), markets in Miami and Plantation, southeastern Florida, in 2001, and in Orlando, Florida, in March 2002, all indications of the availability of this species in States where possession is illegal. Moreover, a few U.S. aquarium fish retailers sell snakeheads via the Internet. USGS scientists purchased three species from a reputable dealer in Rhode Island, who first requested a copy of the State permit that allowed USGS to possess the fish in Florida. Private purchases can also be made through several Internet ''chat rooms'' where possession of permits is not discussed.

California: California Department of Fish and Game personnel collected a snakehead while electrofishing in a reservoir, Silverwood Lake, in 1997. Silverwood Lake is in the Mohave River drainage, east-northeast of Los Angeles and north of San Bernardino in the San Bernardino Mountains. The specimen was subsequently frozen and later discarded (Camm Swift, pers. comm.). It was identified as *Channa argus* (John Sunada, pers. comm. to W.R. Courtenay, Jr.). It is believed that the fish got in the lake from the California Aqueduct that runs from the San Joaquin River south of Stockton into Lake Silverwood, one of several reservoirs that serves Los Angeles.

Hawaii: The chevron snakehead, (*Channa striata*) has been established on Oahu, Hawaii, since the late 1800s and was introduced from southern China (Herre, 1924). For whatever reasons, it does not appear to have been introduced to other waters of Hawaii and is confined to reservoirs on Oahu (Maciolek, 1984). In addition, the

species is now being cultured as a food fish on Oahu. This species is regarded as carnivorous with a preference for other fishes (Moshin and Ambak, 1983; Conlu, 1986). Lee and Ng (1991) described it as a territorial ambush feeder. It is also used to control tilapia populations in the Philippines (Conlu, 1986).

Maryland: Two adults and eight juveniles of *Channa argus* were found in a pond in Crofton, Anne Arundel County, Maryland in late June and early July 2002. Maryland Department of Natural Resources personnel captured over 100 juveniles from the pond in July 2002. The adults are known to have over-wintered in the pond. The fish were purchased from a live food fish market in New York City, transported to Maryland, and kept in an aquarium, and two fish were released into the pond in 2000. This species appears to be the most common snakehead available in food markets and restaurants as a live food fish.

New England States: A specimen of the northern snakehead, *Channa argus,* was collected in October 2001 from Newton Pond, Sudbury, Worcester County, Massachusetts, by Massachusetts Department of Fish and Wildlife personnel. The likely source is from live food fish markets. It is capable of establishment in most fresh waters of the United States. Okada (1960) reported adults as voracious feeders, particularly on other fishes.

Specimens of the giant snakehead, *Channa micropeltes,* have been collected from open waters in Maine, Massachusetts, and Rhode Island (Courtenay et al, 1984; Fuller *et al.*, 1999). This tropical/subtropical species could not become established in those temperate waters. Juveniles of the species are cardinal red with two dark stripes on either side of the body, and sold by aquarium fish retailers as red or redline snakeheads. Aquarist-oriented web sites note that this species requires much animal food and that growth is rapid. These sites often advise that, once these fish reach approximately 15–20 cm in length, no more than one individual should be kept in a single aquarium because they are aggressive predators. The pathway into these New England States was likely aquarists who released their ''pets'' when they grew too large for their aquaria and/or because it was too costly to feed them. Releases of this species into subtropical waters in southern Florida or Hawaii could lead to establishment of this snakehead, regarded as the most predaceous channid and known to have attacked humans (Ng and Lim, 1990; Lee and Ng, 1991; Kottelat *et al.*, 1993).

Uses: According to U.S. Fish and Wildlife Service Law Enforcement data, 16,554 individuals or 20,527 kilograms of all species of snakeheads were imported into the United States between 1997 and 2000 at a declared value of $85,425 (records of imports report numbers of individual fish OR weight in kilograms). Importations of snakeheads into the United States do not appear to represent a significant portion of live fish imports at present. However, from the raw data, it is clear that the trend has been upward in recent years.

Snakeheads have been imported into the United States for two purposes: as aquarium fish and for use as food. In Southeast Asia, particularly in Thailand and Malaysia, and to a lesser extent in Japan, there are developing recreational fisheries for the larger snakehead species (see *http://www.fishingasia.com* as an example).

Several species of snakeheads are listed on aquarium fish websites. Some of these entries are for information purposes and a few others list fish for sale. The most popular species are, in order of importance and availability: *Channa micropeltes,* juveniles sold as red or redline snakehead; *C. marulius,* juveniles sold as cobra snakehead; *C. bleheri,* sold as rainbow snakehead; *C. barca* sold as barca or tiger snakehead; *C. gachua* sold under a variety of names; and *Parachanna africana,* juveniles sold as African snakehead. Some are cultured and others are captured from the wild. Rarely does one see listings for *C. asiatica, C. orientalis, C. pleuropthalma, C. punctata,* or *C. stewartii.* This is somewhat surprising because several are attractive aquarium fishes, and they can be purchased from dealers in southeast Asia via the Internet. *Channa bleheri, C. gachua,* and *C. orientalis* are small snakeheads, unlike *C. micropeltes* and *C. marulius* that grow quickly to large sizes. All but the smallest snakeheads are unsuitable for community tanks, and even they may kill other fishes in aquaria. Larger snakeheads require very large aquaria and must be kept alone. The number of aquarium hobbyists interested in keeping snakeheads appears to be small, and snakeheads represent a minor component in the aquarium fish industry (Marshall Myers, pers. comm. to J.D. Williams).

Conversely, use of snakeheads as food fishes is growing in the United States (Table 3). Live snakeheads of the larger species can be purchased in live food fish markets and in some restaurants in States where these fishes are not prohibited, but they are also appearing in markets in States where possession is prohibited (Howells *et al.*, 2002). Some restaurants display live snakeheads in aquaria, a common practice where these fishes are native, allowing customers to choose a fish to be prepared for a meal. This is reminiscent of many U.S. seafood restaurants where one can select a lobster to be cooked from an aquarium.

During FY 1999, the USDA Small Business Innovation Research Program funded a Phase II project to the Hawaii Fish Company of Waialua, Hawaii, to develop commercial culture of the chevron snakehead, *Channa striata.* It is now being cultured in Hawaii as a food fish.

TABLE 3.—SPECIES OF THE FAMILY CHANNIDAE CURRENTLY KNOWN TO BE CULTURED FOR FOOD AND/OR AQUARIUM FISH TRADE

*Channa argus***
Channa marulius
Channa punctata
Parachanna africana
Channa maculatus
*Channa micropeltes****
*Channa striata**
Parachanna obscura

* Species most widely cultured for food. Also being cultured in Hawaii.

** Second most important species cultured for food.

*** Appears to be the most important species cultured for the aquarium fish trade.

Although several snakehead species may be found for sale alive in live food fish markets, the most available species is the northern snakehead, *Channa argus.* It is being sold in Boston and New York City, where snakeheads are legal. Through confiscation by State fish and game personnel in 2001, it has also been found in the live food fish trade of three States (Florida, Texas, and Washington) where possession of snakeheads is prohibited. The northern snakehead is able to tolerate a considerable temperature range, from warm temperate to boreal climates, where this species can live under ice. Additionally, its airbreathing capabilities enhance its transport and marketing. Marketing and customer preferences, however, are not synonymous. For example, persons of southeastern Asian descent prefer chevron snakehead, *C. striata,* above any other species. It is currently being cultured in much of southeastern Asia, the Philippines, and Hawaii.

Potential Range: Temperature is the most important environmental factor that would determine potential range of snakeheads in the United States. Because there are few data providing thermal tolerance ranges for snakeheads, potential range must be inferred from

distribution within native ranges. The family Channidae contains nine species that are strictly tropical, and if introduced, would survive in the warmest waters such as extreme southern Florida, perhaps parts of southern California, Hawaii, and certain thermal spring systems and their outflows in the American west. Another four can be considered tropical to subtropical, indicating a similar potential range of distribution as for tropical species but with a greater likelihood of survival during cold winters and more northward limits. One is subtropical. Another 12 (4 of which appear to be species complexes) snakeheads can tolerate tropical or subtropical to warm temperate conditions, indicative of species that could survive in most southern States. One is warm temperate, and another warm temperate to cold temperate (*Channa argus* with a temperature range of 0–>30 °C).

In summary, there are few waters in the United States or territories of the United States that, based on temperature, would preclude some member(s) of the family Channidae from becoming established.

Factors That Contribute to Injuriousness

The likelihood of release or escape of snakeheads is high. One species, *Channa striata*, was released and became established in waters of Oahu, Hawaii, before 1900. It was likely introduced as a food fish. A second species, *Channa marulius,* is a recent introduction to southeastern Florida (Broward County) and has also become established. The pathway for this introduction was release of either food or aquarium fish. Two specimens of *Channa argus* were caught in the St. Johns River near Sanford, Florida, and three more are believed to have been caught at or near the same location. This species is available only through live food fish markets. The same species was captured from a pond in central Massachusetts in October 2001. The snakehead captured in Lake Silverwood, California, was also *C. argus.* Two adults and eight juveniles of *C. argus* were collected from a pond in Crofton, Maryland, in June and July 2002. Individual specimens of *Channa micropeltes* were caught in Maine, Massachusetts, and Rhode Island in past years, the source of which were most likely aquarium fish releases. The availability of 8 species of snakehead fishes in live food fish markets and the aquarium trade raises the probability that one or more species will be released into open water. As demonstrated by the documented discoveries of both aquarium and food fish species of snakeheads in the wild, there is a high likelihood that snakeheads would escape or be released.

If snakeheads escaped, or were released into the wild, the likelihood that they would survive and/or become established with or without reproduction is dependent upon the species of snakehead involved and the location of the release. The family Channidae contains 9 species that are strictly tropical, 4 can be considered tropical to subtropical, one is subtropical, 12 can tolerate tropical or subtropical to warm temperate conditions, one is warm temperate, and one is warm temperate to cold temperate. The tropical species would survive in the warmest waters such as extreme southern Florida, perhaps parts of southern California, Hawaii, and certain thermal spring systems and their outflows in the American west. The tropical to subtropical species would have a similar potential range of distribution as for tropical species but with a greater likelihood of survival during cold winters and more northward limits. The tropical or subtropical to warm temperate species could survive in most southern States. The warm temperate, and warm temperate to cold temperate, species could survive in most areas of the United States.

That *Channa striata,* a tropical to warm temperate species cultured for the live food trade, has been established for over a century in Hawaii and, more recently, *C. marulius,* a tropical to warm temperate species cultured for the aquarium trade, has become established as a reproducing population in southeastern Florida is indicative of the likelihood of survival and potential for establishment of snakehead fishes. Although *C. striata* is largely confined to reservoirs on Oahu, *C. marulius* has ample opportunity to expand its range in southeastern Florida through the large network of interconnected canals and Water Conservation Areas to the west of the metropolitan areas. The release of live food or aquarium fishes is a viable pathway for introduction of snakehead fishes and, depending on temperature, many species could become established from Florida to or above the U.S.-Canadian border and in many territories of the United States.

The likelihood and magnitude of spread would be high for all species within their thermal limits. Both the northern snakehead, *Channa argus,* and, to a somewhat lesser extent, the blotched snakehead, *C. maculata,* expanded their ranges of distribution from sites of initial introduction in Japan. Since introduction of the northern snakehead into the Aral Sea basin in the 1960s, there has been a dramatic range expansion in waters of Kazakhstan, Turkmenistan, and Uzbekistan. Range expansion also occurred in the Philippines following introduction of the chevron snakehead, *C. striata.*

Although there is limited information on the fecundity of snakeheads, scientific data indicate that fecundity increases greatly in larger snakeheads and follows increasing body length. According to Quayyum and Quasim (1962), fecundity for *C. striata,* a medium-sized snakehead species, ranges from 2,300 to 26,000 öcytes. Larger species, such as *C. marulius* and *C. argus* can produce 40,000 to 50,000 öcytes. Given that two individual northern snakeheads, *C. argus,* were reportedly released into the pond in Crofton, Maryland, and successfully reproduced two times in the summer of 2002, and that several species of snakeheads are known to have a high fecundity, there is a high likelihood that snakeheads would be capable of spreading within their thermal limits.

Several species of snakeheads, whose native ranges are subject to seasonal dry/wet conditions, are known to be capable of overland migrations. According to Peter Ng (pers. comm. to W.R. Courtenay, Jr.) some species can crawl sinuously on land, even dry land, from point to point. There are 2 main groups of snakeheads that are slow, but effective and directed, at overland migrations. One group, including *C. striata, C. micropeltes, C. asiatica* and *C. gachua,* has a more dorso-ventrally flattened body with a somewhat flatter belly and can crawl on land. The second group, including *C. argus, C. maculata* and *C. lucius,* has a more laterally compressed or rounded body and is not as successful at overland migrations. For those species that are not capable of overland migration, there is a high likelihood that they can be transferred to other water bodies through flooding if they are released into flood-prone areas. In summary, there are few waters in the United States or territories of the United States that, based on temperature, would preclude some member(s) of the family Channidae from becoming established and expanding their ranges through reproduction and/or overland migration.

At all life stages, snakeheads will compete for food with native species. As discussed above in the Biology section, snakehead fry feed on zooplankton; juveniles feed on insect larvae, small crustaceans, and fry of other fishes; and

adults are predators, feeding on other fishes, crustaceans, frogs, smaller reptiles (snakes, lizards), and sometimes birds (particularly young waterfowl) and mammals. Native fish and wildlife populations that prey upon fishes, crustaceans, frogs, snakes, lizards, and young waterfowl would face reductions resulting from the loss of food sources.

Although the literature on snakeheads does not include specific information on feeding habits of every species, what is universal for those species that have been studied in this respect is that fishes are an important component of snakehead diets. This can range, for example, from approximately 20–30% (*e.g., Channa gachua*) of the diet to well over 90% (*e.g., C. argus, C. micropeltes, C. striata*). Next in line to fishes, crustaceans (particularly shrimp, etc.) form a substantial dietary component for snakeheads. Native fish populations in particular would likely be reduced through predation if snakeheads were introduced and became established in bodies of water. Through predation, ecosystem balance and predator-prey relationships could be modified drastically should snakeheads become established in waters with low diversity of native fishes and low abundance or absence of native predatory species. Therefore, the likelihood and magnitude of adverse impacts on native wildlife through competition for food and predation on native wildlife is high.

While the potential for snakeheads to transfer pathogens to native wildlife is largely unknown, all snakehead species examined are host to at least several species of parasites. At least two snakehead species, *Channa punctata* and *C. striata,* are susceptible to epizootic ulcerative syndrome (EUS), a disease believed to be caused by several species of bacteria, a fungus, and perhaps a retrovirus, under intensive culture conditions. EUS is not specific to snakeheads and has affected other fishes, such as clariid catfishes, bagrid catfishes, two cyprinid genera, mastacembalid eels, and a nandid fish in India; in Thailand, it has been found in giant gourami and climbing perch. Although there have been no studies undertaken to examine transfer of parasites or diseases from snakeheads to native North American fishes, there are numerous cases documented in the scientific literature where nonnative species have transferred diseases and pathogens to native species. Several of the parasites of northern snakeheads listed in Table 2 are known to affect salmonids, cyprinids, and percids. Therefore, there is a credible evidence on the potential for snakeheads to transfer pathogens to native fishes.

Due to the highly predatory nature of snakeheads, the likelihood and magnitude of effect on threatened and endangered species is high. Of all the taxa listed as endangered or threatened in U.S. aquatic habitats, 16 amphibians, 115 fishes, and 5 of the 21 crustaceans (the surface-dwelling crayfish and shrimp) would be the most likely to be affected. Based on habitat requirements and life history, fishes are more likely to be affected by introduced snakeheads than amphibians and the surface-dwelling crustaceans. Nonetheless, the possibility of an additional nonindigenous predator in the aquatic community with any listed amphibian or crustacean would constitute a threat.

In the western United States, habitat requirements of listed fishes range from steep-gradient, coldwater mountain streams, lower-gradient large desert rivers, to thermal (warm) springs in desert areas. Eastern fishes likewise occupy a variety of habitats, including springs, creeks, large rivers, and the Great Lakes. One or more species of snakeheads would be capable of living in any of the above habitats. Since all snakehead species prey on fish, to a greater or lesser extent, all of the fishes listed as endangered or threatened would be vulnerable to predation at some stage in their life history. The degree of threat would vary from extremely high for any species of snakeheads introduced in relatively small, isolated habitats, such as desert thermal springs and their outflows in the American southwest, to somewhat less in steep-gradient coldwater mountain streams. Based on the food habits and habitat preferences of snakeheads, it is likely to invade the habitat, feed on, and further threaten Federally listed freshwater fishes. Snakeheads are likely to also further threaten candidates for Federal protection.

The likelihood that one or more species may be placed in danger of extinction or become endangered within the foreseeable future as a result of introduction/establishment is high. The introduction of a small number of individuals (<5) into isolated spring habitats could result in the extinction of endemic spring-adapted fishes or crustaceans. The snakeheads would not have to establish a reproducing population to reduce or eliminate a fish or crustacean species confined to a small section of a stream or isolated spring habitat. Any snakehead that becomes established in a water body would represent a significant threat and could potentially push any listed amphibian, fish, or crustacean to extinction.

The likelihood and magnitude of ancillary wildlife resource damage due to control measures is high. Chemical control using rotenone or other similar toxins that work by preventing fish from removing oxygen from the water would likely be damaging to nontarget native organisms.

Only one species of snakehead, *Channa micropeltes,* a tropical/subtropical species, is reported to have attacked human beings. There have been reports of human deaths as a result. All such incidents apparently happened when humans approached a nest or group of young, and attacks were perpetrated by guarding adults. However, the likelihood and magnitude of direct impacts on human beings is low.

Factors That Reduce or Remove Injuriousness

The ability to eradicate or control snakehead populations depends on where they are found. However, there is no known method of removing all snakeheads following introduction. If established in large lakes or river systems, eradication and/or control are expected to be nearly impossible, and snakeheads would likely become permanent members of the fish community. Control in smaller water bodies depends upon the amount of vegetation, the accessibility to the water body, and the effectiveness of the control methods. Piscicides work by preventing fish from removing oxygen from the water. Chemical control using rotenone and similar toxins would likely be ineffective to airbreathing snakeheads and damaging to nontarget organisms except in closed situations. Electrofishing and netting may provide some level of control of snakehead populations; however, eradication using these methods would be too selective on size classes to remove a population of snakeheads. When a population is discovered, it is typically too late for removal unless the population is isolated.

Since effective measures to eradicate, manage, or control the spread of snakeheads once they are established are not currently available, the ability to rehabilitate or recover ecosystems disturbed by the species is low. Re-establishment of extirpated populations of native amphibians, fishes, and crustaceans, if biologically possible, would be labor and cost intensive and would depend on eradication of snakeheads within those habitats.

Conclusion

Because several species of snakehead fishes are available through the

aquarium, restaurant, and the live food fish trades, the likelihood that they would escape or be intentionally released into the wild is high. If they escape or are intentionally released, they are likely to survive or become established within their respective thermal limits. Because there are no known limiting factors, because some species have the ability to move across land, and because snakeheads have a fairly high reproductive potential, they are likely to spread once they are in the wild. Snakeheads fishes are likely to compete with native species for food, may transmit parasites to native species, and are likely to feed on native species, which will negatively affect native fishes, amphibians, crustaceans, birds, small reptiles, and small mammals. The air-breathing and mobile characteristics of snakeheads increase the difficulty in preventing, eradicating, managing, or controlling their spread. Because the successful removal of all individual snakeheads from a water body would be very difficult to accomplish, it will be very difficult rehabilitate or recover ecosystems disturbed by snakeheads. In conclusion, for the reasons stated above, the Service finds snakeheads to be injurious to the wildlife and wildlife resources of the United States.

Effective Date

We are making this rule effective upon publication. In accordance with the Administrative Procedure Act, we find good cause as required by 5 U.S.C. 553 (d)(3) to make this rule effective less than 30 days after publication in the **Federal Register**. Approximately 2.94 times more snakeheads were imported in July 2002 than in July 2001. Inspectors at ports of entry have noticed an increase in interest in importing snakeheads before the final rule becomes effective; some importers have told inspectors that they are trying to ''beat the ban'' and import as many snakeheads as possible before the prohibition on importation and interstate transportation is imposed. Because we have already documented a nearly three-fold increase in the importation of snakeheads from one year ago, and because of the increased interest in importing snakeheads before the final rule becomes effective, the Service believes that there will be a substantial and significant increase in the numbers of snakehead fishes imported and transported across State lines if this rule is effective 30 days after publication in the **Federal Register**. The increases in importations and interstate transportations during that 30-day period could result in a significant potential for damage to the wildlife and wildlife resources of the United States. As discussed previously in the preamble to this rule, snakehead fishes are highly predatory, are difficult to control, and are difficult to differentiate among species. Therefore, we believe that we have sufficient evidence and cause to take immediate action to prohibit further importation and interstate movement of the entire Channidae family of snakehead fishes.

Required Determinations

Paperwork Reduction Act

This rule contains information collection activity for special use permits. The Fish and Wildlife Service has approval from OMB to collect information under OMB control number 1018–0093. This approval expires March 31, 2004. The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget has determined that 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 the government. A cost-benefit and economic analysis is not required.

The net economic effect of prohibiting the importation and interstate transportation of snakeheads is difficult to determine because of the minimal amount of data available for a relatively new species to the aquarium, live fish markets, and restaurant trades. There is a trade-off between damage avoided by not letting snakeheads get into U.S. water bodies and the economic benefits received by fish markets and aquarium owners who want to own the species. Since only $85,000 worth of snakeheads were imported during the four-year period between 1997 and 2000, and the potential damage by snakeheads if they get into U.S. waters would be in the millions of dollars from the loss of native species, including threatened and endangered species, this rule will have a net positive benefit. The dollar amount of imported and traded value is not the net economic value of this fish, but the relatively small value compared to environmental damage avoided by prohibiting these species is convincing that this rule will not have a major negative economic effect.

(b) This rule will not create inconsistencies with other agencies. This rule pertains only to regulations promulgated by the Fish and Wildlife Service under the Lacey Act. No other agencies are involved in these regulations.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients. This rule does not affect entitlement programs. This rule is aimed at regulating the importation and movement of nonindigenous species that have the potential to cause significant economic and other impacts on natural resources.

(d) This rule does not raise novel legal or policy issues. No previous listings of wildlife as injurious have raised legal or policy concerns.

Regulatory Flexibility Act and SBREFA

This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will not have an annual effect on the economy of $100 million or more, and 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.

No individual small industry within the United States will be significantly affected if snakehead importation and interstate transport are prohibited. Live food fish markets, restaurants, and aquarium hobbyists are the entities most likely to be affected by this rule. The number of aquarium hobbyists interested in keeping snakeheads appears to be small, and snakeheads represent a minor component in the aquarium fish industry (Marshall Myers, pers. comm.. to J.D. Williams). With only 16,554 individual snakeheads imported over four years and most of these going to markets and restaurants for human consumption, the number of entities engaging in selling and buying these fish is very small. There is no recreational fishery for these species. The number of entities involved in the trade of these species is not known, but it is assumed to be very small because of the small number of these fish imported. This rulemaking will have the indirect effect of protecting native fishes, amphibians, and crustaceans from the intentional or accidental

introduction of snakeheads into U.S. water bodies. The snakeheads would likely devastate many native wildlife populations if introduced into a waterway. It is very unlikely that this rulemaking will affect a substantial number of small entities and those entities affected will not be significantly affected because of the very small numbers of these fish imported. This rulemaking, by protecting the environment from the spread of a nonnative species that would devastate native fishes, amphibians, and crustaceans, will indirectly work to sustain the economic benefits enjoyed by numerous small establishments engaged in the recreational fishing industry, among others.

This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rulemaking will not affect costs or prices for any fish species other than snakeheads. Once this rule is published, and importation and interstate movement are prohibited, the maximum loss would be approximately $22,000 per year to the few entities that deal in these species.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities; will not produce a Federal mandate of $100 million or greater in any year and therefore, is not a ''significant regulatory action''.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule will not impose significant requirements or limitations on private property use.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule will not have substantial direct effects on States, in the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, we determine that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order. The rule has been reviewed to eliminate drafting errors and ambiguity, was written to minimize litigation, provides a clear legal standard for affected conduct rather than a general standard, and promotes simplification and burden reduction.

NEPA

We have reviewed this rule in accordance with the criteria of the National Environmental Policy Act and our Departmental Manual in 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. Since only 16,554 snakehead fishes were imported between 1997 and 2000 for a declared value of $85,000, the maximum annual loss to the few entities that deal in these species is estimated to be $22,000. Therefore, an environmental impact statement/assessment is not required. The action is categorically excluded under the Department's NEPA procedures (516 DM 2, Appendix 1.10), which apply to policies, directives, regulations, and guidelines of an administrative, legal, technical, or procedural nature; or the environmental effects of which are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or on a case-by-case basis.

Tribal Consultation

In accordance with the President's 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 potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule involves the importation and interstate movement of live snakeheads. We are unaware of trade in these species by Tribes.

Effects on Energy

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule is intended to prevent the accidental or intentional introduction of snakeheads and the possible subsequent establishment of populations of these fish in the wild, it is not a significant regulatory action under Executive Order 12866 and is not expected to affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this rule is available upon request from the Division of Environmental Quality (see **FOR FURTHER INFORMATION CONTACT** section).

Authority

The Fish and Wildlife Service is issuing this final rule under the authority of the Lacey Act (18 U.S.C. 42).

List of Subjects in 50 CFR Part 16

Fish, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, we amend part 16, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below.

PART 16—[AMENDED]

1. The authority citation for part 16 continues to read as follows:

Authority: 18 U.S.C. 42.

2. Amend § 16.13 by revising paragraph (a)(2) to read as follows:

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a) * * *

(2) The importation, transportation, or acquisition of any of the species listed in this paragraph is prohibited except as provided under the terms and conditions set forth in § 16.22:

(i) Live fish or viable eggs of walking catfish, family Clariidae;

(ii) Live mitten crabs, genus *Eriocheir*, or their viable eggs;

(iii) Live mollusks, veligers, or viable eggs of zebra mussels, genus *Dreissena*; and

(iv) Any live fish or viable eggs of snakehead fishes of the genera *Channa* and *Parachanna* (or their generic synonyms of *Bostrychoides*, *Ophicephalus*, *Ophiocephalus*, and *Parophiocephalus*) of the Family Channidae, including but not limited to:

(A) *Channa amphibeus* (Chel or Borna snakehead).

(B) *Channa argus* (Northern or Amur snakehead).

(C) *Channa asiatica* (Chinese or Northern Green snakehead).

(D) *Channa aurantimaculata*.

(E) *Channa bankanensis* (Bangka snakehead).

(F) *Channa baramensis* (Baram snakehead).

(G) *Channa barca* (barca or tiger snakehead).

(H) *Channa bleheri* (rainbow or jewel snakehead).

(I) *Channa cyanospilos* (bluespotted snakehead).

(J) *Channa gachua* (dwarf, gaucha, or frog snakehead).

(K) *Channa harcourtbutleri* (Inle snakehead).

(L) *Channa lucius* (shiny or splendid snakehead).

(M) *Channa maculata* (blotched snakehead).

(N) *Channa marulius* (bullseye, murrel, Indian, great, or cobra snakehead).

(O) *Channa maruloides* (emperor snakehead).

(P) *Channa melanoptera*.

(Q) *Channa melasoma* (black snakehead).

(R) *Channa micropeltes* (giant, red, or redline snakehead).

(S) *Channa nox*.

(T) *Channa orientalis* (Ceylon or Ceylonese Green snakehead).

(U) *Channa panaw*.

(V) *Channa pleurophthalmus* (ocellated, spotted, or eyespot snakehead).

(W) *Channa punctata* (dotted or spotted snakehead).

(X) *Channa stewartii* (golden snakehead).

(Y) *Channa striata* (chevron or striped snakehead).

(Z) *Parachanna africana* (Niger or African snakehead).

(AA) *Parachanna insignis* (Congo, square-spotted African or light African snakehead).

(BB) *Parachanna obscura* (dark African, dusky, or square-spotted snakehead).

* * * * *

Dated: September 26, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–25337 Filed 10–3–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 011231309–2090–03; I.D.092602B]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments; Correction

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

ACTION: Inseason trip limit adjustments and correction; request for comments.

SUMMARY: NMFS announces changes in the following trip limits for the Pacific Coast groundfish fisheries: limited entry groundfish trawl gear fisheries for minor slope rockfish, splitnose rockfish, DTS complex (Dover sole, thornyheads and sablefish), flatfish fisheries, widow rockfish, yellowtail rockfish, and the 'other fish' category; limited entry fixed gear fisheries for minor slope rockfish, splitnose rockfish, sablefish, minor nearshore rockfish, lingcod and the 'other fish' category; and open access fisheries for sablefish, minor nearshore rockfish, lingcod, and the 'other fish' category. Additionally, pink shrimp exempted trawl gear incidental groundfish landings limits are now listed in the open access trip limit table rather than just in the text at IV.C.(3) to ensure clarity. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), will allow fisheries access to healthy groundfish stocks, prevent fisheries that are approaching their OY from exceeding their OY, and protect overfished and depleted stocks. With this inseason trip limit adjustment, NMFS also announces that the States of Washington and Oregon are implementing a declaration requirement for limited entry trawl vessels intending to fish with midwater trawl gear in the Darkblotched Rockfish Conservation Area (DBCA) north of 40°10′ N. lat. This document also contains a correction to the limited entry trawl gear trip limit for canary rockfish south of 40°10′ N. lat. to reflect the closure in the south that was effective July 1, 2002.

DATES: Effective 0001 hours local time October 1, 2002, until the 2003 annual specifications and management measures are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070; or Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736; and e-mail: jamie.goen@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: *http://www.access.gpo.gov/su_docs/ca/docs/aces/aces140.html.* Background information and documents are available at the NMFS Northwest Region website at: *http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Pacific Fishery Management Council's website at: *http://www.pcouncil.org.*

Background

The Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Annual groundfish specifications and management measures are initially developed by the Pacific Fishery Management Council (Pacific Council), and are implemented by NMFS. The specifications and management measures for the current fishing year (January 1–December 31, 2002) were initially published in the **Federal Register** as an emergency rule for January 1–February 28, 2002 (67 FR 1540, January 11, 2002), as a proposed rule for all of 2002 (67 FR 1555, January 11, 2002), and as a final rule effective March 1, 2002 (67 FR 10490, March 7, 2002). The final rule was subsequently amended at 67 FR 15338, April 1, 2002, at 67 FR 18117, April 15, 2002, at 67 FR 30604, May 7, 2002, at 67 FR 40870, June 14, 2002, at 67 FR 44778, July 5, 2002, at 67 FR 48571, July 25, 2002, at 67 FR 50835, August 6, 2002, at 67 FR 55166, August 28, 2002, at 67 FR 56497, September 4, 2002, and at 67 FR 57973, September 13, 2002.

The following changes to current groundfish management measures were recommended by the Pacific Council, in consultation with Pacific Coast Treaty Tribes and the States of Washington, Oregon, and California, at its September 9–13, 2002, meeting in Portland, OR. Pacific Coast groundfish landings will

be monitored throughout the year, and further adjustments will be made as necessary to allow achievement of or to avoid exceeding the 2002 OYs and allocations.

Depth-based Management

Beginning with the July 1, 2002, inseason action (67 FR 44778, July 5, 2002) the Pacific Council reinstated a management line at the 20–fm (37–m) depth contour south of 40° 0′ N. lat. The 20–fm (37–m) depth contour was used to implement management measures to protect bocaccio rockfish, an overfished species. Through an emergency rule (67 FR 57973, September 13, 2002) effective September 10, 2002, new depth-based management measures affecting the limited entry trawl fleet north of 40°10′ N. lat. were implemented to allow harvest of healthy groundfish stocks while protecting darkblotched rockfish, another overfished species. The emergency rule created a ''no-trawl'' zone between approximately 100 to 250 fm (183 to 457 m) north of 40°10′ N. lat. to the U.S.-Canada border, known as the DBCA. This inseason action will open up limited midwater trawl opportunities for widow and yellowtail rockfish in the DBCA, subject to the trip limits described below and a declaration process adopted by the States of Washington and Oregon.

Operating in Areas with Different Trip Limits

When operating in areas with different trip limits north and south of a management line, the crossover provisions listed at paragraph IV.A.(12) in the 2002 annual specifications and management measures (67 FR 10490, March 7, 2002) apply. For the limited entry trawl flatfish fisheries north and south of the management line at 40°10′ N. lat., vessels are subject to the crossover provisions in paragraph IV.A.(12) when making landings that include any of the flatfish species specified at 50 CFR 660.302 in the flatfish fisheries.

Sablefish 20–Inch Minimum Size Limit for Limited Entry Fixed Gear and Open Access Between 40°10′ N. lat. and 36° N. lat. and for Limited Entry Trawl South of 40°10′ N. lat.

At the Pacific Council's September meeting, public testimony reported a significant amount of adult sablefish discard in waters deeper than the bocaccio depth range with the 22–inch (56 cm) minimum sablefish size restriction that was imposed on July 1, 2002 (67 FR 44778, July 5, 2002 and subsequently amended at 67 FR 50835, August 6, 2002). Therefore, the Pacific Council recommended reducing the sablefish minimum size limit from 22 inches to 20 inches (56 cm–51 cm), beginning October 1, 2002, for limited entry fixed gear and open access vessels between 40°10′ N. lat. and 36° N. lat. and for limited entry trawl vessel south of 40°10′ N. lat. This reduction in the minimum sablefish size limit is intended to reduce the discard of smaller, mature sablefish while protecting bocaccio, an overfished species, by pushing fishing effort for sablefish into deeper waters.

North of 40°10′ N. lat., there continues to be no sablefish size limit because bocaccio do not generally occur north of 40°10′ N. lat. and the adult sablefish in that area tend to be larger. To the south of this area (i.e., south of 36° N. lat.), there continues to be no sablefish size limit for limited entry fixed gear or open access vessels because the adult sablefish, although small, generally occur outside of the bocaccio depth range. The 20–inch (51–cm) minimum sablefish size limit for the limited entry trawl gear sablefish sublimit will continue to extend south from 40°10′ N. lat. to the Mexico border.

The ''Other Fish'' Category for All Gears Coastwide

''Other fish'' are defined at 50 CFR 660.302 under the term groundfish, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline. With this inseason action, the ''other fish'' category is added to the limited entry fixed gear and open access trip limit tables, in addition to the limited entry trawl table. For all gears north of 40°10′ N. lat., ''other fish'' are not limited, except that spiny dogfish is prohibited for all gears other than small footrope trawl. The fixed gear spiny dogfish fishery in the north has a history of yelloweye rockfish bycatch, especially off Washington. In order to protect yelloweye rockfish, an overfished species, spiny dogfish retention is prohibited for all gears except small footrope trawl in the north. For all gears south of 40°10′ N. lat., retention of ''other fish'' is prohibited in order to prevent incidental catch of bocaccio with the exception that retention of grenadiers is permitted. Grenadiers are a deep water species and can be targeted without intercepting overfished or depleted rockfish stocks.

Limited Entry Trawl Gear Fisheries for Midwater Widow and Yellowtail Rockfish North of 40°10′ N. lat.

At their September meeting, the Pacific Council decided to allow midwater trawl fisheries for widow and yellowtail rockfish inside the DBCA. The widow and yellowtail rockfish midwater fisheries had previously been closed in the north because these species primarily occur within the DBCA, an area closed to protect darkblotched rockfish. While midwater trawls for these species within the DBCA would not intercept darkblotched rockfish, the midwater fisheries were closed because of the enforcement difficulty in determining whether a vessel is conducting a midwater or pelagic trawl versus a small footrope bottom trawl, which would intercept darkblotched rockfish and is prohibited.

In order to allow midwater trawl opportunity for widow and yellowtail rockfish, the States of Washington and Oregon will implement a declaration process whereby vessels intending to fish with midwater trawl gear within the DBCA would be required to contact the State in advance of such fishing trips as a condition of landing in State ports. Washington and Oregon will implement a limited declaration process for the November-December period, while California will maintain an on-the-water enforcement presence. For November-December, the States of Washington and Oregon will handle all midwater trawl declarations for fishing in the DBCA. Due to limited State personnel resources to handle the declaration process, the frequency of trips landing either widow or yellowtail rockfish is being restricted in Federal regulations to no more than two trips per vessel per 2–month cumulative period (i.e., November-December).

The available trip limit for this midwater trawl opportunity was constrained to the November-December cumulative trip limit period. Historically, incidental catch of canary rockfish, an overfished species, in the widow rockfish midwater trawl fishery has been lower in the January-February, March-April and November-December cumulative trip limit periods. Because canary rockfish is approaching its OY, the widow and yellowtail midwater fisheries were re-opened only for the November-December trip limit period when the interception of canary rockfish is likely to be low.

For the November-December period, the 2–month cumulative limit for the widow rockfish midwater trawl fishery occurring north of 40°10′ N. lat. will be re-opened at 13,000 lb (5,897 kg) per 2 months, restricted to no more than 2 trips landing widow rockfish per vessel per 2–month period. For yellowtail rockfish, the November-December 2–month cumulative limit for the yellowtail rockfish midwater trawl fishery occurring north of 40°10′ N. lat.

will be re-opened at 20,000 lb (9,072 kg) per 2 months, restricted to no more than 2 trips landing yellowtail rockfish per vessel per 2–month period.

Limited Entry Trawl Gear Fisheries for the DTS Complex North of 40°10′ N. lat.

The DTS complex north of 40°10′ N. lat. was previously scheduled to decrease for the November-December cumulative limit period. In addition, the September emergency rule (67 FR 57973, September 13, 2002) had split the November-December cumulative limit period from a 2–month to a monthly cumulative limit to allow more flexibility for possible future inseason adjustments. However, in doing so, the flexibility of the fishermen to plan their trips is further constrained and the likelihood of regulatory discards may increase. Because sufficient OY remains and the incidence of overfished rockfish species interception in the DTS fisheries is lower during November-December, the Pacific Council decided to increase the cumulative trip limits for the DTS complex during the November-December cumulative limit period and re-instate the 2–month cumulative limit.

In order to allow fishermen access to the remaining DTS OYs while still protecting darkblotched rockfish in all northern waters and canary rockfish in waters shoreward of the 100–fm (184 m) depth contour line, the Pacific Council increased the OY for all DTS complex species, but increased the Dover sole limit disproportionately between large and small footrope trawl gear. Small footrope trawl gear was assigned a lower Dover sole trip limit, 12,000 lbs (5,443 kg) per 2 months, because small footrope is the only bottom trawl gear allowed in waters shoreward of the 100 fm (183 m)depth contour where there is higher incidence of rockfish bycatch, including canary and darkblotched rockfish. Small footrope gear is allowed in waters inside of 100 fm (183 m) because it tends to have less incidental catch of canary rockfish since it cannot effectively fish in rocky seafloor habitat where canary rockfish are typically found. Conversely, the higher limit for Dover sole caught with large footrope trawl gear, 22,000 lb (9,979 kg) per 2 months, is intended to encourage vessels to operate seaward of the 250 fm (461 m) depth contour, outside the range of darkblotched and canary rockfish.

For the November-December period, the 2–month cumulative limit for the DTS trawl fishery north of 40°10′ N. lat. will be increased as follows: Dover sole will be increased from 7,000 lb (3,175 kg) per month to 22,000 lb (9,979 kg) per 2 months providing that only large footrope or midwater trawl gear is used to land any groundfish species during the entire cumulative limit period or 12,000 lb (5,443 kg) per 2 months if small footrope gear is used to land any groundfish species during the entire cumulative limit period; shortspine thornyhead will be increased from 750 lb (340 kg) per month to 2,200 lb (998 kg) per 2 months; longspine thornyhead will be increased from 1,000 lb (454 kg) per month to 8,000 lb (3,629 kg) per 2 months; and sablefish will be increased from 1,250 lb (567 kg) per month to 2,600 lb (1,179 kg) per 2 months.

Limited Entry Trawl Gear Fisheries for Minor Slope Rockfish Coastwide and Splitnose Rockfish South of 36° N. lat.

As in the DTS fishery above, the September emergency rule had split the November-December cumulative limit period from a 2–month to a monthly cumulative limit to allow more flexibility for possible future inseason adjustments. However, in doing so, the flexibility of the fishermen to plan their trips is further constrained and the likelihood of regulatory discards may increase.

PacFIN landings estimates through September 7, 2002, report the limited entry slope rockfish catch in the north to be at 104 mt out of a 1,150 mt OY for 2002 (1,046 mt remaining) and at 275 mt out of a 497 mt OY (222 mt remaining) for the south. For splitnose rockfish in the Monterey and Conception management areas, PacFIN estimates report the limited entry and open access splitnose catch to be at 35 mt out of a 387 mt OY (352 mt remaining). Because sufficient OY remains and the incidence of overfished rockfish species interception is low, the Pacific Council decided to increase the cumulative trip limits for minor slope rockfish fisheries in the north during the November-December period and for the minor slope and splitnose rockfish fisheries south of 40°10′ N. lat. during the September-October and November-December cumulative limit periods, re-instating the 2–month cumulative limit.

For the September-October period, limited entry trawl fisheries for minor slope and splitnose rockfish south of 36° N. lat. will each be increased from 15,000 lb (6,804 kg) per 2 months to 25,000 lb (11,340 kg) per 2 months. For the November-December period, limited entry trawl fisheries for minor slope rockfish north of 36° N. lat. will be increased from 300 lb (136 kg) per month to 1,800 lb (816 kg) per 2 months; limited entry trawl fisheries for both minor slope and splitnose rockfish south of 36° N. lat. will be increased from 15,000 lb (6,804 kg) per 2 months to 40,000 lb (18,144 kg) per 2 months.

Limited Entry Trawl Gear Fisheries for Flatfish South of 40°10′ N. lat.

Previously, the Petrale sole trip limit south of 40°10′ N. lat. was included in the combined flatfish limit for rex sole, petrale sole, English sole, and arrowtooth flounder as an incidental catch allowance in the DTS fishery. South of 40°10′ N. lat., logbook and fish landing ticket data report that the limited entry trawl fishery for Petrale sole occurs primarily seaward of 180 fm (329 m) and has not shown any incidental catch of bocaccio. The overfished species bycatch for this fishery during November-December using a depth-based bycatch model projects that widow rockfish, lingcod, darkblotched rockfish may be intercepted in the Petrale sole fishery. However, incidental catch levels of these species are not projected to exceed their 2002 OYs. Therefore, Petrale sole was pulled out of the combined flatfish limit and given its own trip limit, 30,000 lb (13,608 kg) per 2 months, to provide targeted harvest opportunity on a healthy groundfish stock with minimal incidental catch of overfished rockfish species.

In addition, rex sole was pulled out of the combined flatfish limit and assigned a higher incidental catch allowance of 2,000 lb (907 kg) per trip. English sole and arrowtooth flounder retain a combined limit of 1,000 lb (454 kg) per trip as an incidental catch allowance in the DTS or petrale sole fisheries.

For the November-December period, limited entry trawl fisheries for flatfish south of 40°10′ N. lat. are closed with the following exceptions: petrale sole will have its own trip limit of 30,000 lb (13,608 kg) per 2 months, rex sole will have its own incidental catch allowance of 2,000 lb (907 kg) per trip, and English sole and arrowtooth flounder continue to have a combined incidental catch allowance of 1,000 lb (454 kg) per trip when landed with DTS or petrale sole. The amount of per-trip flatfish landings (rex sole, English sole, and arrowtooth flounder) must not exceed the amount of DTS and petrale sole landed. Landings may continue to be made with small or large footrope gear.

Limited Entry Fixed Gear Fisheries for Minor Slope Rockfish and Splitnose Rockfish South of 36° N. lat.

The limited entry fixed gear fisheries for minor slope and splitnose rockfish south of 36° N. lat. generally occur well outside of 250 fm (461 m). In addition to the fishery taking place in deeper waters beyond the range of bocaccio, the

OY for limited entry slope rockfish in the south is estimated in PacFIN to be at 275 mt out of a 497 mt OY (222 mt remaining). For splitnose rockfish in the Monterey and Conception management areas, PacFIN estimates report the limited entry and open access splitnose catch to be at 35 mt out of a 387 mt OY (352 mt remaining). Because sufficient OY remains for both minor slope and splitnose rockfish and the likelihood of bocaccio interception in these fisheries during the remainder of 2002 is low, the cumulative limit for these fisheries will be increased.

For the September-October and November-December periods, the trip limits for both minor slope and splitnose rockfish will be increased south of 36° N. lat. from 15,000 lb (6,804 kg) per 2 months to 25,000 lb (11,340 kg) per 2 months.

Limited Entry Fixed Gear and Open Access Fisheries for Sablefish North of 36° N. lat.

PacFIN landings data estimates that the open access landings for sablefish in the north are at 1,032 mt out of a 1,780 mt OY for 2002 (748 mt remaining). Because sufficient OY remains for sablefish north of 36° N. lat., the limits in the sablefish daily trip limit fishery will be increased.

Beginning October 1, 2002, the limited entry fixed gear and open access daily trip limit fishery for sablefish north of 36° N. lat. will be increased from 300 lb (136 kg) per day, or 1 landing per week up to 800 lb (363 kg), not to exceed 2,400 lb (1,089 kg) per 2 months, to 300 lbs (136 kg) per day, or 1 landing per week up to 900 lb (408 kg), not to exceed 2,700 lb (1,225 kg) per 2 months.

Limited Entry Fixed Gear and Open Access Fisheries for Minor Nearshore Rockfish North of 40°10′ N. lat.

PacFIN's landed catch estimates show the limited entry and open access nearshore rockfish catch north of 40°10′ N. lat. to be at 186 mt out of a 324 mt OY for 2002 (138 mt remaining). Because sufficient OY remains for nearshore rockfish, beginning October 1, 2002, the limited entry fixed gear and open access fisheries for minor nearshore rockfish north of 40°10′ N. lat. will be increased from 6,000 lb (2,722 kg) per 2 months, no more than 3,000 lb (1,361 kg) of which may be species other than black and blue rockfish, to 7,000 lb (3,175 kg) per 2 months, no more than 3,000 lb (1,361 kg) of which may be species other than black and blue rockfish.

Limited Entry Fixed Gear and Open Access Fisheries for Lingcod South of 40°10′ N. lat.

Minor nearshore rockfish south of 40°10′ N. lat. are estimated to have exceeded the 2002 OY by 18 mt through September 7, 2002. Because nearshore rockfish and lingcod co-occur, the fishery for lingcod south of 40°10′ N. lat. will close one month earlier than previously scheduled to protect nearshore rockfish from continued overharvesting.

Previously, the limited entry fixed gear and open access fisheries for lingcod south of 40°10′ N. lat. were open only inside the 20 fm (37 m) contour with cumulative limits of 400 lb (181 kg) per month for limited entry fixed gear fisheries and 300 lb (136 kg) per month for open access fisheries. Beginning October 1, 2002, the limited entry fixed gear and open access fisheries south of 40°10′ N. lat. for lingcod will be closed.

Correction

The canary rockfish fishery was closed south of 40°10′ N. lat. with the July 1, 2002 trip limit adjustments (67 Fr 44778, July 5, 2002). The closure for the limited entry trawl fishery for canary rockfish starting October 1, 2002, was inadvertently removed during implementation of the September emergency rule (67 FR 56497, September 4, 2002). The limited entry trawl fishery for canary rockfish should be closed south of 40°10′ N. lat. for the remainder of 2002.

NMFS Actions

For the reasons stated herein, NMFS concurred with the Pacific Council's recommendations and hereby announces the following changes to the 2002 specifications and management measures (67 FR 10490, March 7, 2002, as amended at 67 FR 15338, April 1, 2002, 67 FR 18117, April 15, 2002, 67 FR 30604, May 1, 2002, 67 FR 40870, June 14, 2002, 67 FR 44778, July 5, 2002, 67 FR 48571, July 25, 2002, 67 FR 50835, August 6, 2002, 67 FR 55166, August 28, 2002, 67 FR 56497, September 4, 2002, and 67 FR 57973, September 13, 2002) to read as follows:

1. On page 10511, in column 1, section IV., under A. General Definitions and Provisions, paragraph (6)(d) is revised to read as follows:

* * * * *

(d) Sablefish size and weight limit conversions. The following conversions apply to both the limited entry and open access fisheries when size and trip limits are effective for those fisheries. For headed and gutted (eviscerated) sablefish:

(i) The minimum size limit for headed sablefish, which corresponds to 20 inches (51 cm) TL for whole fish, is 14 inches (36 cm).

(ii) The conversion factor established by the State where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (The conversion factor currently is 1.6 in Washington, Oregon, and California. However, the State conversion factors may differ: fisher should contact fishery enforcement officials in the State where the fish will be landed to determine that State's official conversion factor.)

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2. On page 10512, in section IV., under A. General Definitions and Provisions, paragraph (12)(e) is added to read as follows:

(12) * * *

(e) Flatfish Fisheries. There are differential trip limits for the flat 40°10′ N. lat. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph IV.A.(12) when making landings that include any of the flatfish species specified at 50 CFR 660.302 in the flatfish fisheries.

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3. On page 57976, in 67 FR 57976, September 13, 2002, in the third column, language is added to the last sentence in the last paragraph in IV. A.(22), such that the last sentence should read as follows:

''These restrictions do not apply to Pacific whiting vessels using mid-water trawl gear to fish for their sector's primary whiting season allocation, as defined at § 660.323(a)(3), or to vessels fishing for widow or yellowtail rockfish using mid-water trawl gear.''

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4. On pages 10517 and 10518, in section IV., under B. Limited Entry Fishery, at the end of paragraph (1), Tables 3 and 4 are revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

(1) * * *

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Table 3. Trip Limits[1] and Gear Requirements[2] for Limited Entry Trawl Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
** NOTE FOR **NORTH OF 40°10' N. LAT.**: ALL TRAWLING WITH GROUNDFISH GEAR IS PROHIBITED WITHIN THE DBCA[1]. ALL TRAWLING IS PROHIBITED SHOREWARD OF THE DBCA DURING SEPTEMBER. SMALL FOOTROPE GEAR[5] IS REQUIRED SHOREWARD OF THE DBCA OCT-DEC, AND LARGE FOOTROPE GEAR IS PERMITTED SEAWARD OF THE DBCA SEP-DEC.						
1	**Minor slope rockfish**						
2	North	1,800 lb/ 2 months				600 lb / 2 months	1,800 lb / 2 months
3	South						
4	40°10' - 36° N. lat.	50,000 lb/ 2 months		5,000 lb/ 2 months			
5	South of 36° N. lat.	50,000 lb/ 2 months				25,000 lb/ 2 months	40,000 lb/ 2 months
6	**Splitnose - South[6]**						
7	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb / 2 months	
8	South of 36° N. lat.	25,000 lb/ 2 months				25,000 lb/ 2 months	40,000 lb/ 2 months
9	**Pacific ocean perch - North[6]**	2,000 lb/ month		4,000 lb/ month	4,000 lb/ 2 months		2,000 lb / month
10	**Chilipepper - South[6]**						
11	mid-water trawl	25,000 lb/ 2 months			CLOSED[7]		
12	small footrope trawl	7,500 lb/ 2 months		4,000 lb/ 2 months			
13	large footrope trawl	500 lb/ trip, not to exceed small footrope cumulative 2-month limits at any time during the year.					
14	**DTS complex - North**						
15	Sablefish	6,000 lb/ 2 months		3,500 lb/ 2 months	3,000 lb/ 2 months	In times and areas where open - 3,500 lb/ 2 months	2,600 lb/ 2 months
16	Longspine thornyhead	10,000 lb/ 2 months		6,000 lb/ 2 months	1,500 lb/ 2 months	In times and areas where open - 10,000 lb/ 2 months	8,000 lb/ 2 months
17	Shortspine thornyhead	2,600 lb/ 2 months		2,000 lb/ 2 months	1,500 lb/ 2 months	In times and areas where open - 2,600 lb/ 2 months	2,200 lb/ 2 months
18	Dover sole	30,000 lb/ 2 months	28,000 lb/ 2 months	14,000 lb/ 2 months		In times and areas where open - 20,000 lb/ 2 months	22,000 lb/ 2 months providing that only large footrope or midwater trawl gear is used to land any groundfish species during entire limit period. If small footrope bottom trawl is used at any time in any area (North or South) during the entire limit period, then 12,000 lb/ 2 months.
19	**DTS complex - South**						
20	Sablefish[9]	4,500 lb/ 2 months					
21	Longspine thornyheac	10,000 lb/ 2 months					
22	Shortspine thornyheac	2,600 lb/ 2 months					
23	Dover sole	22,000 lb/ 2 months					
24	**Flatfish - North**						
25	All other flatfish[3]	LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits, includes arrowtooth flounder.		LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits. Retention of **petrale and rex sole** prohibited if large footrope gear is onboard.	SMALL FOOTROPE REQUIRED: 40,000 lb/ month, no more than 15,000 of which may be petrale sole	In times and areas where open - 25,000 lb/ month, no more than 10,000 of which may be petrale sole.	50,000 lb/ month, no more than 20,000 lb / month of which may be petrale
		SMALL FOOTROPE: 15,000 lb/ month	SMALL FOOTROPE: 35,000 lb/ month	SMALL FOOTROPE: 30,000 lb/ month, no more than 10,000 of which may be petrale sole			
26	Petrale sole	Not limited, large footrope allowed					
27	Rex sole						
28	Arrowtooth flounder	LARGE FOOTROPE: included in "all other flatfish" limit.		SMALL FOOTROPE REQUIRED: 7,500 lb/ trip, no more than 30,000 lb/ month; large footrope prohibited		In times and areas where open - 3,500 lb/ trip, no more than 15,000 lb/ month.	30,000 lb/ trip
		SMALL FOOTROPE: 30,000 lb/ trip					
29	**Flatfish - South**						
30	All other flatfish[3]	LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits, includes arrowtooth flounder.		LARGE FOOTROPE: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits. Retention of **petrale and rex sole** prohibited if large footrope gear is onboard.	CLOSED[7] With the exception of 1,000 lb/ trip of rex sole, petrale sole, English sole, and arrowtooth flounder combined when landed with DTS complex. The amount of per trip flatfish landings must not exceed the amount of DTS landed. Landings may be made with small or large footrope gear.		CLOSED[7] With the following exceptions: Petrale sole 30,000 lb/ 2 months; Rex sole 2,000 lb/ trip; and 1,000 lb/ trip of English sole and arrowtooth flounder combined when landed with DTS complex or Petrale sole. The amount of per trip flatfish landings (Rex sole, English sole, and arrowtooth flounder) must not exceed the amount of DTS and Petrale sole landed. Landings may be made with small or large footrope gear.
		SMALL FOOTROPE: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs.		SMALL FOOTROPE: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs. Of the species other than Pacific sanddabs, no more than 15,000 lb may be petrale sole.			
31	Petrale sole	Not limited, large footrope allowed					
32	Rex sole						
33	Arrowtooth flounder	LARGE FOOTROPE: included in "all other flatfish" limit.		SMALL FOOTROPE REQUIRED: 7,500 lb/ trip, no more than 30,000 lb/ month; large footrope prohibited			
		SMALL FOOTROPE: 30,000 lb/ trip					
34	**Whiting[4]**	20,000 lb/ trip		Primary Season		CLOSED[7]	

Table 3. (CONTINUED) Trip Limits[1/] and Gear Requirements[2/] for Limited Entry Trawl Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
** NOTE FOR **NORTH OF 40°10' N. LAT.**: ALL TRAWLING WITH GROUNDFISH GEAR IS PROHIBITED WITHIN THE DBCA[11/]. ALL TRAWLING IS PROHIBITED SHOREWARD OF THE DBCA DURING SEPTEMBER. SMALL FOOTROPE GEAR[5/] IS REQUIRED SHOREWARD OF THE DBCA OCT-DEC, AND LARGE FOOTROPE GEAR IS PERMITTED SEAWARD OF THE DBCA SEP-DEC.						
35	**Minor shelf rockfish**						
36	North	300 lb/ month		1,000 lb/ month, no more than 300 lb of which may be yelloweye rockfish		CLOSED[7/]	300 lb / month
37	South	500 lb/ month		1,000 lb/ month, no more than 300 lb of which may be yelloweye rockfish	CLOSED[7/]		
38	**Canary rockfish**						
39	North[11/]	200 lb/ 2 months		600 lb/ 2months	600 lb/ 2 months	CLOSED[7/]	200 lb / month
40	South				CLOSED[7/]		CLOSED[7/]
41	**Widow rockfish**						
42	North						
43	mid-water trawl[12/]	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month		CLOSED[7/]	13,000 lb/ 2 months; no more than 2 trips per vessel per 2 month period
44	small footrope trawl	1,000 lb/ month				CLOSED[7/]	
45	South						
46	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month	CLOSED[7/]		
47	small footrope trawl	1,000 lb/ month			CLOSED[7/]		
48	**Yellowtail - North[6/]**						
49	mid-water trawl[12/]	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month		CLOSED[7/]	20,000 lb/ 2 months; no more than 2 trips per vessel per 2 month period
50	small footrope trawl	In landings without flatfish, 1,000 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder. Combined with and without flatfish, not to exceed 30,000 lb/ 2 months.				CLOSED[7/]	As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder not to exceed 4,500 lb/ month.
51	**Bocaccio - South[6/]**	600 lb/ 2 months		1,000 lb/ 2 months	CLOSED[7/]		
52	**Cowcod**	CLOSED[7/]					
53	**Minor nearshore rockfish**						
54	North	300 lb/ month				CLOSED[7/]	
55	South	300 lb/ month			CLOSED[7/]		
56	**Lingcod[8/]**						
57	North	800 lb/ 2 months		1,000 lb/ 2 months		500 lb / month	
58	South			1,000 lb/ 2 months	CLOSED[7/]		
59	**Other Fish[10/]**						
60	North	Not limited			Grenadier retention permitted		Not limited, except spiny dogfish prohibited with large footrope gear.
61	South						CLOSED[7/], except grenadier retention permitted.

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ Gear requirements and prohibitions are explained above. See IV.A.(14).

3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with species specific management measures, including trip limits.

4/ The whiting "per trip" limit in the Eureka area shoreward 100 fm is 10,000 lb/ trip from January 1 - August 31, 2002. From September 1 - December 31, 2002, the whiting fishery is closed.

5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. In areas where trawl gear is restricted, only one type of trawl gear is allowed on board at any one time. See above.

6/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

7/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

8/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

9/ The minimum size requirement for sablefish is 20 inches (51 cm) total length and no more than 500 lb of undersized sablefish may be landed per trip.

10/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.

11/ All trawling is prohibited within the DBCA (between approximately 100 and 250 fathoms north of 40°10' N. lat.); gear must be covered and stowed when transiting through the area. See IV.A.(22).

12/ The states of Washington and Oregon require a declaration of intent prior to fishing with midwater trawl gear in the DBCA (between approximately 100 and 250 fathoms north of 40°10' N. lat.). Contact the appropriate state enforcement officials for details. Fishing for widow and yellowtail rockfish with midwater trawl gear is permitted in the DBCA during Nov-Dec as noted in the Table 3.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4. Trip Limits[1/] for Limited Entry Fixed Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,000 lb/ month		5,000 lb/ 2 months			2,000 lb/ 2 months
3	South						
4	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb/ 2 months	
5	South of 36° N. lat.	25,000 lb/ 2 months				25,000 lb/ 2 months	
6	**Splitnose - South**[5/]						
7	40°10' - 36° N. lat.	25,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb/ 2 months	
8	South of 36° N. lat.	25,000 lb/ 2 months				25,000 lb/ 2 months	
9	**Pacific ocean perch - North**[5/]	2,000 lb/ month		4,000 lb/ month	4,000 lb/ 2 months		2,000 lb/ month
10	**Sablefish**						
11	North of 36° N. lat.[8/]	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 2,700 lb/ 2 months
12	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		300 lb/ day, or 1 landing per week of up to 900 lb			
13	**Longspine thornyhead**	9,000 lb/ 2 months					
14	**Shortspine thornyhead**	2,000 lb/ 2 months					
15	**Dover sole**	5,000 lb/ month (all flatfish)			North of 40°10': 5,000 lb/ month (all flatfish). South of 40°10': Shoreward of 20 ftm depth, 5,000 lb/month, otherwise CLOSED[4/]		
16	**Arrowtooth flounder**						
17	**Petrale sole**						
18	**Rex sole**						
19	**All other flatfish**[2/]						
20	**Whiting**[3/]	20,000 lb/ trip				CLOSED[4/]	
21	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish**[5/]						
22	North	200 lb/ month					
23	South						
24	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[4/]	CLOSED[4/]		
25	South of 34°27' N. lat.	CLOSED[4/]	1,000 lb/ month				
26	**Canary rockfish**	CLOSED[4/]					
27	**Yelloweye rockfish**	CLOSED[4/]					
28	**Cowcod**	CLOSED[4/]					
29	**Bocaccio - South**[5/]						
30	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[4/]		CLOSED[4/]		
31	South of 34°27' N. lat.	CLOSED[4/]	200 lb/ month				
32	**Chilipepper - South**[5/]						
33	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[4/]		CLOSED[4/]		
34	South of 34°27' N. lat.	CLOSED[4/]	2,500 lb/ month				
35	**Minor nearshore rockfish**						
36	North	5,000 lb/ month, no more than 2,000 lb of which may be species other than black or blue rockfish[6/]		6,000 lb/ 2 months, no more than 3,000 lb of which may be species other than black or blue rockfish[6/]			7,000 lb/ 2 months no more than 3,000 lb of which may be species other than black or blue rockfish[6/]
37	South						
38	40°10' - 34°27' N. lat.	1,600 lb/ 2 months	CLOSED[4/]	Shoreward of 20 ftm depth, 1,600 lb/ 2 months, otherwise CLOSED[4/]		CLOSED[4/]	
39	South of 34°27' N. lat.	CLOSED[4/]	2,000 lb/ 2 months		Shoreward of 20 ftm depth, 2,000 lb/ 2 months, otherwise CLOSED[4/]		
40	**Lingcod**[7/]						
41	North	CLOSED[4/]		400 lb/ month			CLOSED[4/]
42	South						
43	40°10' - 34°27' N. lat.	CLOSED[4/]		Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	Shoreward of 20 ftm depth, 400 lb/ month, otherwise CLOSED[4/]	CLOSED[4/]	
44	South of 34°27' N. lat.			400 lb/ month			
45	**Other Fish**[9/]						
46	North	Not limited			Grenadier retention permitted		Not limited, except spiny dogfish prohibited.
47	South						CLOSED[4/], except grenadier retention permitted.

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.
2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with species specific management measures, including trip limits.
3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip. Outside Eureka area, the 20,000 lb/ trip limit applies. From September 1 - December 31, 2002, the whiting fishery is closed.
4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).
5/ Yellowtail rockfish and widow rockfish coastwide and bocaccio and chilipepper rockfishes in the north are included in the trip limits for shelf rockfish in the appropriate area. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.
6/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
7/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
8/ The minimum size requirement for sablefish is 20 inches (51 cm) total length between 40°10' N. lat. and 36° N. lat.
9/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

5. On page 10520, in section IV., under C. Trip Limits in the Open Access Fishery, at the end of paragraph (1), Table 5 is revised to read as follows:

IV. NMFS Actions

C. Trip Limits in the Open Access Fishery

(1) * * *

Table 5. Trip Limits[1/] for Open Access Gears
Other Limits and Requirements Apply -- Read Sections IV. A. and C. NMFS Actions before using this table
Exceptions for exempted gears at Section IV.C.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	Per trip, no more than 25% of weight of the sablefish landed					
3	South						
4	40°10' - 36° N. lat.	10,000 lb/ 2 months		5,000 lb/ 2 months		1,800 lb/ 2 months	
5	South of 36° N. lat.	10,000 lb/ 2 months					
6	**Splitnose - South[4/]**	200 lb/ month					
7	**Pacific ocean perch - North[4/]**	100 lb/ month					
8	**Sablefish**						
9	North of 36° N. lat.[7/]	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 2,700 lb/ 2 months
10	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb		300 lb/ day, or 1 landing per week of up to 900 lb			
11	**Thornyheads**						
12	North of 34° 27' N. lat.	CLOSED[3/]					
13	South of 34° 27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months					
14	**Dover sole**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs			North of 40°10': 3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 40°10': Shoreward of 20 ftm, 3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs, otherwise CLOSED[3/]		
15	**Arrowtooth flounder**						
16	**Petrale sole**						
17	**Rex sole**						
18	**All other flatfish[2/]**						
19	**Whiting**	300 lb/ month				CLOSED[3/]	
20	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish[4/]**						
21	North	200 lb/ month					
22	South						
23	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]		
24	South of 34°27' N. lat.	CLOSED[3/]	500 lb/ month				
25	**Canary rockfish**	CLOSED[3/]					
26	**Yelloweye rockfish**	CLOSED[3/]					
27	**Cowcod**	CLOSED[3/]					
28	**Bocaccio - South[4/]**						
29	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED[3/]		CLOSED[3/]		
30	South of 34°27' N. lat.	CLOSED[3/]	200 lb/ month				
31	**Chilipepper - South[4/]**						
32	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED[3/]		CLOSED[3/]		
33	South of 34°27' N. lat.	CLOSED[3/]	2,500 lb/ month				
34	**Minor nearshore rockfish**						
35	North	3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish[5/]		6,000 lb/ 2 months, no more than 3,000 lb of which may be species other than black or blue rockfish[5/]			7,000 lb/ 2 months no more than 3,000 lb of which may be species other than black or blue rockfish[5/]
36	South						
37	40°10' - 34°27' N. lat.	1,200 lb/ 2 months	CLOSED[3/]	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED[3/]	CLOSED[3/]	
38	South of 34°27' N. lat.	CLOSED[3/]	1,200 lb/ 2 months				
39	**Lingcod[6/]**						
40	North	CLOSED[3/]		300 lb/ month			CLOSED[3/]
41	South						
42	40°10' - 34°27' N. lat.	CLOSED[3/]		Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED[3/]	CLOSED[3/]	
43	South of 34°27' N. lat.			300 lb/ month			
44	**Other Fish[8/]**						
45	North	Not limited			Grenadier retention permitted		Not limited, except spiny dogfish prohibited.
46	South						CLOSED[3/], except grenadier retention permitted.
47	**PINK SHRIMP EXEMPTED TRAWL GEAR**						
48	North	**For October 1 - 31, 2002:** groundfish 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits apply: canary rockfish 200 lb/month, lingcod 400 lb/month (minimum 24 inch size limit) sablefish 2,000 lb/month, thornyheads and yelloweye rockfish PROHIBITED.					
49	South	CLOSED[3/] (groundfish retention prohibited)					

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40 °10' N. lat. To the U.S.-Canada border. "South" means 40 °10' N. lat. To the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 5 with species specific management measures, including trip limits.

3/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

4/ Yellowtail rockfish in the south and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area. Pop in the south and splitnose rockfish in the north are included in the trip limits for minor slope rockfish in the appropriate area.

5/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The size limit for lingcod is 24 inches (61 cm) total length.

7/ The minimum size requirement for sablefish is 20 inches (51 cm) total length between 40 °10' N. lat. and 36° N. lat.

8/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

BILLING CODE 3510–22–C

* * * * *

Classification

These actions are authorized by the Pacific Coast groundfish FMP and its implementing regulations, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the trip limit adjustments for most species or species groups are scheduled to begin October 1, 2002, and affording prior notice and opportunity for public comment would impede the agency's function of managing fisheries to approach without exceeding the OY for federally managed species. Delaying implementation of these trip limit adjustments past October 1, 2002, may cause unnecessary hardship among the West coast groundfish fleets. In 2002, the West coast groundfish fleet has suffered severe cutbacks in seasons, areas, and species available to be fished in an effort by the Pacific Council to primarily protect darkblotched and bocaccio rockfish, both overfished species. Most of the trip limit adjustments in this document are increases from the status quo. Increases to trip limits for healthy stocks must be implemented in a timely manner to alleviate some of the economic and social burden fishermen and fishing communities have to bear to protect overfished and depleted groundfish species. Delaying implementation of these trip limit adjustments would restrict fishermen to the reduced trip limits put in place by both the July inseason trip limits and the September emergency rule that were previously scheduled for the September-October and November-December cumulative period. In addition, some changes are closures in order to prevent incidental catch of overfished species. Delaying implementation of these closures would allow fishermen to continue harvesting certain species and may cause the fisheries to exceed the OYs for overfished rockfish species.

The AA also finds good cause to waive the requirement to provide prior notice and opportunity for public comment on the correction and re-classification of certain species (i.e., Petrale sole and rex sole within flatfish) as such prior notice and opportunity for public comment is unnecessary. It is unnecessary because these are minor technical amendments upon which the public most likely has little interest in commenting. For the above reasons, good cause also exists to waive the 30–day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3).

The declaration process mentioned in this inseason action, if implemented, will be a requirement of the States of Washington and Oregon. The State declaration process therefore would not be subject to Federal Paperwork Reduction Act requirements.

These actions are taken under the authority of 50 CFR 660.323(b)(1) and are exempt from review under Executive Order 12866.

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

Dated: October 1, 2002.

Virginia M. Fay,

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

[FR Doc. 02–25308 Filed 10–1–02; 2:49 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 092602D]

Fisheries of the Exclusive Economic Zone Off Alaska; Overfished Fisheries

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

ACTION: Notification of overfished stock.

SUMMARY: NMFS has identified the Pribilof Islands blue king crab (*Paralithodes platypus*) stock as overfished. This document is intended to notify the public that the North Pacific Fishery Management Council (Council) has been informed that this stock is overfished and that the Council has been directed to initiate action to rebuild the stock. This notification is necessary to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which requires identification of overfished stocks and subsequent implementation of management measures to rebuild overfished stocks.

FOR FURTHER INFORMATION CONTACT: Nina Mollett, 907–586–7462.

SUPPLEMENTARY INFORMATION: Section 304(e) of the Magnuson-Stevens Act requires that, if the Secretary of Commerce (Secretary) determines that a fishery is overfished, the Secretary shall immediately notify the appropriate fishery management council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks. The fishery management council has one year from the date of notification to prepare a plan to end overfishing in the fishery and to rebuild affected stocks.

On March 3, 1999, the Secretary approved Amendment 7 to the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) (64 FR 11390, March 9, 1999). Pursuant to section 303(a)(10) of the Magnuson-Stevens Act, and the national standard guidelines (50 CFR part 600), the amendment revised the definitions of overfishing, maximum sustainable yield, and optimum yield for the king and Tanner crab stocks of the Bering Sea and Aleutian Islands.

A stock is considered overfished when the total spawning biomass is below the minimum stock size threshold (MSST) as defined in the FMP. The MSST for Pribilof Islands blue king crabs is 6.6 million lb (2,994 mt) of total mature biomass (TMB).

The Alaska Fisheries Science Center (AFSC) has determined that the stock has declined below its MSST. This determination is based on a joint NMFS and Alaska Department of Fish&Game (ADF&G) assessment of stock conditions, which incorporates the 2002 NMFS Eastern Bering Sea trawl survey data.

NMFS, as required by section 304(e), notified the Council by letter on September 23, 2002, that the Pribilof Islands blue king crab stock is overfished and that the Council must develop a rebuilding plan within one year. The time period for a rebuilding program must be as short as possible, but not exceed 10 years, unless the biology of the stock or other environmental conditions dictate otherwise.

According to the national standard guidelines at 50 CFR 600.310(d)(4)(ii) and (e)(3), the Council has two alternatives for remedial action. First, under the guidelines, if the stock is declining due to changes in environmental conditions that affect its long-term productivity, the Council must respecify the MSST. Second, if the stock or stock complex is overfished or if a threshold is being approached, the Council must take remedial action by preparing an FMP amendment designed

to rebuild the stock to the maximum sustainable yield level within an appropriate time frame.

Management Background

The situation with Pribilof Islands blue king crab is somewhat unusual in that NMFS is declaring the fishery overfished even though it has been closed since 1999, the stock is protected by existing Council, State of Alaska, and NMFS management measures, its habitat is protected by the Pribilof Islands habitat conservation area, and Pribilof Islands blue king crab are not caught as bycatch in any fishery.

Since 1980, when the harvest from this stock reached 11.0 million lb (4,990 mt), the Pribilof Islands blue king crab stock has declined substantially in abundance. The fishery was closed from 1988 to 1994 due to low stock abundance. Although this stock was estimated to be above the MSST during the early 1990s, abundance estimates of this stock were considered too unreliable to justify reopening the fishery. By 1995, the estimates had improved enough to open the fishery. However, from 1995 through 1998, harvests fell from 1.3 million lb (590 mt) to 0.5 million lb (227 mt). In 1999 the fishery was again closed due to several factors, including the declining abundance trend, low level of prerecruits, low precision of estimates, and poor fishery performance in the preceding two seasons.

Since 1999 the fishery has remained closed. Data from the 2001 NMFS Eastern Bering Sea trawl survey indicated that the stock was continuing its decline in abundance from mid–1990s levels. The stock's TMB for 2001 was estimated at 7.0 million lb (3,175 mt). Although that was above the MSST of 6.6 million lb (2,994 mt), the fishery remained closed because the abundance of mature males fell below the 0.77 million lb (349 mt) threshold level for mature males that the Alaska Department of Fish and Game (ADF&G) established under its harvest strategy for this stock. Furthermore, the stock level and trend raised concerns that the stock could fall below the MSST by 2002.

These concerns were borne out in 2002, when the stock's TMB was estimated to be below the MSST, at 4.5 million lb (2,041 mt). Mature male abundance for 2002 was estimated at 0.338 million lb (153 mt); this again was below the harvest strategy threshold for a fishery opening.

Although poor precision in abundance estimates makes year-to-year comparisons difficult, the trend in estimates since the mid–1990s indicates that this stock is depressed, in decline, and below MSST. Estimates of abundance for all male size classes are low and provide no suggestion of recruitment to the mature or legal component in the near future. A total of only 12 male blue king crabs were caught at six stations in the Pribilof District during the 2002 survey. Of these, only one was sub-legal size, and most of the rest were old-shell post recruit crabs.

ADF&G concurs with the results of the analysis of the 2002 NMFS trawl survey. The Council is aware of the results of the trawl survey and anticipated this determination. Industry has not been dependent on this fishery, which has been closed for several years.

Dated: September 27, 2002.

Virginia M. Fay,

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

[FR Doc. 02–25331 Filed 10–3–02; 8:45 am]

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Proposed Rules

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

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. R–1131]

Credit by Brokers and Dealers; Security Futures

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors is publishing for comment proposed amendments to Regulation T to clarify the treatment of stock futures held by customers at a security futures intermediary. The proposed amendments would permit the withdrawal of cash from an otherwise restricted margin account if required to satisfy maintenance margin requirements. The proposed amendments also would explicitly permit stock futures to be carried in a good faith account as is currently done with other futures.

DATES: Comments on the proposed rule must be received not later than November 15, 2002.

ADDRESSES: Comments should refer to docket number R–1131 and should be sent to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC, 20551 or mailed electronically to *regs.comments@federalreserve.gov.* Comments addressed to Ms. Johnson also may be delivered between 8:45 a.m. and 5:15 p.m. to the Board's mail facility in the west courtyard of the Eccles Building, located on 21st Street between Constitution Avenue and C Street, NW. Members of the public may inspect comments in accordance with the Board's Rules Regarding the Availability of Information (12 CFR part 261) in Room MP–500 of the Martin Building on weekdays between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Scott Holz, Senior Counsel (202/452–2966) or Thomas Scanlon, Senior Attorney (202/452–3594), Legal Division; for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION:

1. Background

The Commodity Futures Modernization Act of 2000[1] (''CFMA'') lifted the ban on futures on single stocks and narrow-based stock indexes, as well as options on these futures (hereinafter ''stock futures'').[2] The CFMA required the Board either to adopt margin rules for stock futures or to delegate its authority jointly to the Commodity Futures Trading Commission and Securities and Exchange Commission. The Board delegated its authority to the Commissions in a letter dated March 6, 2001. The Commissions published proposed margin rules for public comment in the **Federal Register** on October 4, 2001[3] and published joint final margin rules in the **Federal Register** on August 14, 2002.[4]

Brokers and dealers are generally subject to the Board's Regulation T[5] when they effect transactions for customers. Although the Board has delegated its authority over margin requirements for stock futures to the Commissions, these transactions will be effected in one or more securities accounts described in Regulation T. The Board is proposing amendments to Regulation T to eliminate potential conflicts between the regulation and the Commissions' joint margin rules. We invite your comments on all aspects of the proposal.

2. Stock Futures held in a Securities Margin Account

A. Margin Requirements for Stock Futures

Margin requirements for stock futures are established by the Commissions' joint margin rules, and stock futures may be subject to additional requirements of the self-regulatory organizations (SROs). The Board is proposing to amend section 220.4(b)(1) of Regulation T (''Margin Account '' Applicability) to state explicitly that stock futures are not subject to the margin requirements of Regulation T found in section 220.12 (''Supplement: margin requirements'').

B. Withdrawals To Meet Variation Settlement Obligations

Although positions in futures and securities are marked-to-market daily to determine if additional margin is required, the procedures for the two markets differ. With futures contracts, the daily marked-to-market amount, known as ''variation settlement'' is paid by customers with positions that have declined in value to customers on the other side of the contract whose positions have risen in value. With securities, customers whose positions have declined in value are not required to post additional collateral unless the decline is large enough to trigger the maintenance margin requirements of the SROs. The securities margining system has nothing comparable to the payment that occurs between customers under the futures margining system.

Section 220.4(e) of Regulation T prohibits a customer from withdrawing cash or securities from a margin account if there is an outstanding Regulation T margin call or if the withdrawal, together with other transactions on the same day, would create or increase a margin deficiency. The Board believes this restriction should not apply to a customer who is required to make a variation settlement payment under the Commissions' joint margin rules or SRO margin rules. The Board is therefore proposing an exception to the withdrawal provision for such customers. Withdrawals permitted under the proposed amendment would not be made available to the customer whose account is debited as the funds will be used exclusively to pay the customer on the other side of the stock futures contract.

3. Stock Futures Held in a Futures Account

Stock futures are securities under the Securities Exchange Act of 1934 (''SEA'') and contracts of sale for future delivery under the Commodities

[1] Pub. L. 106–554, Appendix E.

[2] The CFTC and SEC have adopted rules for futures on single stocks and narrow-based stock indexes. The CFMA does not authorize the trading of options on these futures before late 2003. The Board is today proposing amendments that would cover all stock future products, including options. If the CFTC and SEC adopt additional margin rules for stock futures options (under the authority delegated by the Board in 2001), the Board may wish to propose further amendments to Regulation T.

[3] 66 FR 50720.

[4] 67 FR 53146.

[5] 12 CFR part 220.

Exchange Act (''CEA''). The Commissions'' joint margin rules provide that stock futures may be held in either a securities or a futures account. Under Regulation T, stock futures transactions may be effected and carried in a margin account because they are securities under the SEA. Under Regulation T, transactions involving contracts of sale for future delivery are recorded in the good faith account,[6] which is not subject to the restrictions of the margin account. The Board is proposing to amend section 220.6(e) of Regulation T to provide explicitly that stock futures may be effected and carried in the good faith account.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

Regulatory Flexibility Act

The Board certifies that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The only substantive effect of the proposed amendments is to eliminate a potential conflict with other federal margin regulations promulgated by the CFTC and SEC.

List of Subjects in 12 CFR Part 220

Brokers, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 220 to read as follows:

PART 220—CREDIT BY BROKERS AND DEALERS (REGULATION T)

1. The authority citation for Part 220 continues to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78q, and 78w.

2. Section 220.4 is amended as follows:

a. By revising paragraph (b)(1); and

b. By adding a new paragraph (e)(4).

The revision and addition read as follows:

§ 220.4 Margin account.

* * * * *

(b) *Required margin.*—(1) *Applicability.* The required margin for each long or short position in securities (except for security futures products) is set forth in § 220.12 (the Supplement) and is subject to the following exceptions and special provisions.

* * * * *

(e) *Withdrawals of cash or securities.*

* * *

(4) The provisions of this paragraph (e) shall not apply to a withdrawal of cash to meet variation settlement obligations for security futures products held in a margin account.

* * * * *

3. Section 220.6(e)(1) introductory text and (e)(1)(i) are revised to read as follows:

§ 220.6 Good faith account.

* * * * *

(e) *Nonpurpose credit and security futures products.* (1) A creditor may:

(i) Effect and carry transactions in commodities, including transactions in security futures products;

* * * * *

By order of the Board of Governors of the Federal Reserve System, September 30, 2002.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 02–25227 Filed 10–3–02; 8:45 am]

BILLING CODE 6210–01–P

[6] Section 220.6(e).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–05–AD]

RIN 2120–AA64

Airworthiness Directives; MORAVAN a.s. Model Z–242L Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all MORAVAN a.s. (Moravan) Model Z–242L airplanes. This proposed AD would establish a technical service life for these airplanes by restricting Acrobatic and Utility category operations and requiring replacement of the wings after a certain operational time period. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the Czech Republic. The actions specified by this proposed AD are intended to prevent structural failure of the wing due to fatigue cracking. Such failure could result in a wing separating from the airplane with consequent loss of airplane control.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before November 8, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–05–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. 2000–CE–05–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 service information that applies to this proposed AD from Moravan, Inc., 765 81 Otrokovice, Czech Republic; telephone: +420 67 767 3940; facsimile: +420 67 792 2103. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed 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. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed 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 contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I be Sure FAA Receives my Comment?

If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–05–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The Civil Aviation Authority Czech Republic (CAA CZ), which is the airworthiness authority for the Czech Republic, notified FAA that an unsafe condition may exist on all Moravan Model Z–242L airplanes. The CAA CZ reports that these airplanes are operated over the load spectrum that was used at certification. The CAA CZ further reports that a technical service life for these airplanes is needed.

The affected airplanes fall into two different groups:

—Group 1: those airplanes with a serial number in the range of 0001 through 0656 with the original wings installed; and

—Group 2: those airplanes with stronger wings installed either through modification (serial numbers 0001 through 0656) or at manufacture (all serial numbers beginning with 0657).

Based on analysis, the CAA CZ reports that the technical service life should be:

	Acrobatic and utility category operations	All operations
Group 1	190 hours time-in-service (TIS) only in these categories. Operation only in the Normal category thereafter.	3,500 hours TIS. New wings must be installed prior to further operation.
Group 2	450 hours TIS only in these categories. Operation only in the Normal category thereafter.	5,500 hours TIS. New wings must be installed prior to further operation.

What Are the Consequences if the Condition Is not Corrected?

Fatigue cracks in the wing, if not detected and corrected or prevented, could result in structural failure of the wing. Such failure could result in a wing separating from the airplane with consequent loss of airplane control.

Is There Service Information That Applies to This Subject, and What Are the Provisions of This Service Information?

Moravan has issued the following:

—Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000: This service bulletin includes procedures for installing strengthened wings on airplanes with a serial number in the range of 0001 through 0656; and

—Mandatory Service Bulletin Z 242L/37a (Z 142C/17a), Rev. 1, and Mandatory Service Bulletin Z 242L/38a (Z 142C/18a), both dated October 31, 2000: These service bulletins include criteria for a new technical service life of the affected airplanes and specify operational limitations for Acrobatic and Utility category operations.

What Action Did the CAA Take?

The CAA classified these service bulletins as mandatory and issued Czech Republic AD Number CAA–AD–T–099/2000R1, dated June 28, 2001, in order to ensure the continued airworthiness of these airplanes in the Czech Republic.

Was This in Accordance With the Bilateral Airworthiness Agreement?

This airplane model is manufactured in the Czech Republic and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the CAA has kept FAA informed of the situation described above.

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

What has FAA Decided?

The FAA has examined the findings of the CAA; 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 Moravan Model Z–242L airplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

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

What Would This Proposed AD Require?

This proposed AD would establish a technical service life for these airplanes by restricting Acrobatic and Utility category operations and requiring replacement of the wings after a certain operational time period.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD would affect 39 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to replace the wings after the technical service life is reached:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
60 workhours × $60 per hour = $3,600.	$17,400 per set of wings	$21,000	$819,000.

We have no way of determining the monetary cost of the inconvenience of restricting flight to Normal category operations.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A 5 copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Moravan A.S.: Docket No. 2000–CE–05–AD

(a) *What airplanes are affected by this AD?* This AD affects Model Z 242L airplanes, all serials numbers, that are certificated in any category.

(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 prevent structural failure of the wing due to fatigue cracking. Such failure could result in a wing separating from the airplane with consequent loss of airplane control.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must establish a technical service life and restrict Acrobatic and Utility category operations. This must be done by accomplishing the following, as applicable:

Actions	Compliance	Procedures
(1) If you have an airplane with a serial number in the range of 0001 through 0656 that does not have strengthened wings installed (both left and right wings) in accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000, accomplish the following: (i) Insert the following information into the Limitations Section of the Airplane Flight Manual (AFM): ''Do not operate in the Acrobatic or Utility category. Operate in the Normal category only.'' (ii) Replace both wings with the following part numbers: (A) L 242.2100 left-hand wing; and (B) L 242.2200 right-hand wing.	*AFM incorporation:* Upon the accumulation of 190 hours time-in-service (TIS) in the Acrobatic category and/or Utility category or within the next 10 hours TIS in all operations after the effective date of this AD, whichever occurs later; and *Replacement:* Upon the accumulation of 3,500 hours TIS in all operations or within the next 50 hours TIS in all operations after the effective date of this AD, whichever occurs later.	*AFM incorporation:* 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 accomplish this AFM insertion of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). This operational restriction is referenced in Moravan Mandatory Service Bulletin Z 242L/37a (Z 142C/17a), Rev. 1, dated October 31, 2000. *Replacement:* In accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000.
(2) If you have an airplane with a serial number of 0657 or higher or one in the range of 0001 through 0656 that has strengthened wings (both left and right) installed in accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000, accomplish the following: (i) Insert the following information into the Limitations Section of the Airplane Flight Manual (AFM): ''Do not operate the Acrobatic or Utility category. Operate in the Normal category only.'' (ii) Replace both wings with the following part numbers: (A) L 242.2100 left-hand wing; and (B) L 242.2200 right-hand wing.	*AFM incorporation:* Upon the accumulation of 450 hours TIS in the Acrobatic category and/or Utility category or within the next 10 hours TIS in all operations after the effective date of this AD, whichever occurs later; and *Replacement:* Upon the accumulation of 5,500 hours TIS in all operations or within the next 50 hours TIS in all operations after the effective date of this AD, whichever occurs later. You must maintain the AFM requirement until replacement of the wings.	*AFM incorporation:* 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 accomplish this AFM insertion of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). This operational restriction is referenced in Moravan Mandatory Service Bulletin Z 242L/38a (Z 142C/18a), Rev. 1, dated October 31, 2000. *Replacement:* In accordance with Moravan Mandatory Service Bulletin Z 242L/27a—Rev. 1, dated October 31, 2000.
(3) Only install a wing with a part number of L 242.2100 left-hand wing or L 242.2200 right-hand wing.	As of the effective date of this AD.	Not Applicable.

Actions	Compliance	Procedures
(4) When you install new wings (both left and right) on your airplane, the AFM and replacement requirements of paragraph (d)(2) of this AD apply.	*AFM incorporation:* Upon the accumulation of 450 hours TIS in the Acrobatic category and/or Utility category; and *Replacement:* Upon the accumulation of 5,500 hours TIS in all operations.	See paragraph (d)(2) of this AD.

(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, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: 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 Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(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.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Moravan, Inc., 765 81 Otrokovice, Czech Republic; telephone: +420 67 767 3940; facsimile: +420 67 792 2103. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Czech Republic AD Number CAA–AD–T–099/2000R1, dated June 28, 2001.

Issued in Kansas City, Missouri, on September 26, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–25208 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310 and 358

[Docket No. 02N–0359]

RIN 0910–AA01

Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed rule to establish conditions under which over-the-counter (OTC) ingrown toenail relief drug products containing sodium sulfide 1 percent in a gel vehicle are generally recognized as safe and effective and not misbranded. This rule also proposes to amend the regulation that lists nonmonograph active ingredients in OTC drug products for ingrown toenail relief by removing sodium sulfide from that list. This proposal is part of FDA's ongoing review of OTC drug products.

DATES: Submit written or electronic comments by December 3, 2002. Please see section IX of this document for the effective date of any final rule that may publish based on this proposal.

ADDRESSES: Submit written comments 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: Nahid Mokhtari, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 9, 1993 (58 FR 47602), FDA published a final rule establishing that any ingrown toenail relief drug product for OTC human use is not generally recognized as safe and effective and is misbranded. (See 21 CFR 310.538.) In that final rule, sodium sulfide 1 percent was considered effective but not safe for the temporary relief of pain associated with ingrown toenails because of its potential for causing adverse reactions, particularly burning sensations and skin irritation.

A manufacturer subsequently conducted an additional safety study and requested the agency to find sodium sulfide 1 percent in a gel vehicle safe and effective for this OTC use (Ref. 1). The study involved four treatment groups who applied sodium sulfide nonahydrate gel: (1) One percent twice daily using a retainer ring system, (2) 2 percent twice daily using a retainer ring system, (3) 2 percent once daily using a retainer ring system, and (4) 2 percent twice daily using an absorptive bandage system. The gel was applied for 7 days or until the nail became sufficiently softened to allow for trimming, whichever occurred first. Of 64 ingrown toenail sufferers enrolled, 61 completed all aspects of the study. No adverse reactions were reported during the study, and no subjects reported any irritation. Four subjects noted some stinging and burning on day 1 and moderate discomfort on days 3 and 4, but the subjects did not discontinue treatment. The manufacturer stated that of the two systems tested the retainer ring is the preferred one because it provides ease of use and cushioning while further enhancing safety through the use of a medical grade adhesive. The design of the system allows for easy administration of sodium sulfide to the affected area by the consumer while retaining the drug in contact with the toe. The manufacturer requested approval of its revised instructions using the retainer ring system.

The agency found this study inadequate for a number of reasons. First, it was not designed as a safety study. There was no vehicle control, and safety cannot be determined without a vehicle control. The trial size was too small. The daily supervision by a podiatrist was not reflective of OTC use. Safety has to be assessed in context with the indications; the ''days to trimming'' in the study were outside of the prior proposed monograph description of product uses. The agency concluded that the study was not adequate to resolve the outstanding

safety concerns for using sodium sulfide for ingrown toenail relief (Ref. 2). The manufacturer subsequently conducted additional safety studies and submitted new data to the agency (Ref. 3).

II. The Agency's Evaluation of the New Data

The new data were in a study entitled ''An Investigator-Blind, Vehicle-Controlled and Retainer Ring/Taping-controlled, Parallel Study of the Safety of a 1 percent Sodium Sulfide Nonahydrate Gel Used Topically for the Temporary Relief of Discomfort (Pain) from Ingrown Toenails.'' The data resulted from a randomized, two-center, three-arm, evaluator-blind safety study involving 157 subjects over 18 years of age with painful ingrown toenail. Eligible subjects were randomized into treatment arms that used sodium sulfide 1 percent gel with a taped retainer ring, gel vehicle with a taped retainer ring, and the taped retainer ring alone in a 3:1:1 ratio.

The gel vehicle was an aqueous, semisolid system with large organic molecules interpenetrated with a liquid (Ref. 4). The retainer ring was die cut from polyethylene foam coated on one side with a medical grade acrylic pressure-sensitive adhesive and had slots, center-cut completely through the foam with the cut of sufficient size to allow for application of the product to the ingrown toenail (Ref. 4). All subjects were to apply the test product twice daily for 7 days after cleansing and adequately drying the foot. Each subject had a daily diary in which to record product applications and any discomfort resulting from the test product. At each study visit (days 1, 4, and 8), the investigator also asked the subject, ''How are you feeling?'', recorded any subject-reported adverse events, and reviewed the daily diary for compliance and concomitant medications. The investigator also evaluated and recorded the condition of the skin surrounding the target ingrown toenail for erythema, edema, and maceration using the following scale: 0 = none, 1 = mild, 2 = moderate, and 3 = severe.

The majority of the subjects in both the sodium sulfide 1 percent gel and vehicle groups (65 percent and 55 percent, respectively) experienced no discomfort. Most discomfort occurred in the first 3 days of treatment. During this period, the frequency of discomfort appeared somewhat higher in the control gel treatment group than in the sodium sulfide 1 percent gel group. Pain and burning were the most commonly reported diary entries in all groups. The data suggested that the incidence of pain and burning using sodium sulfide 1 percent gel was comparable to or less than that observed in the two control groups, except that burning from use of the sodium sulfide gel was greater than for the retainer ring alone, but less than for the control gel vehicle. No serious adverse events were recorded.

At baseline, the proportion of subjects with mild or moderate erythema (skin redness) was generally comparable among treatment groups. Over the course of the study, erythema decreased in all three groups, suggesting that sodium sulfide 1 percent gel is not an irritant. A similar pattern was observed for mild or moderate edema (swelling), although the decreases at day 4 were less dramatic. At day 8, the change from baseline was most pronounced in the gel vehicle group. Percentage changes in the sodium sulfide and retainer ring groups appeared comparable. No subject in any of the treatment groups had maceration (skin degeneration). The agency's detailed comments on the data are on file in the Dockets Management Branch (see **ADDRESSES**) (Ref. 5).

III. The Agency's Tentative Conclusions

The agency tentatively concludes that the new safety data and the agency's previous determination of effectiveness (58 FR 47602 at 47604) support OTC drug monograph status for 1 percent sodium sulfide in a gel vehicle applied topically for the relief of discomfort (pain) of ingrown toenail. The product is used with a retainer ring to keep the product at the area of application. The agency, since 1989, has believed that monograph ingredients need to be recognized in an official United States Pharmacopeia-National Formulary (USP-NF) drug monograph. (See 54 FR 13480 at 13486, April 3, 1989, and 54 FR 40808 at 40810, October 3, 1989.) The agency recently included such a requirement in § 330.14(i) (21 CFR 330.14(i)). (See 67 FR 3060 at 3076, January 23, 2002.) A USP-NF monograph currently exists for sodium sulfide gel (Ref. 6). Accordingly, the agency is proposing a new monograph in part 358, subpart D (21 CFR part 358, subpart D) for ingrown toenail relief drug products that includes 1 percent sodium sulfide gel. The agency is also amending § 310.538 to state that it no longer applies to sodium sulfide.

The manufacturer stated its intent to market only the retainer ring/bandage strip system at this time, but noted that its safety and effectiveness data also support use of a bandage system (without a retainer ring) (Ref. 4). The only safety data for use with a bandage system were included in the manufacturer's first submission (Ref. 1), which the agency found inadequate to support safety (Ref. 2). The key data that adequately support safety involved use with the retainer ring system (Ref. 3). Therefore, the agency is including a warning that states: ''When using this product [bullet] use with a retainer ring''.

The manufacturer requested that it be allowed to begin marketing 1 percent sodium sulfide gel upon publication of this proposed rule. Current § 310.538 prohibits marketing of ingrown toenail relief drug products containing sodium sulfide. The agency today is proposing to allow the marketing of such products, but until the agency's final conclusions on the status of these products are presented in a final rule and § 310.538 is amended in a future issue of the **Federal Register**, any such product initially introduced or initially delivered for introduction into interstate commerce is subject to regulatory action.

IV. Analysis of Impacts

FDA has examined the impacts of this proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this proposed rule is consistent with the principles set out in the Executive order and in these two statutes. FDA has determined that the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order. As explained later in this section, FDA believes that the proposed rule will not have a significant economic impact

on a substantial number of small entities. The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for this proposed rule, because the proposed rule is not expected to result in any 1–year expenditure that would exceed $100 million adjusted for inflation. The current inflation adjusted statutory threshold is about $110 million.

The purpose of this proposed rule is to establish a monograph for ingrown toenail relief drug products for OTC human use and include sodium sulfide 1 percent in a gel vehicle in the monograph. This proposal, when finalized, will provide for OTC availability of this type of product.

Manufacturers who wish to market this type of product will have the standard costs associated with the introduction of any new product. These include preparation of labeling, stability testing, and implementing manufacturing procedures. Any cost incurred will be voluntary if manufacturers elect to market this type of product. This cost may vary from manufacturer to manufacturer; however, the burden on small manufacturers is not greater than that for large manufacturers. Manufacturers will not incur any costs related to proving safety and effectiveness of the active ingredient for this intended use.

Under the Regulatory Flexibility Act, if a rule has a significant impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule would allow manufacturers to market OTC ingrown toenail relief drug products containing sodium sulfide 1 percent in a gel vehicle without having to obtain an approved new drug application, as is currently required, and would be beneficial to small entities. Thus, this proposed rule will not impose a significant economic burden on affected entities. Therefore, under the Regulatory Flexibility Act, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. No further analysis is required.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on manufacturers who wish to market OTC ingrown toenail relief drug products. Comments regarding the impact of this rulemaking on such manufacturers should be accompanied by appropriate documentation. The agency is providing a period of 60 days from the date of publication of this proposed rulemaking in the **Federal Register** for comments to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

V. Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public ''(5 CFR 1320.3(c)(2)).

VI. Environmental Impact

The agency has determined under 21 CFR 25.31(a) 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.

VII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule does not contain policies 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. Accordingly, the agency tentatively concludes that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement has not been prepared.

VIII. Request for Comments

Three copies of all written comments are to be submitted. Individuals submitting written comments or anyone submitting electronic comments may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IX. Proposed Effective Date

The agency is proposing that any final rule that may issue based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

X. References

The following references are on display in the Dockets Management Branch (see **ADDRESSES**) under Docket No. 80N–0348 and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Comment No. CP1.
2. Comment No. PDN1.
3. Comment No. CP2.
4. Letter from A. Mart, Schering-Plough HealthCare Products, to W. Ellenberg, FDA, dated December 21, 2000.
5. Comment No. LET3.
6. The United States Pharmacopeia 24--The National Formulary 19, The United States Pharmacopeial Convention, Inc., Rockville, MD, Supplement 2, p. 2858, July 1, 2000.

List of Subjects

21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 358

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 310 and 358 are amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b–360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b–263n.

2. Section 310.538 is amended by removing the ingredient sodium sulfide in paragraph (a) and adding new paragraph (e) to read as follows:

§ 310.538 Drug products containing active ingredients offered over-the-counter (OTC) for use for ingrown toenail relief.

* * * * *

(e) This section does not apply to sodium sulfide labeled, represented, or promoted for OTC topical use for ingrown toenail relief in accordance with part 358, subpart D of this chapter after [effective date of final rule].

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

3. The authority citation for 21 CFR part 358 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

4. Part 358 is amended by adding new subpart D, consisting of § § 358.301 to 358.350, to read as follows:

Subpart D—Ingrown Toenail Relief Drug Products

Sec.
358.301 Scope.
358.303 Definitions.
358.310 Ingrown toenail relief active ingredient.
358.350 Labeling of ingrown toenail relief drug products.

Subpart D—Ingrown Toenail Relief Drug Products

§ 358.301 Scope.

(a) An over-the-counter ingrown toenail relief drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to chapter I of title 21 unless otherwise noted.

§ 358.303 Definitions.

As used in this subpart:

(a) *Ingrown toenail relief drug product*. A drug product applied to an ingrown toenail that relieves pain or discomfort either by softening the nail or by hardening the nail bed.

(b) *Retainer ring*. A die cut polyethylene foam pad coated on one side with medical grade acrylic pressure-sensitive adhesive. The retainer ring has slots, center-cut completely through the foam with the cut of sufficient size to allow for localization of an active ingredient in a gel vehicle to a specific target area. The retainer ring is used with adhesive bandage strips to place over the retainer ring to hold it in place.

§ 358.310 Ingrown toenail relief active ingredient.

The active ingredient of the product is sodium sulfide 1 percent in a gel vehicle. The gel vehicle is an aqueous, semisolid system with large organic molecules interpenetrated with a liquid.

§ 358.350 Labeling of ingrown toenail relief drug products.

(a) *Statement of identity*. The labeling of the product contains the established name of the product, if any, and identifies the product as an ''ingrown toenail relief product'' or as an ''ingrown toenail discomfort reliever.''

(b) *Indications*. The labeling of the product states, under the heading ''Use,'' the following: ''for temporary relief of'' [select one or both of the following: 'pain' or 'discomfort'] ''from ingrown toenails''. Other truthful and nonmisleading statements, describing only the use that has been established and listed in this paragraph (b), may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the Federal Food, Drug, and Cosmetic Act (the act) relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(c) *Warnings*. The labeling of the product contains the following warnings under the heading ''Warnings'':

(1) ''For external use only'' in accord with § 201.66(c)(5)(i) of this chapter.

(2) ''Do not use [bullet][1] on open sores''.

(3) ''Ask a doctor before use if you have [bullet] diabetes [bullet] poor circulation [bullet] gout''.

(4) ''When using this product [bullet] use with a retainer ring''.

(5) ''Stop use and ask a doctor if [bullet] redness or swelling of your toe increases [bullet] discharge is present around the nail [bullet] symptoms last more than 7 days or clear up and occur again within a few days''.

(d) *Directions*.The labeling of the product contains the following statements under the heading ''Directions'':

(1) ''[Bullet] adults and children 12 years and over:''

(i) ''[Bullet] wash the affected area and dry thoroughly [bullet] place retainer ring on toe with slot over the area where the ingrown nail and the skin meet. Smooth ring down firmly. [bullet] apply enough gel product to fill the slot in the ring [bullet] place round center section of bandage strip directly over the gel-filled ring to seal the gel in place. Smooth ends of bandage strip around toes.''

(ii) ''[Bullet] repeat twice daily (morning and night) for up to 7 days until discomfort is relieved or until the nail can be lifted out of the nail groove and easily trimmed''.

(2) ''[Bullet] children under 12 years: ask a doctor''.

Dated: September 25, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–25251 Filed 10–3–02; 8:45 am]

BILLING CODE 4160–01–S

[1]See § 201.66(b)(4) of this chapter for definition of bullet.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–083–7213b; A–1–FRL–7375–1]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Reasonably Available Control Technology (RACT) Plans and Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve several State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These revisions establish reasonably available control technology (RACT) requirements for major volatile organic compound (VOC) sources. The intended effect of this action is to approve these requirements into the Massachusetts SIP. EPA is taking this action in accordance with the Clean Air Act (CAA).

DATES: Written comments must be received on or before November 4, 2002.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of Massachusetts' submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Anne Arnold, (617) 918–1047.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving Massachusetts' SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no relevant adverse comments in response to this rule, we contemplate no further activity. If EPA receives relevant adverse comments, we will

withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: September 3, 2002.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 02–25159 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MA–075–7209b; A–1–FRL–7374–8]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Approval of PM10 State Implementation Plan (SIP) Revisions and Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision replaces the standard for Total Suspended Particulates (TSP) with a standard for particulate matter with a mean aerodynamic diameter of 10 microns or less (PM10) as the National Ambient Air Quality Standard (NAAQS) for particulates. EPA also proposes to redesignate several areas of Massachusetts from ''nonattainment'' for TSP to ''cannot be classified.'' In the Final Rules Section of this **Federal Register**, EPA is approving Massachusetts's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments in response to this action, the Agency contemplates no further activity. If EPA receives relevant adverse comments, the Agency will withdraw the direct final rule, and will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before November 4, 2002.

ADDRESSES: Comments may be mailed to Steven Rapp, Manager, Air Permits Program Unit (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the Massachusetts submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, (617) 918–1655.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 29, 2002.

Robert W. Varney,

Regional Administrator.

[FR Doc. 02–25155 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 092602H]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The experiment proposes to conduct a study of an experimental bycatch reduction device in order to develop otter trawl gear for the NE multispecies fishery that would result in reduced catch of Atlantic cod. The EFP would allow these exemptions for one commercial vessel, for not more than 5 days of sea trials. All experimental work would be monitored by Manomet Center for Conservation Sciences personnel.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before October 21, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Manomet EFP Proposal for Rigid Mesh Bycatch Reduction Device.'' Comments may also be sent via facsimile (fax) to 978–281–9135.

FOR FURTHER INFORMATION CONTACT: Tom Warren, Fishery Policy Analyst, 978–281–9347.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted by Manomet Center for Conservation Sciences on August 19, 2002.

The EFP would allow for exemptions from the Gulf of Maine (GOM) Regulated Mesh Area gear requirements at 50 CFR 648.80(a)(3)(i) and the days-at-sea (DAS) requirements at § 648.82(a).

The EFP would exempt one federally permitted commercial fishing vessel from the following two requirements of the FMP: The requirement to use a minimum mesh size of 6.0–inch (15.2–cm) diamond mesh or 6.5–inch (16.5–cm) square mesh in the body and extension of a trawl net while fishing in the GOM Regulated Mesh Area; and the requirement to use a DAS while targeting groundfish.

The goal of this study is to assess the utility of this bycatch reduction device for the groundfish fishery when fishing in the GOM. The specific trawl design to be tested is a rigid mesh panel inserted between the extension and codend of a trawl net and extending around the entire circumference of the net. The panel would be 2 m in length, with elongate meshes 2.4–inches (60–mm) by 7.9–inches (200–mm). The vessel would target mixed groundfish (yellowtail flounder, winter flounder, American plaice, Atlantic cod, and summer flounder). All undersized fish would be returned to the sea as quickly as possible after measurement. The incidental catch is expected to be comprised of skates, dogfish, sculpin and sea robin. The incidental catch of these species is expected to be minimal and efforts will be made to return all incidentally caught species to the sea as quickly as possible.

The applicant requested that the research be conducted in the GOM in the area north of 42° 30′ N. lat. and west of 69° 00′ W. long. However, due to the severely overfished condition of the Cape Cod stock of yellowtail flounder, NMFS will confine the research to the area north of the stock boundary 42° 50′ N. lat. The vessel would conduct a total of approximately 25 tows of 20 to 30 minutes duration over 5 sea days. The experimental design would be an alternate tow design (experimental net and conventional net in alternate tows, following an A-B-B-A pattern). Both codends would be constructed of 6.5'' (165 mm) diamond mesh. The tows would be recorded using a video camera in order to verify proper net functioning and to record fish behavioral reactions. Fish retained would be counted, weighed and measured, and all legal catch sold. The vessel will be exempted from 5 DAS in order to provide compensation for a portion of the cost of the research.

If the research results from the experiment are promising, the applicant intends to conduct future research to fine-tune the use of the net and conduct fleetwide trials with the hope of integrating a bycatch reduction device requirement into the FMP.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Dated: September 30, 2002.

Virginia M. Fay,

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

[FR Doc. 02–25335 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 193

Friday, October 4, 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.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must Be Received on or Before: November 3, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

Product/NSN: 4 Ply Cut End Mopheads, 7920–00–NIB–0430, 7920–00–NIB–0431, 7920–00–NIB–0432, 7920–00–NIB–0434, 7920–00–NIB–0435.
NPA: New York City Industries for the Blind, Brooklyn, New York.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Product/NSN: Plate, Paper, 7350–00–263–6700, 7350–01–263–6701.
NPA: The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana.
Contract Activity: GSA, General Products Center, Fort Worth, Texas.

Product/NSN: U.S. Geological Survey Visual Identity Clothing, Item No. 001, Baseball Cap, Delta Dark Green, w/USGS Identifier, Item No. 002, T-Shirt, Ash, w/USGS Identifier, Item No. 003, T-Shirt, Orange, w/USGS Identifier, Item No. 004, T-Shirt, Navy Blue, w/USGS Identifier, Item No. 005, Polo Shirt, Dark Green, w/USGS Identifier, Item No. 006, Sweatshirt, Dark Green, w/USGS Identifier, Item No. 007, Baseball Cap, Navy, w/USGS Identifier, Item No. 008, Cruiser Vest, Orange, w/USGS Identifier, Item No. 009, Cruiser Vest, Khaki, w/USGS Identifier.
NPA: Delaware Division for the Visually Impaired, New Castle, Delaware.
Contract Activity: U.S. Geological Survey, Reston, Virginia.

Services

Service Type/Location: Facility Services, Retirement Operations Center, Boyers, Pennsylvania.
NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, Pennsylvania.
Contract Activity: Office of Personnel Management, Washington, DC.

Service Type/Location: Grounds and Landscape Maintenance Services, San Jacinto Disposal Area, Fort Point Reservation Area, Galveston, Texas.
NPA: Training, Rehabilitation & Development Institute, Inc., San Antonio, Texas.
Contract Activity: U.S. Army Engineer District, Galveston, Texas.

Service Type/Location: Lawn Service, Naval Reserve Center, Cleveland, Ohio.
NPA: Goodwill Industries of Greater Cleveland, Inc., Cleveland, Ohio.
Contract Activity: Officer in Charge of Contracts, NAVFAC, Crane, Indiana.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for deletion from the Procurement List.

The following products are proposed for deletion from the Procurement List:

Products

Product/NSN: Sheath, Pen and Pencil, 7510–00–052–2664.
NPA: York County Blind Center, York, Pennsylvania.
Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Product/NSN: SPEAR Insulation Subsystem, 8415–01–F01–0197, 8415–01–F01–0204, 8415–01–F01–0211, 8415–01–F01–0218, 8415–01–F01–0219, 8415–01–F01–0220, 8415–01–F01–0221, 8415–01–F01–0222, 8415–01–F01–0223, 8415–01–F01–0224, 8415–01–F01–0225.
NPA: Peckham Vocational Industries, Inc., Lansing, Michigan.
Contract Activity: U.S. Army Soldier Systems Command, Natick, Massachusetts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–25324 Filed 10–3–02; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: November 3, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 14, and August 2, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 40910 and 50416) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Laundry Service, Fort Carson, Colorado.
NPA: Goodwill Industrial Services Corporation, Colorado Springs, Colorado.
Contract Activity: Directorate of Contracting, Fort Carson, Colorado.
Service Type/Location: Medical Transcription, VA Medical Center, West Los Angeles, Los Angeles, California.
NPA: Landmark Services, Inc., Santa Ana, California.
Contract Activity: VA Network Business Center, 664/NBC/MP, San Diego, California.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 02–25325 Filed 10–3–02; 8:45 am]

BILLING CODE 6353–01–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: Commission on Civil Rights.

DATE AND TIME: Friday, October 11, 2002, 9:30 a.m.

PLACE: Hilton Jackson Hotel, 1001 East County Line Road, Jackson, MS 39211.

Status

Agenda

I. Approval of Agenda
II. Approval of Minutes of July 19, 2002 Meeting and September 13, 2002 ''Meeting''
III. Announcements
IV. Staff Director's Report
V. FY–2004 Budget Estimate to OMB
VI. State Advisory Committee Appointments for Arkansas, Georgia, Illinois, New York, Oklahoma, Texas and Tennessee
VII. State Advisory Committee Report: Civil Rights Issues in West Virginia (West Virginia)
VIII. Presentations from central Regional SAC members representing Alabama, Arkansas, Louisiana, Mississippi and Nebraska on recent activities and other civil rights developments in their states.
IX. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Les Jin, Press and Communications, (202) 376–7700.

Debra A. Carr,

Deputy General Counsel.

[FR Doc. 02–25469 Filed 10–2–02; 2:16 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Yaudat Mustafa Talyi, and International Business Services, Ltd. and Top Oil Tools, Ltd.; Order Temporarily Denying Export Privileges

Through the Office of Export Enforcement (''OEE,''), the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, has requested that I issue an order pursuant to § 766.24 of the Export Administration Regulations (currently codified at 15 CFR 730–774 (2002)) (''EAR''),[1] temporarily denying all U.S. export privileges of Yuadat Mustafa Talyi, a.k.a. Joseph Talyi, 888 Cross Gates Boulevard, Slidell, Louisiana 70458 (''Talyi''), and International Business Services, Ltd., 700 Gause Boulevard, Suite 304, Slidell, Louisiana 70458, and, 41 Chamale Cove East, Slidell, Louisiana 70460 (''IBS''). BIS has also requested that, pursuant to §§ 766.24(c) and 766.23 of the EAR, the order apply to the following person who is related to IBS and Talyi: Top Oil Tools, Ltd., 41 Chamale Cove East, Slidell, Louisiana 70460.

In its request, BIS states that, based upon an investigation by OEE, it believes the Talyi, acting through his company IBS, has repeatedly attempted to export U.S.-origin items to Libya and Sudan over the past nine years by misrepresenting, deceiving, and lying to suppliers of the U.S.-origin items regarding the ultimate destination and end-user of the items, and despite repeated advice from several U.S. suppliers that his proposed activity would be a violation of U.S. export control laws. BIS further states that the evidence establishes that on at least three occasions, Talyi exported or participated in the export of U.S.-origin items, through his company IBS, to Libya and Sudan without obtaining the necessary authorizations from BIS or the Treasury Department's Office of Foreign Assets Control (''OFAC'').

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continue the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. V 1999)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 FR 53721 (August 16, 2002)), has continued the EAR in effect under IEEPA.

Thus, OEE's investigation demonstrates that Talyi, through IBS, has repeatedly attempted to export items to Libya and Sudan by misrepresenting, deceiving, or lying to U.S. equipment supplies regarding the ultimate destination of end-user since as far back as 1993, in clear violation of U.S. export control laws, and, that Talyi has exported or participated in the export of U.S.-origin items without obtaining necessary authorizations from BIS or the Treasury Department's OFAC.

OEE's investigation has disclosed the Top Oil Tools, Ltd., 41 Chamale Cove East, Slidell, Louisiana 70460, is related by its ownership, control, affiliation, and connection with Talyi and IBS such that it should be considered a related person under the terms of this order. Top Oil Tools, Ltd. is a business owned and operated by Talyi, it is located at the same address, and it has participated in some of the transactions referenced herein. Consequently, it is necessary to name Top Oil Tools, Ltd. as a person related to Talyi and IBS in order to prevent evasion of the terms and conditions of this order.

In light of the evidence cited above, OEE's investigation demonstrates that Talyi has committed or attempted to commit repeated violations of U.S. export control laws, including the EAR, through his company IBS, that such violations have been deliberate and covert, and that, given the nature of the items shipped, future such violations could go undetected. In addition, a temporary denial order is needed to give notice to companies in the United States and abroad that they should cease dealing with Talyi or IBS in export transactions involving U.S.-origin items. Such a temporary denial order is clearly consistent with the public interest to preclude future violations of the EAR.

Accordingly, I find that a TDO is necessary, in the public interest, to prevent an imminent violation of the EAR. This order is issued on an *ex parte* basis without a hearing based upon BIS's showing that expedited action is required.

It is therefore ordered: First, that Yaudat Mustafa Talyi, a.k.a. Joseph Talyi, 888 Cross Gates Boulevard, Slidell, Louisiana 70458 (''Talyi''), and International Business Services, Ltd., 700 Gause Boulevard, Suite 304, Slidell, Louisiana 70458, and 41 Chamale Cove East, Slidell, Louisiana 70460 (''IBS'') (hereinafter collectively referred to as the ''denied persons''); and the following person subject to the Order by its relationship to the denied person, Top Oil Tools, Ltd., 41 Chamale Cove East, Slidell, Louisiana 70460 (the ''related person'') (together, the denied persons and the related person are ''persons subject to this Order'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may ,directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a person subject to this Order any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a person subject to this order of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a person subject to this order acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a person subject to this order of any item subject to the EAR that has been exported from the United States;

D. Obtain from a person subject to this order in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a person subject to this order, or service any item, of whatever origin, that is owned, possessed or controlled by a person subject to this order if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, in addition to the related person named above, after notice and opportunity for comments as provided in § 766.23 of the EAR, any other person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of § 766.24(e) of the EAR, Talyi or IBS may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022. A related person may appeal to the Administrative Law Judge at the aforesaid address in accordance with the provisions of § 766.23(c) of the EAR.

This Order is effective immediately and shall remain in effect for 180 days.

In accordance with the provisions of § 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 30 days before the expiration date. A respondent may oppose a request to renew this order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on Talyi and IBS and the related person and shall be published in the **Federal Register**.

Entered this 30th day of September, 2002.

Michael J. Garcia,

Assistant Secretary for Export Enforcement.

[FR Doc. 02–25221 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–847]

Final Results of Expedited Sunset Review: Persulfates From the People's Republic of China

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

ACTION: Notice of final results of expedited sunset review: Persulfates from the People's Republic of China.

SUMMARY: On July 22, 1997, the Department of Commerce (''the Department'') published the notice of initiation of a five-year sunset review of the antidumping duty order on persulfates from the People's Republic of China (''PRC''), pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act'').[1] On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties, and inadequate response (in this case no response) from respondent interested parties, the Department determined to conduct an expedited sunset review of this antidumping duty order. As a result of this review, the Department finds that revocation of the antidumping order would be likely lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Amir R. Eftekhari or James P. Maeder, Jr., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5331 or (202) 482–3330.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review is conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (''Sunset Regulations'') and in 19 CFR part 351 (2001) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3 Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope of Review

The products covered by this review are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formula for these persulfates are, respectively, $(NH_4)2S_2O_8$, $K_2S_2O_8$, and $Na_2S_2O_8$. Ammonium and potassium persulfates are currently classified under subheading 2833.40.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Sodium persulfates are classified under HTSUS subheading 2833.40.20. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Background

On July 22, 1997, the Department published the notice of initiation of the five-year sunset review of the antidumping duty order on persulfates from the PRC in accordance with section 751(c)(6)(A)(i) of the Tariff Act of 1930.[2] On June 11, 2002, the Department received a Notice of Intent to Participate on behalf of FMC Corporation (collectively, ''the domestic interested parties'') as specified in § 351.218(d)(1)(i) of the Sunset Regulations.

On July 3, 2002, the Department received a complete substantive response from the domestic interested parties, as specified in the Sunset Regulations under § 351.218(d)(3)(i).

The Department did not receive a substantive response from any respondent interested party in this proceeding. Consequently, pursuant to section 751(c)(3)(B) of the Act, and 19 CFR 351.218(e)(1)(ii)(C), the Department conducted an expedited (120-day) sunset review of this order.

Analysis of Comments Received

All issues raised by the domestic interested parties to this sunset review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 2, 2002, which is adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the Department's main building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn,* under the heading ''October 2002.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/producers/exporter	Weighted-average margin (percent)
Sinochem Jiangsu Wuxi Import & Export Corporation (Wuxi)	32.22
Shanghai Ai Jian Import & Export Corporation (Ai Jian)	34.41
Guangdong Petroleum Chemical Import and Export Trade (Guangdong)	34.97
PRC-wide	119.02

This notice serves as the only 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 notification of 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 violation which is subject to sanction.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 30, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–25307 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–833]

Stainless Steel Bar From Japan: Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On July 31, 2002, the Department of Commerce published the preliminary results of an administrative review of the antidumping duty order

[1] *Notice of Initiation of Five Year ''Sunset'' Reviews,* 67 FR 9439 (March 1, 2002).

[2] *Notice of Initiation of Five Year ''Sunset'' Reviews,* 67 FR 38332 (June 3, 2002).

on stainless steel bar from Japan for sales made by Aichi Steel Works, Ltd., for the period February 1, 2001, through January 31, 2002. We gave interested parties an opportunity to comment on the preliminary results of review but received no comments. Therefore, these final results of review have not changed from those presented in the preliminary results of review, in which we applied total adverse facts available.

EFFECTIVE DATE: October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Ellman, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4852.

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. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (April 2001).

Background

On July 31, 2002, the Department published in the **Federal Register** (67 FR 49673) the preliminary results of the review of this order. In the preliminary results, we determined a weighted-average dumping margin of 61.47 percent for Aichi Steel Works, Ltd. (Aichi), for the period February 1, 2001, through January 31, 2002. We gave interested parties an opportunity to comment on our preliminary results. We received no comments. The Department has now completed the administrative review in accordance with section 751 of the Act.

Scope of Order

The merchandise covered by this order is stainless steel bar. For purposes of this order, the term ''stainless steel bar'' means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross-section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.*, cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross-section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this order is currently classifiable under subheadings 7222.11.00, 7222.19.00, 7222.20.00 and 7222.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Final Results of the Review

We received no comments from interested parties, and we have determined that no changes to the preliminary results are warranted for these final results. Therefore, the weighted-average dumping margin for Aichi for the period February 1, 2001, through January 31, 2002, is 61.47 percent.

The Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The rate of 61.47 percent will be assessed uniformly on all entries of Aichi merchandise made during the period of review. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of these final results of review.

Furthermore, the following deposit rates will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for Aichi will be 61.47 percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 61.47 percent, the ''all others'' rate established in the LTFV investigation (59 FR 66930, December 28, 1994). This deposit rate shall remain in effect until publication of the final results of the next administrative review.

Pursuant to 19 CFR 351.402(f)(2) this notice serves as a final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return or 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 in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: September 30, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–25304 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–825]

Stainless Steel Sheet and Strip in Coils From Germany; Antidumping Duty Administrative Review; Extension of Time Limits

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

ACTION: Notice of extension of time limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for the final results of the 2000–2001 administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany. This review covers one manufacturer/exporter of the subject merchandise to the United States and the period July 1, 2000 through June 30, 2001.

EFFECTIVE DATE: October 4, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Tran at (202) 482–1121 or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 7, 2002, we published the preliminary results of this administrative review. *See Stainless Steel Sheet and Strip in Coils from Germany; Notice of Preliminary Results of Antidumping Duty Administrative Review* 67 FR 51199 (August 7, 2002). Currently, the final results in this administrative review are due on December 5, 2002. Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the final results of the review within the normal statutory time limit. Because petitioners' and respondent's case and rebuttal briefs raise complicated issues, such as major inputs from affiliated and unaffiliated suppliers, downstream home market sales, and application of facts available, the Department determines it is not practicable to complete this review within the normal statutory time limit. Therefore, the Department is extending the time limits for completion of the final results until February 3, 2003, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended.

Dated: September 27, 2002.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–25306 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092402B]

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 a proposed evaluation and pending determination of the Secretary of Commerce (Secretary) as to how a Resource Management Plan (RMP) addresses Endangered Species Act (ESA) criteria. The RMP was submitted jointly by the Makah Indian Tribe and the Washington Department of Fish and Wildlife as the co-managing fisheries resource manager, pursuant to the ESA protective regulations promulgated for the Ozette Lake Sockeye Salmon Evolutionary Significant Unit (ESU). NMFS also is reopening the public comment period for a draft Environmental Assessment (EA) of the pending determination. The comment period is being reopened in response to requests for additional review time by the public. This document serves to notify the public of the extended availability of the proposed evaluation and draft EA for review and comment before NMFS makes its final National Environmental Policy Act (NEPA) and RMP determinations.

DATES: Written comments on the Secretary's proposed evaluation and draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on October 21, 2002.

ADDRESSES: Written comments and requests for copies of the proposed evaluation and draft environmental assessment should be addressed to Tim Tynan, Sustainable Fisheries Division, National Marine Fisheries Service, 510 Desmond Drive, Suite 103, Olympia, WA 98503. Comments may also be sent via fax to 360/753–9517. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*, Sustainable Fisheries Division site. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Tim Tynan at phone number: 360/753–9579, or e-mail: *Tim.Tynan@noaa.gov* regarding the RMP.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Ozette Lake Sockeye Salmon (*Oncorhynchus nerka*) ESU.

Background

The Makah Indian Tribe, and the Washington Department of Fish and Wildlife as the co-managing resource management agency under the *United States* v. *Washington* fisheries management framework, have provided a joint RMP in the form of a Hatchery and Genetic Management Plan (HGMP) for Ozette Lake sockeye salmon. The RMP encompasses artificial propagation, research, and monitoring and evaluation activities within the range of the Ozette Lake sockeye salmon ESU. The range of the ESU is the Ozette River, Ozette Lake, and Ozette Lake tributaries accessible to anadromous salmon. Performance objectives specified in the RMP include establishment of self-sustaining, tributary-spawning sockeye aggregations to increase natural spawning fish abundance levels in the Ozette Lake Basin. The RMP also includes research, monitoring, and evaluation actions designed to identify life history characteristics of the listed beach spawning sockeye salmon population, and factors limiting the productivity of the listed sockeye salmon ESU. Monitoring and evaluation programs are also used to ensure that the proposed artificial propagation measures are consistent with listed sockeye salmon conservation objectives.

As required by section 223.203 (b)(6) of the ESA 4(d) rule, the Secretary must determine whether the RMP for Ozette Lake sockeye salmon would appreciably reduce the likelihood of survival and recovery of the Ozette Lake sockeye salmon and other affected threatened ESUs, pursuant to government-to-government processes described in 50 CFR 223.203. The Secretary must take comments on how the RMP addresses the criteria in 223.203(b)(5) in making that determination. NMFS will not complete the final NEPA and RMP determinations until after the end of the extended comment period, and NMFS will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Authority

Under section 4 of the ESA, NMFS, by delegated authority from the Secretary of Commerce, is required to adopt such regulations deemed necessary and advisable for the conservation of the 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 actions undertaken in compliance with an RMP developed jointly by the Tribes and the State of Washington (joint plan) and determined by the Secretary to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: October 1, 2002.

Chris Mobley,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–25333 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061202A]

Endangered and Threatened Species; Notice of Availability for the Final Recovery Plan for Johnson's Seagrass

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

ACTION: Notice of Availability.

SUMMARY: NMFS announces the availability of the final recovery plan for Johnson's seagrass (*Halophila johnsonii Eiseman*) as required by the Endangered Species Act.

ADDRESSES: Requests for a copy of the final recovery plan should be addressed to: David Bernhart, NMFS, Southeast Regional Office, Protected Resources Division, 9721 Executive Center Drive North, St. Petersburg, FL 33702. A copy of the Final Recovery Plan can also be downloaded from the following web address: *http://www.nmfs.noaa.gov/prot__res/PR3/recovery.html.*

FOR FURTHER INFORMATION CONTACT: David Bernhart, (727) 570–5312 or David O'Brien, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Johnson's seagrass, *Halophila johnsonii*, is a marine plant species found growing in lagoonal waters along approximately 200 km of coastline in southeastern Florida between Sebastian Inlet and north Biscayne Bay. The species often grows in a patchy, non-contiguous distribution at water depths extending from the intertidal down to 3 meters. Halophila johnsonii is rare, has a limited reproductive capacity, and is vulnerable to a number of anthropogenic and natural disturbances. Johnson's seagrass is listed as threatened under the Endangered Species Act of 1973, as ammended, 16 USC 1531 *et seq.*(ESA) and is the first marine plant to be listed under the ESA. Principal threats to the species' survival include: (1) habitat degradation and destruction from dredging and filling, construction and shading from in- and overwater structures, prop scarring, altered water quality, and siltation; (2) inadequacy of existing regulatory mechanisms to protect seagrasses; and (3) stochastic storm events.

The recovery plan contains a synopsis of the biology and distribution of Johnson's seagrass, a description of factors affecting species recovery, an outline of actions needed to recover the species, and an implementation schedule for completing the recovery tasks. The recovery plan for Johnson's seagrass, prepared for NMFS by an eight-member recovery team, provides a framework for addressing a multitude of biological concerns and outlines Federal agency responsibilities under the ESA with the sole purpose of insuring long-term survival of the species. NMFS published a notice of availability of the draft recovery plan for Johnson's seagrass in the **Federal Register** on June 26, 2000 (65 FR 39369). Comments were received from nine parties during the 60–day comment period. The majority of the comments were editorial and were incorporated as received. More substantive comments from the reviewers and NMFS' responses to these comments are summarized here.

Comments and Responses

Comment 1: One commenter suggested the use of historic ecological parameters to compare with existing ecological conditions in order to evaluate the extent of perturbations on Johnson's seagrass and its habitat within the current ecosystem.

Response: NMFS agrees with this commenter and the value of comparing historical and existing ecological conditions; however, only limited historical data of this type exists for Johnson's seagrass. With the implementation of the plan's recovery tasks, including the establishment of long-term monitoring sites and the evaluation of ecological parameters, a historical database for Johnson's seagrass will be developed and available for comparative use.

Comment 2: A few reviewers questioned the accuracy of previous research results that were discussed and referenced in the recovery plan.

Response: The recovery plan cites previous research considered relevant to the understanding and recovery of Johnson's seagrass. The information and research results used in the development of the plan represent the best scientific and commercial data available at the time the plan was written. The recovery plan's research review describes what is currently known about Johnson's seagrass and helps identify research needs for the species. NMFS refers any reviewers with questions or comments concerning results or conclusions expressed in a specific reference directly to the author of that citation.

Comment 3: One commenter stated that *H. johnsonii* is regularly found in areas that would not appear to be conducive to seagrasses, such as in finger canals and portions of the Lake Worth Lagoon near the C–51 canal. Based on these observations, H. johnsonii is considered by the commenter to be much more widespread than indicated in the recovery plan.

Response: Johnson's seagrass is known to be patchily distributed in lagoons along approximately 200 km of coastline in southeastern Florida. As stated in the final critical habitat designation (65 FR 17786; April 5, 2000), an abundant core of *Halophila* species, including Johnson's seagrass, has been documented in the middle of its range (Lake Worth Lagoon, Palm Beach County). The species is known to occur in euryhaline areas and has been observed growing perennially near the mouths of freshwater discharge canals (Gallegos and Kenworthy, 1996). Johnson's seagrass uses the niche available to it, often occurring in areas that are generally not conducive to the growth of larger seagrasses. The recovery team is aware of documented observations of *H. johnsonii* in finger canals within the species' range. NMFS is interested in all reports or sightings of Johnson's seagrass. All verified sightings or surveys of Johnson's seagrass are added to a database documenting the species' abundance, distribution, and ecological parameters.

Comment 4: One reviewer commented on the need to identify the Florida Fish and Wildlife Conservation Commission (FWC), Division of Marine Resources (DMR), as an active agency in the Conservation Measures of the plan and to address the critical role that this state agency plays in the management, enforcement, and conservation of seagrass and marine habitat.

Response: A descriptive paragraph about the FWC, DMR, has been added to the recovery plan's ''State Conservation Measures'' section. The FWC was created in 1998 with the merger of the Florida Game and Fresh Water Fish Commission and the Marine Fisheries Commission. This new state agency has full constitutional rulemaking authority, under the Florida Endangered and Threatened Species Act, Chapter 372.072 of the Florida Statutes (F.S.), to protect and manage threatened and endangered marine species. However, the Florida Endangered and Threatened Species Act (F.S. 372.072) limits the definitions of endangered and threatened species to only include members of the animal kingdom (any species of fish and wildlife).

Although federally listed, Johnson's seagrass is not managed as a threatened marine species by the FWC. The FWC, Bureau of Protected Species Management, provides comments and recommendations to state permitting agencies on actions that may impact seagrass, including Johnson's seagrass, based on the protection of essential habitat for the listed manatees and marine turtles. Projects are not reviewed by the state solely for impacts to Johnson's seagrass or its designated critical habitat. The plan describes FWC's role in protecting Florida's seagrass habitat, including Johnson's seagrass throughout its range, through its (a) permitting program for the harvest of seagrass (for educational or research purposes), (b) regulation of fishery practices that may harm seagrasses, (c) enforcement efforts of state regulations to protect seagrass and marine habitat, (d) management-oriented research programs for seagrass, and (e) seagrass outreach and education efforts.

Despite these valuable conservation measures, degradation or destruction of Johnson's seagrass habitat (including dredge and fill, construction and shading from overwater structures, prop scarring and anchor mooring, and altered water quality) continues throughout this species' limited range. NMFS would support efforts by the state of Florida to strengthen regulatory mechanisms for greater protection of Johnson's seagrass, including, for example, revision of the Florida Endangered and Threatened Species Act (F.S. 372.072) to include all state and/or federally listed endangered and threatened plant species (upland, freshwater, and marine) occurring in Florida.

Comment 5: One reviewer requested an Environmental Impact Assessment to evaluate the effect of listing of this species on local and state economics.

Response: The listing of a species under the ESA is based solely on the needs of the species. Neither an Environmental Assessment nor an Environmental Impact Statement is a requirement for ESA listing. Section 4(f) of the ESA directs the responsible Federal agency to develop and implement a recovery plan for listed species. A recovery plan is a guide for the recovery and persistence of the species and will not have a significant impact on the environment. Estimates of the time required and the cost to carry out the recovery goals have been incorporated into the recovery plan in the form of an implementation table. The goals and objectives of the plan will be attained and funds expended contingent upon agency appropriations and priorities. The actions that an agency implements according to the plan may have to be reviewed at that time for National Environmental Policy Act (NEPA) requirements.

Comment 6: One commenter suggested refinement of the habitat requirements, taking into account sediment requirements for the species.

Response: We refined recovery task 3.01 to discuss sediment characteristic and habitat requirements for the species.

Comment 7: One reviewer stated that the plan does not address how permitting of work within or adjacent to designated critical habitat will be affected. That is, the reviewer questioned how a proposed project located within critical habitat will be treated compared to projects located outside of critical habitat.

Response: The review of federally permitted actions is independent of the recovery plan and is addressed under section 7 of the ESA (Interagency Cooperation). Federal action agencies must review their proposed actions to determine whether any action may affect a listed species or critical habitat. Under section 7, Federal agencies must consult with NMFS on proposed actions to determine whether any such action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat.

Comment 8: A commenter was concerned with the use of the term ''hybridization'' in the ''Growth Form and Reproductive Biology'' section. The commenter stated that some could take this word to mean that the seagrass is not a distinct species, and accordingly, not entitled to protection under the ESA.

Response: Halophila johnsonii has been identified as a distinct species since 1980. *Halophila johnsonii* was previously referred to either as *H. decipiens* or *H. baillonis* Ascherson, but it most closely resembles *H. ovalis* (R. Brown) Hooker f., an Indo-Pacific species, both morphologically and genetically (McMillan and Williams, 1980). Newly developing genetic evidence also suggests that *H. johnsonii* is more closely related, phylogenetically, to *H. ovalis* than with the other *Halophila* species, including *H. decipiens*, which is commonly found in mixed seagrass beds with Johnson's seagrass. Because of this new genetic data, the use of the term ''hybridization'' in the plan's ''Growth Form and Reproductive Biology'' section was no longer needed and was removed.

Comment 9: One commenter suggested the definition ''stable, self-sustaining population,'' as used in the plan's recovery criteria, be revised and that objective criteria be incorporated to further define ''self-sustaining.'' Another reviewer commented that the plan did not include sufficient recovery objectives and criteria.

Response: The definition for ''stable, self-sustaining population'' was revised and clarified as ''a population that has been documented to persist for at least 10 years.'' Substantial changes were also made to the ''Objectives and Criteria'' section of the plan's Recovery Chapter. The section now reads as follows: ''The recovery objective for *H. johnsonii* is to delist the species by assuring its long-term persistence throughout its range. *Halophila johnsonii* should be considered for delisting when all of the following criteria are met:

(1) The species' present geographic range remains stable for at least 10 years or increases, (2) self-sustaining populations are present throughout the range at distances less than or equal to the maximum dispersal distance to allow for stable vegetative recruitment and genetic diversity, and (3) populations and supporting habitat in its geographic range have long-term protection (through regulatory action or purchase acquisition).

Quantitative information, including the number of self-sustaining populations necessary and the quality and quantity of habitat required to further define and meet these criteria, are included as recovery plan tasks in the Final Recovery Plan.

Comment 10: One commenter felt that the range-wide monitoring tasks for Johnson's seagrass would not include information or data on adverse impacts (such as dredging or recreational boating prop scarring) occurring to the species and its habitat throughout its range.

Response: Adverse impacts to Johnson's seagrass could be detected during detailed mapping, which is specified as a recovery task in the plan. Johnson's seagrass distribution, abundance, shoot density and cover, and a suite of environmental parameters (such as optical water quality, water depth, and salinity) would be determined at monitoring locations range-wide. Year-to-year variation of these parameters at these sites would be examined and tracked. In addition, attempts will be made to match these monitoring site locations to locations within the range of Johnson's seagrass that have historical water quality data or currently have water quality data collections taking place.

Comment 11: One commenter felt that a sufficient buffer distance should be included in the plan's recommendation to preserve natural shoreline buffers.

Response: NMFS agrees with this comment and the need to define sufficient buffer distances. Recovery plan tasks 5.11 and 5.12 address the importance of preserving and acquiring natural shoreline buffers in the protection of Johnson's seagrass habitat. However, the plan does not include a fixed buffer distance since this distance can vary based on conditions, including local variation in topography and upland characteristics. Data on sufficient buffer distances are not currently available and developing this information is beyond the scope of this plan. State agencies such as the Florida Department of Environmental Protection (FDEP), Bureau of Beaches and Coastal Systems or Aquatic Preserves Program; Water Management Districts; Florida Forever Act Program; or the State Comprehensive Plan may have Geographic Information System information on Florida shorelines and the future capability for developing broad-scale, standardized buffer distances.

Comment 12: A few commenters requested clarification of the restoration recovery tasks. For recovery task 7.01, a commenter suggested to specifically reference ''both excavated vegetative fragments and naturally dislodged and free floating and 'intertidal driftline' vegetative fragments'' as sources for the proposed experiments.

A second commenter was concerned that the development of restoration techniques and a restoration program can be seen by some as a way to avoid recovering the species in the wild. The commenter added that these programs should not become a substitute for addressing existing threats.

A third commenter was concerned with identifying and using ''superior stock'' of Johnson's seagrass for restoration purposes because ''the use of seagrass stock that is restricted in genetic variability could lead to over-representation of a particular genotype within the regional population.'' This commenter suggested a clarification of the term ''superior stock'' and how the use of such stock will account for maintaining genetic variability throughout the range of the species.

Response: The recovery team further examined and edited this section. Recovery task 7.01 was rewritten to read, ''Conduct mesocosm and field experiments to test the feasibility of transplanting excavated and naturally-dislodged (free floating and intertidal driftline) vegetative fragments of *H. johnsonii* under a broad range of environmental conditions.''

Recovery tasks 7.03, 7.04, and 7.05 were also rewritten and task 7.06 was removed based upon comments. NMFS agrees that a restoration (or transplanting) program should not take precedence over addressing the existing threats to Johnson's seagrass or the recovery and protection of the species in the wild. NMFS believes it is possible, however, that the recovery of lost populations may be enhanced by transplantation of natural or cultivated vegetative fragments because of the limited or absent sexual reproduction in this species. The identification of superior stock characteristics of Johnson's seagrass and the maintenance of stocks with these characteristics can be a valuable tool in the restoration of damages or losses to the species. Care will have to be taken that any restoration does not have adverse effects on the species' genetic diversity. NMFS does not consider the identification and maintenance of superior stocks of Johnson's seagrass for restoration as a substitute for avoiding and minimizing impacts to the species or its critical habitat or a replacement to the protection and wise management of the species in the wild.

Comment 13: One commenter suggested that the management section of the plan be expanded and that the plan address the issue of cooperation with the state of Florida under section 6 of the ESA.

Response: NMFS recognizes the necessity of intergovernmental coordination in the protection of Johnson's seagrass and its habitat. A primary goal of the Johnson's seagrass recovery plan is to determine and implement habitat management needs and techniques for protection of the species. Specific management recovery tasks in the final plan that incorporate interagency cooperation, including state agencies, include tasks 5.03., 5.05., 5.09., and 5.13. A section 6 agreement under the ESA with may be one way to facilitate interagency coordination in the protection of Johnson's seagrass. NMFS will explore this option with the state of Florida.

Comment 14: Various commenters suggested specific project methodologies and techniques be added to the recovery tasks. One commenter, for example, stated that many of the tasks do not contain detailed narratives as to how each recovery task will be implemented.

Response: These comments offer valuable technical input. Specific methods or scientific procedures (such as for genetic sampling or the use of grating material for dock grating) used to implement recovery tasks will be developed according to the specific project design. The plan does not specify research methodologies in advance since methodologies and techniques used to complete these recovery tasks will be developed based on a project's goals and objectives, the current state of technology, and upon the decisions made by the primary investigator(s).

Comment 15: A few commenters suggested that a summary or list of the recovery tasks or a prioritized list of the recovery tasks be added to the recovery plan.

Response: Both a summary and a prioritized list have been added to the final recovery plan.

Comment 16: One reviewer commented that the recovery plan is based on conjecture and speculation and that little, if anything, proposed in the plan would cause any recovery of the species.

Response: The recovery plan is based on the best scientific and commercial data available at the time it was written. The basis for listing Johnson's seagrass' as threatened are human impacts on the plant and its habitat, the species' reproductive strategy, and its limited geographic distribution. Section 4(f) of the ESA directs NMFS to develop and implement a recovery plan for Johnson's seagrass, unless such a plan would not promote the conservation of the species. NMFS determined that a recovery plan would promote conservation and recovery of Johnson's seagrass. The Recovery Team and NMFS believe that the tasks defined and implemented will lead to the survival and recovery of *H. johnsonii*. The goal of the plan is the eventual delisting of the species.

Comment 17: Numerous reviewers commented on implementation table costs, adequacy of funding, and availability of current funding. A few

commenters expressed concern for how the plan will be implemented and enforced.

Response: NMFS is committed to the implementation of the Johnson's seagrass recovery plan and in establishing an implementation team to address research and management goals. NMFS agrees with the Johnson's Seagrass Recovery Team that the goals and objectives of this recovery plan can be achieved only if a long-term commitment is made to support the actions recommended here. Achieving these goals and objectives will require the cooperation of state and Federal government agencies as well as private individuals and organizations. Goals and objectives will be attained and funds expended contingent upon agency appropriations and priorities.

Comment 18: Numerous commenters expressed support of the plan and described it as informative, well-written, and comprehensive. One of these commenters stated that the plan ''includes helpful research tasks, however, there is a lack of discussion regarding certain recovery tasks.'' The Florida Department of Community Affairs determined the plan to be consistent with the Florida Coastal Management Program.

Response: The Johnson's seagrass Recovery Team was dedicated to producing a comprehensive and effective plan that will promote the protection and sustainability of Johnson's seagrass and its habitat. The introductory narratives for the eight major recovery tasks were reviewed and revised by the team for the final plan. Further discussion or clarification was made to the narratives and the specific recovery tasks as needed.

Recovery Task Priority Changes

Priority 1 recovery tasks are actions that must be taken to prevent extinction or to identify those actions necessary to prevent extinction. An action that must be taken to prevent a significant decline in population numbers, habitat quality, or other significant negative impacts short of extinction is a priority 2 task. All other actions necessary to provide for full recovery of listed species are priority 3 tasks.

NMFS has modified the priorities assigned to certain recovery tasks in the Implementation Schedule to better reflect NMFS guidance on priority rankings (55 FR 24296, June 14, 1990). These changes resulted in downgrading from priority 1 to 2 the following recovery tasks: 1.01, 2.01, 2.02, 5.02, 5.10, 6.01, and 7.01. Recovery task 3.06 (with edits) was changed from priority 1 to priority 3. Recovery tasks downgraded from priority 2 to 3 include: 3.01, 3.02, 3.03, 5.14, 7.02, and 8.05. Recovery task 5.09 was changed from priority 2 to priority 1. Recovery tasks 4.03 and 5.01 were changed from priority 3 to priority 2.

Additional notable edits to the recovery tasks include the following:

(a) 1.02, 1.03, and 1.05 in the draft plan were changed to recovery tasks 1.01A, 1.01B, and 1.01C, respectively, in the final plan.

(b) 1.04 and 1.06 were combined into task 1.02.

(c) 3.02 was changed to task 5.01.

(d) 3.08 was rewritten and changed to 3.06.

(e) 5.01 was rewritten and changed to 5.02.

(f) 5.05 was merged into 5.06.

(g) 5.10 was rewritten and changed to 5.14.

(h) 7.02, 7.04, and 7.06 were combined to 7.03.

(i) 7.03 was separated into tasks 7.02 and 7.04.

Implementation of the Plan

NMFS is committed to the implementation of the Johnson's Seagrass Recovery Plan and to developing an implementation team to address research and management goals. A long-term management plan will be developed by an implementation team, and the approved Johnson's Seagrass Final Recovery Plan will be used to address and implement recovery strategies for H. johnsonii. The goals and objectives of the plan will be attained and funds expended contingent upon agency appropriations and priorities. The recovery plan and criteria may be revised in the future on the basis of new information. Public notice and an opportunity for public review and comment would be provided prior to final approval of a revised recovery plan.

Authority: 16 U.S.C. 1531–1543 *et seq.*

Dated: September 26, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–25328 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091002A]

Marine Mammals; File No. 1032–1679–00

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Robert A. Garrott, Ph.D., Ecology Department, Montana State University, 310 Lewis Hall, Bozeman, Montana 59717 (PI: Dr. Robert Garrott), has been issued a permit to take Antarctic pinnipeds for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Carrie Hubard (301)713–2289.

SUPPLEMENTARY INFORMATION: On July 12, 2002, notice was published in the **Federal Register** (67 FR 46179) that a request for a scientific research permit to take Antarctic pinnipeds, target species, Weddell seals (*Leptonychotes weddellii*), had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

A Permit was issued to take Weddell seals by capture to tag, tissue and blood sample, instrument, and incidentally harass crabeater seal (*Lobodon carcinophagus*), leopard seal (*Hydrurga leptonyx*), Ross seal (*Ommatophoca rossii*), southern elephant seal (*Mirounga leonina*), and Antarctic fur seal (*Archtocephalus gazella*). Activities will occur in McMurdo Sound, Antarctica and the Ross Sea. The Holder is also authorized to import samples collected from live captures and hard parts collected from carcasses during the above-listed activities.

Dated: September 25, 2002.

Trevor Spradlin,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–25329 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091002H]

Marine Mammals; File No. 751–1614–02

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Ocean Alliance/Whale Conservation Institute, 191 Weston Road, Lincoln, MA 01773 (Dr. Roger S. Payne, Principal Investigator) has been issued an amendment to scientific research Permit No. 751–1614–01.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371; andSoutheast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: On July 22, 2002, notice was published in the **Federal Register** (67 FR 47774) that an amendment of Permit No. 751–1614, issued on March 7, 2002 (67 FR 11677), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The amended permit provides authorization to import and export samples collected from the cetacean species listed in the permit, within the territorial waters of any foreign country sanctioned by the United States and in accordance with the permit conditions.

Issuance of this amendment, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 26, 2002.

Eugene T. Nitta,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–25332 Filed 10–3–02; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Commodity Futures Trading Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of report.

SUMMARY: The Commodity Futures Trading Commission (CFTC or agency) in accordance with Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) as implemented by the final guidelines published by the Office of Management and Budget, Executive Office of the President on September 28, 2001 (66 FR 49718) and on January 3, 2002 (67 FR 369) (and reprinted in their entirety on February 22, 2002, 67 FR 8452), ''Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies,'' has posted its report on the CFTC website, *http://www.cftc.gov.* This report provides the agency's information quality guidelines and explains how such guidelines will ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by the CFTC. The report also details the administrative mechanism that will allow affected persons to seek and obtain appropriate correction of information maintained and disseminated by the CFTC that does not comply with the OMB or agency guidelines.

FOR FURTHER INFORMATION CONTACT: Hilary E. Schultz, Chief Information Officer, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, email: *hschultz@cftc.gov,* telephone: (202) 418–5200.

Dated: September 25, 2002.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–25241 Filed 10–3–02; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Planning and Steering Advisory Committee (PSAC)

AGENCY: Department of the Navy, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The purpose of this meeting is to discuss topics relevant to ballistic missile submarine (SSBN) security. This meeting will be closed to the public.

DATES: The meeting will be held on Friday, October 18, 2002, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Center for Naval Analyses, 4825 Mark Center, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James Latsko, CNO (N775C2), 2000 Navy Pentagon, NC–1, Washington, DC 20350–2000, (703) 604–7392.

SUPPLEMENTARY INFORMATION: This notice of closed meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The entire agenda will consist of classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed to the public because they concern matters listed in 552b(c)(1) of title 5, U.S.C.

Dated: September 26, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–25216 Filed 10–3–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity (National Advisory Committee); Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to announce the public meeting of the National Advisory Committee and invite third-party oral presentations before the Committee. This notice also presents the proposed agenda and informs the public of its opportunity to attend this meeting. The notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

When and Where Will the Meeting Take Place?

We will hold the public meeting on December 2, 2002 from 10 a.m. until 5:30 p.m., on December 3, 2002 from 8:30 a.m. until 5:30 p.m., and on December 4, 2002 from 8:30 a.m. until approximately 12 p.m. at the Ritz Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, Virginia 22202. You may call the hotel on (703) 415–5000 to inquire about rooms.

What Assistance Will Be Provided to Individuals With Disabilities?

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Who Is the Contact Person for the Meeting?

Please contact Ms. Bonnie LeBold, the Executive Director of the National Advisory Committee on Institutional Quality and Integrity, if you have questions about the meeting. You may contact her at the U.S. Department of Education, room 7007, MS 7592, 1990 K St., NW, Washington, DC 20006, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Bonnie.LeBold@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

What Is the Authority for the National Advisory Committee?

The National Advisory Committee on Institutional Quality and Integrity is established under Section 114 of the Higher Education Act (HEA) as amended, 20 U.S.C. 1011c.

What Are the Functions of the National Advisory Committee?

The Committee advises the Secretary of Education about:

- The establishment and enforcement of the criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV, HEA.
- The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.
- The relationship between: (1) Accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe.

What Items Will Be on the Agenda for Discussion at the Meeting?

Agenda topics will include the review of agencies that have submitted petitions for renewal of recognition, requested an expansion of scope, or submitted interim reports. The agenda will also include the review of a Federal institution that has requested degree-granting authority for a master's program. The agencies listed below, which were tentatively scheduled for review during the National Advisory Committee's December 2002 meeting, will be postponed for review until a future meeting.

Petitions for Initial Recognition

- Commission on English Language Program Accreditation (Requested scope of recognition: The accreditation of postsecondary English language programs and institutions in the United States)
- Teacher Education Accreditation Council (Requested scope of recognition: The accreditation throughout the United States of professional education programs in institutions offering baccalaureate and graduate degrees for the preparation of teachers K–12)

Any third-party written comments regarding these agencies that were received by September 9, 2002, in accordance with the **Federal Register** notice published on July 24, 2002, will become part of the official record. Those comments will be considered by the National Advisory Committee when it reviews the agency's petition for initial recognition at a future meeting. Another opportunity to provide written comments on the agency prior to that meeting will be announced in a **Federal Register** notice requesting written comments.

The agency listed below, originally scheduled for review at the National Advisory Committee's December 2002 meeting, will not be reviewed for the reason specified.

Petition for Renewal of Recognition

- Utah State Board for Applied Technology Education

This agency, because of recent State legislative changes, is not seeking renewal of recognition.

What Agencies Will the Advisory Committee Review at the Meeting?

The Advisory Committee will review the following agencies during its December 2–4, 2002 meeting.

Nationally Recognized Accrediting Agencies

Petitions for Renewal of Recognition

1. Accrediting Council for Continuing Education and Training (Current scope of recognition: The accreditation of institutions of higher education throughout the United States that offer non-collegiate continuing education programs and those that offer occupational associate degree programs.) (Requested scope of recognition: The accreditation of institutions of higher education throughout the United States that offer non-collegiate continuing education programs and those that offer occupational associate degree programs, including programs offered via distance education.)

2. American Optometric Association, Accreditation Council on Optometric Education (Current and Requested scope of recognition: The accreditation in the United States of professional optometric degree programs, optometric technician (associate degree) programs, and optometric residency programs and for the preaccreditation categories of Preliminary Approval and Reasonable Assurance for professional optometric degree programs and Candidacy

Pending for optometric residency programs in Veterans' Administration facilities.)

3. American Speech-Language-Hearing Association, Council on Academic Accreditation (Current scope of recognition: The accreditation and preaccreditation (Candidacy status) throughout the United States of Master's and doctoral-level degree programs in speech-language pathology and/or audiology.) (Requested scope of recognition: The accreditation and preaccreditation (''Accreditation Candidate'') throughout the United States of entry-level graduate education programs at the master's or doctoral level leading to the first professional or academic degree in audiology and/or speech-language pathology and the accreditation of these programs offered via distance education.)

4. Midwifery Education Accreditation Council (Current scope of recognition: The accreditation throughout the United States of direct-entry midwifery educational institutions and programs conferring degrees and certificates.) (Requested scope of recognition: The preaccreditation and accreditation throughout the United States of direct-entry midwifery educational institutions and programs conferring degrees and certificates, including the accreditation of programs offered via distance education.)

5. National Association of Schools of Art and Design, Commission on Accreditation (Current scope of recognition: The accreditation throughout the United States of institutions and units within institutions offering degree-granting and non-degree-granting programs in art and design and art and design-related disciplines.) (Requested scope of recognition: The accreditation throughout the United States of institutions and units within institutions offering degree-granting and non-degree-granting programs in art and design and art and design-related disciplines, including programs offered via distance education.)

6. National Association of Schools of Dance, Commission on Accreditation (Current scope of recognition: The accreditation throughout the United States of institutions and units within institutions offering degree-granting and non-degree-granting programs in dance and dance-related disciplines.) (Requested scope of recognition: The accreditation throughout the United States of institutions and units within institutions offering degree-granting and non-degree-granting programs in dance and dance-related disciplines, including programs offered via distance education.)

7. National Association of Schools of Music, Commission on Accreditation, Commission on Non-Degree-Granting Accreditation, Commission on Community/Junior College Accreditation (Current scope of recognition: The accreditation throughout the United States of institutions and units within institutions offering degree-granting and non-degree-granting programs in music and music-related disciplines, including community/junior colleges and independent degree-granting and non-degree-granting institutions.) (Requested scope of recognition: The accreditation throughout the United States of institutions, including community/junior colleges and independent degree-granting and non-degree-granting institutions, and units within institutions offering degree-granting and non-degree-granting programs in music and music-related disciplines, including programs offered via distance education.)

8. National Association of Schools of Theatre, Commission on Accreditation (Current scope of recognition: The accreditation throughout the United States of institutions and units within institutions offering degree-granting and non-degree-granting programs in theatre and theatre-related disciplines.) (Requested scope of recognition: The accreditation throughout the United States of institutions and units within institutions offering degree-granting and non-degree-granting programs in theatre and theatre-related disciplines, including programs offered via distance education.)

9. New England Association of Schools and Colleges, Commission on Institutions of Higher Education (Current scope of recognition: The accreditation and preaccreditation (''Candidacy status'') of institutions of higher education in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont that award bachelor's, master's, and/or doctoral degrees and associate degree-granting institutions in those states that include degrees in liberal arts or general studies among their offerings. This recognition extends to the Board of Trustees of the Association jointly with the Commission for decisions involving preaccreditation, initial accreditation, and adverse actions.) (Requested scope of recognition: The accreditation and preaccreditation (''Candidacy status'') of institutions of higher education in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont that award bachelor's, master's, and/or doctoral degrees and associate degree-granting institutions in those states that include degrees in liberal arts or general studies among their offerings, and the accreditation of programs offered via distance education within these institutions. This recognition extends to the Board of Trustees of the Association jointly with the Commission for decisions involving preaccreditation, initial accreditation, and adverse actions.)

10. New England Association of Schools and Colleges, Commission on Technical and Career Institutions (Current scope of recognition: The accreditation and preaccreditation (''Candidate status'') of secondary institutions with vocational-technical programs at the 13th and 14th grade level, postsecondary institutions, and institutions of higher education that provide primarily vocational/technical education at the certificate, associate, and baccalaureate degree levels in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. This recognition extends to the Board of Trustees of the Association jointly with the Commission for decisions involving preaccreditation, initial accreditation, and adverse actions.) (Requested scope of recognition: The accreditation and preaccreditation (''Candidate status'') of secondary institutions with vocational-technical programs at the 13th and 14th grade level, postsecondary institutions, and institutions of higher education that provide primarily vocational/technical education at the certificate, associate, and baccalaureate degree levels in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and the accreditation of programs offered via distance education within these institutions. This recognition extends to the Board of Trustees of the Association jointly with the Commission for decisions involving preaccreditation, initial accreditation, and adverse actions.)

11. North Central Association of Colleges and Schools, The Higher Learning Commission (Current scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of degree-granting institutions of higher education in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, Wyoming, including schools of the Navajo Nation.) (Requested scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of degree-granting

institutions of higher education in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, Wyoming, including schools of the Navajo Nation, and the accreditation of programs offered via distance education within these institutions.)

12. Northwest Association of Schools and of Colleges and Universities, Commission on Colleges and Universities (Current scope of recognition: The accreditation and preaccreditation (''Candidacy status'') of postsecondary educational institutions in Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Washington.) (Requested scope of recognition: The accreditation and preaccreditation (''Candidacy status'') of postsecondary educational institutions in Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Washington, and the accreditation of programs offered via distance education within these institutions.)

13. Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges (Current scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of community and junior colleges located in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.) (Requested scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of community and junior colleges located in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands, and the accreditation of programs offered via distance education at these colleges.)

Petition for an Expansion of Scope

1. National Accrediting Commission of Cosmetology Arts and Sciences (Current scope of recognition: The accreditation of postsecondary schools and departments of cosmetology arts and sciences.) (Requested scope of recognition: The accreditation throughout the United States of postsecondary schools and departments of cosmetology arts and sciences and massage therapy.)

Interim Reports (An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted renewed recognition to the agency.)

1. Accrediting Council for Independent Colleges and Schools
2. American College of Nurse-Midwives, Division of Accreditation
3. American Council on Pharmaceutical Education
4. Commission on Opticianry Accreditation
5. Joint Review Committee on Education in Radiologic Technology
6. Joint Review Committee on Educational Programs in Nuclear Medicine Technology
7. Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities

State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

Petition for Renewal of Recognition

1. Oklahoma Board of Career and Technology Education (Current scope of recognition: The approval of public postsecondary vocational education offered at institutions in the State of Oklahoma that are not under the jurisdiction of the Oklahoma State Regents for Higher Education.)

State Agencies Recognized for the Approval of Nurse Education

Petition for Renewal of Recognition

1. Iowa Board of Nursing.
2. Maryland Board of Nursing.

Federal Agency Seeking Degree-Granting Authority

In accordance with the Federal policy governing the granting of academic degrees by Federal agencies (approved by a letter from the Director, Bureau of the Budget, to the Secretary, Health, Education, and Welfare, dated December 23, 1954), the Secretary is required to establish a review committee to advise the Secretary concerning any legislation that may be proposed that would authorize the granting of degrees by a Federal agency. The review committee forwards its recommendation concerning a Federal agency's proposed degree-granting authority to the Secretary, who then forwards the committee's recommendation and the Secretary's recommendation to the Office of Management and Budget for review and transmittal to the Congress. The Secretary uses the Advisory Committee as the review committee required for this purpose. Accordingly, the Advisory Committee will review the following institution at this meeting:

Proposed Master's Degree-Granting Authority

1. U.S. Marine Corps University, Quantico, VA (request to award a master's degree of Operational Studies).

Who Can Make Third-Party Oral Presentations at this Meeting?

We invite you to make a third-party oral presentation before the National Advisory Committee concerning the recognition of any agency published in this notice.

How Do I Request to Make an Oral Presentation?

You must submit a written request to make an oral presentation concerning an agency listed in this notice to the contact person so that the request is received via mail, fax, or e-mail no later than November 8, 2002. Your request (no more than 6 pages maximum) must include:

- The names, addresses, phone numbers, and fax numbers of all persons seeking an appearance,
- The organization they represent, and
- A brief summary of the principal points to be made during the oral presentation.

If you wish, you may attach documents illustrating the main points of your oral testimony. Please keep in mind, however, that any attachments are included in the 6-page limit. Please do not send materials directly to Committee members. Only materials submitted by the deadline to the contact person listed in this notice and in accordance with these instructions become part of the official record and are considered by the Committee in its deliberations. Documents received after the November 8, 2002 deadline will not be distributed to the Advisory Committee for their consideration. Individuals making oral presentations may not distribute written materials at the meeting.

If I Cannot Attend the Meeting, Can I Submit Written Comments Regarding an Accrediting Agency in Lieu of Making an Oral Presentation?

This notice requests third-party oral testimony, not written comment. A request for written comments on agencies that are being reviewed during this meeting, with the exception of the National Accrediting Commission of Cosmetology Arts and Sciences, was published in the **Federal Register** on July 24, 2002. A request for written comments on the petition for an expansion of scope submitted by the National Accrediting Commission of Cosmetology Arts and Sciences will be

published in the **Federal Register** in the near future. The Advisory Committee will receive and consider only written comments submitted by the applicable deadlines specified in the **Federal Register** notices referenced above.

How Do I Request to Present Comments Regarding General Issues Rather Than Specific Accrediting Agencies?

At the conclusion of the meeting, the Committee, at its discretion, may invite attendees to address the Committee briefly on issues pertaining to the functions of the Committee, which are listed earlier in this notice. If you are interested in making such comments, you should inform Ms. LeBold before or during the meeting.

How May I Obtain Access to the Records of the Meeting?

We will record the meeting and make a transcript available for public inspection at the U.S. Department of Education, 1990 K St., NW, Washington, DC 20006 between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. It is preferred that an appointment be made in advance of such inspection.

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*. 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 edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Authority: 5 U.S.C. Appendix 2.

Dated: September 26, 2002.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 02–25210 Filed 10–3–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection package to the OMB for renewal under the Paperwork Reduction Act of 1995. The package requests a 3-year extension of its financial assistance information collection, OMB Control Number 1910–0400, titled ''Financial Assistance''. This information collection package covers information necessary to solicit, negotiate, award and administer grants and cooperative agreements under the Department's financial assistance programs. The information is used by Departmental management to exercise management oversight, with respect to the implementation of applicable statutory and regulatory requirements and obligations. The collection of this information is critical to ensure the Government has sufficient information to judge the degree to which awardees meet the terms of their agreements; that public funds are being spent in the manner intended; and that fraud, waste, and abuse are immediately detected and eliminated.

DATES AND ADDRESSES: Comments regarding the information collection package should be submitted to the OMB Desk Officer at the following address no later than November 4, 2002. DOE Desk Officer, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3087.

FOR FURTHER INFORMATION CONTACT: Susan L. Frey , Director, Records Management Division, Office of Records and Business Management, Office of the Chief Information Officer, U.S. Department of Energy, Washington, DC 20585–1290, (301) 903–3666, or e-mail *susan.frey@hq.doe.gov.* (Also notify Richard B. Langston, Office of Procurement and Assistance Policy (ME–61), Washington, DC 20585 or e-mail *richard.langston@hq.doe.gov.*)

SUPPLEMENTARY INFORMATION: The package contains: (1) *Title:* Financial Assistance; (2) *Current OMB Control Number:* 1910–0400; (3) *Type of Respondents:* DOE financial assistance applicants and awardees; (4) *Estimated Number of Responses:* 44,457; (5) *Estimated Total Burden Hours:* 15,544, including recordkeeping hours, required to provide the information; (6) *Purpose:* This information is required by the Department to ensure that programmatic and administrative management requirements and resources are managed efficiently and effectively and to exercise management oversight of DOE award recipients; (7) *Number of Collections:* The package contains 58 information and/or recordkeeping requirements.

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, on September 30, 2002.

Susan L. Frey,

Director, Records Management Division, Office of Records and Business Management, Office of the Chief Information Officer.

[FR Doc. 02–25256 Filed 10–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 03–04: Joint Interagency Program on Phytoremediation Research

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for research grants in the Joint Interagency Program on Phytoremediation Research. The DOE is cooperating with the National Science Foundation, the Office of Naval Research, and the Strategic Environmental Research and Development Program in this joint announcement. The focus of the program is on basic research projects that address the fundamental mechanisms of interactions between plants, microorganisms, and contaminant chemicals in soils, sediments and water (potentially marine, estuarine, or freshwater systems) that result in the degradation, extraction, volatilization, or stabilization of the contaminant. Contaminants of interest include organic pollutants, radionuclides and metals. Information derived from such research should provide the knowledge

base to develop the effective use of plants to remediate hazardous wastes in the environment. This program is *not* appropriate for the simple field testing of plant species for their utility in phytoremediation or the specific application of phytoremediation to a particular waste site.

DATES: The deadline for receipt of formal applications is 4:30 p.m., E.S.T., January 15, 2003, to be accepted for merit review and to permit timely consideration for awards late in Fiscal Year 2003.

ADDRESSES: We encourage you to submit formal applications in response to this solicitation electronically through DOE's Industry Interactive Procurement System (IIPS) at: *http://e-center.doe.gov/*. IIPS provides for the posting of solicitations and receipt of applications in a paperless environment via the Internet. Applications must be submitted through IIPS in PDF format by an authorized institutional business official. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at: *HelpDesk@e-center.doe.gov* or you may call the help desk at: (800) 683–0751. Further information on the use of IIPS by the Office of Science is available at: *http://www.sc.doe.gov/production/grants/grants.html.*

If you are unable to submit the application through IIPS, formal applications may be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64/ Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290. ATTN: Program Notice 03–04.

When submitting applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when hand carried by the applicant, the following address must be used: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 03–04.

FURTHER INFORMATION/CONTACTS: The full text of Program Notice 03–04 is available via the Internet using the following web site address: *http://www.sc.doe.gov/production/grants/grants.html.* Further information, if needed, may be obtained from the Agency officials indicated below. E-mail inquiries are preferred.

Dr. Anna Palmisano, 301–903–9963, Department of Energy, *Anna.palmisano@science.doe.gov* .

Dr. Linda Chrisey, 703–696–4504, Office of Naval Research, *chrisel@onr.navy.mil*.

Dr. Bruce Hamilton, 703–292–7066, Division of Bioengineering and Environmental Systems, National Science Foundation, *bhamilto@nsf.gov*.

Dr. Sharman D. O'Neill, 703–292–7888, Division of Integrative Biology and Neuroscience, National Science Foundation, *soneill@nsf.gov*.

Dr. Andrea Leeson, 703–696–2118, Strategic Environmental Research and Development Program, *Andrea.leeson@osd.mil*.

SUPPLEMENTARY INFORMATION: Contaminants of concern have accumulated in various environmental media (soils, sediments, groundwater, seawater) as a consequence of anthropogenic activities. To reduce risk to humans or the environment, remedial technologies may be employed to remove, transform or reduce the concentration or bioavailability of potentially harmful contaminants. Contaminants (and corresponding media) for which harmful effects have been documented include:

- Cd, Pb, Se in soils—Human disease and retardation;
- Se in soil—Livestock and wildlife poisoning;
- Mo in soil—Ruminant livestock poisoning;
- Zn, Ni, Cu in acidic soils resulting from mines/smelting operations—Phytotoxicity to sensitive plants;
- Organotin and Cu (from marine ship paints) in seawater/sediments—accumulation in estuarine shellfish and other benthic biota;
- Polycyclic aromatic hydrocarbons (PAH's, all media)—Human carcinogens/mutagens;
- Polychlorinated biphenyls and dioxins (all media)—Endocrine disruption in many organisms; carcinogens;
- Radionuclides such as Ur, Tc, Cs, Sr from the legacy of nuclear weapons production, in surface soils and subsurface environments—Chemical, radiological and genetic toxicity;
- Energetic compounds [such as trinitrotoluene; 1,3,5,7-tetranitro-1,3,5,7-tetrazocine (HMX); 1,3,5-trinitro-1,3,5-triazine (RDX); picric acid; and degradation products] in estuarine sediments—toxicity toward various estuarine/freshwater species; and
- Hg and As from a range of sources, in all media—may also create risks to humans and the environment.

Although some of these contaminants can be remedied by conventional technologies, such as excavation/incineration, pump-and-treat, or dredging, phytoremediation, or the use of plants for remediation, may offer a more economical, effective alternative that is acceptable to the public. While specific phytoremediation approaches vary, the contaminant is either removed from soils and sediments for disposal or recycling, or left in place following stabilization. Research to elucidate basic mechanisms of phytoremediation and in contemplation of totally new applications (*e.g.*, ''phycoremediation'' using estuarine/marine algae, seaweeds and sea grasses) could ultimately lead to the development of a potentially valuable remediation strategy.

Phytoremediation has been applied in a limited fashion for the clean up of both metals and organic pollutants in soils. Because metals cannot be degraded beyond their elemental states, bioremediation of metals and radionuclides in soils and other environmental media has been particularly difficult and expensive. The general strategies for phytoremediation of soil metals and/or radionuclides are (1) to phytoextract the contaminants into the plant shoots for recycling or less expensive disposal, and (2) to phytostabilize the elements through binding with organic matter into persistently non-bioavailable forms. Phytovolatilization, a process that may also remove metals from soil or water to air, has also been considered. The basic genetic, biochemical, physiological, ecological, and environmental mechanisms are not well known for any of these processes.

Mechanisms similar to the phytoextraction and phytovolatilization of metals may also apply to the treatment of organic contaminants. In addition, the excretion of bioactive root exudates is an important route for either direct, enzymatic degradation of contaminants, as is the stimulation of the root-colonizing microbial assemblage. Observations from field tests indicate that many plants have the capacity to extract and degrade certain organic chemicals. However, there is little information available about the use of phytoremediation in contaminated marine environments. Potential scenarios for use of either submerged plants (*e.g.*, seaweeds, sea grasses, algae) planted on site, or used in conjunction with confined aquatic disposal sites may be envisioned.

Thus, in many situations, plants may offer an alternative means for clean-up of recalcitrant hazardous wastes. However, in most successful examples of phytoremediation, we lack information about the basic mechanisms plants employ to extract and/or degrade contaminants from polluted environments.

Program Description

The need to prevent or ameliorate adverse environmental effects of persistent soil and sediment contaminants, and to do so at lower cost than existing technologies, has brought increased attention to phytoremediation. This program notice solicits applications for research projects that address the fundamental mechanisms of interactions between plants, microorganisms, and contaminant chemicals in soils, sediments and water (potentially marine, estuarine, or freshwater systems), which result in the degradation, extraction, volatilization, or stabilization of the contaminant. Such research should address relevant aspects of plant-microorganism-contaminant interactions, including the phenomena of biodegradation, biotransformation, extraction, and hyperaccumulation of contaminants by plants. Information derived from such research should inform efforts to develop the effective use of plants to remediate hazardous wastes. For example, collaborations among life scientists, environmental chemists and engineers are encouraged.

Examples of research on organic, metal or radionuclide contamination that might be addressed include the following:

- Extent and mechanisms of plant-microorganism interactions that facilitate phytoremediation;
- Soil/sediment geochemistry, fertility, and cultivation practices that influence plant-microorganism-contaminant interactions;
- Environmental factors (*e.g.*, temperature, rainfall) that influence phytoremediation;
- Molecular biological basis of contaminant hyperaccumulation by plants that will facilitate more efficient phytoremediation;
- Fundamental processes by which plants take up or transform radionuclides or metals from contaminated soils and groundwater;
- Biochemical and genetic basis for enhanced biotransformation of organic contaminants by plants and associated microorganisms; and
- Potential for use of marine/estuarine plants for phytoremediation, to include study of biochemical or genetic mechanisms of resistance, and/or the development of molecular biology techniques for genetic manipulation of marine seaweeds/sea grasses.

This program is not appropriate for the simple field testing of plant species for their utility in phytoremediation or the development of systems for the specific application of phytoremediation to particular environmental contamination problems. Applications for such research will not be considered. However, mechanistic studies conducted under field conditions are desirable. To avoid the high cost of establishing new field research sites, field studies should use well-instrumented, characterized, and documented sites. Some appropriate sites that are available for field research are listed below. The named individuals should be contacted to ascertain the logistical and financial arrangements that will be necessary for research that is proposed at the site and these arrangements should be reflected in the application.

- Various Department of Energy sites; Contact: Mr. Paul Bayer, 301–903–5324, *paul.bayer@science.doe.gov*
- Various Department of Navy sites; Contact: Dr. Linda Chrisey, 703–696–4504, *chrisel@onr.navy.mil*
- The U.S. Navy's Port Hueneme, CA, site; Contact: Mr. Ernie Lory, 805–982–1299, FAX: 805–982–4304, *loryee@nfesc.navy.mil*
- Dover Air Force Base, DE; Contact: Tim McHale, 302–677–4147, FAX: 302–677–6837, *tjmchale@bellatlantic.net*

Applicants must document where any proposed field research will be conducted and must include a letter from the site management indicating their commitment to participate in the research. Arrangements must be made in advance regarding the possible need for funding of activities at the field site. Do not presume that site management will be able to cover add-on research costs.

This solicitation is offered under the auspices of the Environmental Biotechnology Task Force, Biotechnology Research Working Group, Subcommittee on Biotechnology, Committee on Science of the National Science and Technology Council (NSTC). A more detailed statement of interagency interests and priorities in bioremediation research can be found in the Environmental Biotechnology chapter of the NSTC report, Biotechnology for the 21st Century: New Horizons *http://www.nalusda.gov/bic/bio21.*

Funds Available

It is anticipated that up to $3 million will be available for multiple awards to be made in Fiscal Year 2003 in the categories described above, contingent on availability of appropriated funds, and the programmatic relevance of recommended projects to the participating agencies. An additional sum, up to $1 million, will be available for competition by DOE National Laboratories under a separate solicitation (LAB 03–04). Applications may request project support up to three years, with an upper limit of $150,000 per year. Out-year support is contingent on availability of funds, progress of the research and programmatic needs of the supporting agency. Each project selected for support will be funded by a single agency. The PI's will be notified by the agency program manager of the need for additional agency-specific forms or procedures.

Merit Review

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria which are listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project;
2. Appropriateness of the Proposed Method or Approach;
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources;
4. Reasonableness and Appropriateness of the Proposed Budget.

Also, as part of the evaluation, program policy factors become a selection priority. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Federal and non-federal reviewers will be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Submission Information

Information about the development, submission of applications, eligibility, limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to SC's Financial Assistance Application Guide is possible via the World Wide Web at: *http://www.sc.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of applications. In addition, for this notice, the research description must be 20 pages or less, exclusive of attachments, and must contain an abstract or summary of the proposed research (to include the hypotheses being tested, the proposed experimental design, and the names of all investigators and their affiliations). Attachments should include short (two

pages) curriculum vitae, a listing of all current and pending federal support and letters of intent when collaborations are part of the proposed research. Curriculum vitae should be submitted in a form similar to that of NIH or NSF (two to three pages), *see* for example: *http://www.nsf.gov:80/bfa/cpo/gpg/fkit.htm#forms-9.*

The Office of Science as part of its grant regulations requires at 10 CFR 605.11(b) that a recipient receiving a grant and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the NIH ''Guidelines for Research Involving Recombinant DNA Molecules,'' which is available via the world wide web at: *http://www.niehs.nih.gov/odhsb/biosafe/nih/rdna-apr98.pdf,* (59 FR 34496, July 5, 1994), or such later revision of those guidelines as may be published in the **Federal Register**. Grantees must also comply with other federal and state laws and regulations as appropriate; for example, the Toxic Substances Control Act (TSCA) as it applies to genetically modified organisms. Although compliance with NEPA is the responsibility of DOE, grantees proposing to conduct field research are expected to provide information necessary for the DOE to complete the NEPA review and documentation.

(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 September 27, 2002.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 02–25257 Filed 10–3–02; 8:45 am]

BILLING CODE 6450–03–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, October 21, 2002—3 p.m.–9 p.m. Tuesday, October 22, 2002—8 a.m.–4 p.m.

ADDRESSES: Charleston Riverview Hotel, 170 Lockwood Drive, Charleston, SC 29403.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Science Technology & Management Division, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC 29802; Phone: (803) 725–5374.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, October 21, 2002

3 p.m.—Long-Term Stewardship Committee
5 p.m.—Executive Committee
6:30 p.m.—Public Comment Session
7 p.m.—Committee Meetings
9 p.m.—Adjourn

Tuesday, October 22, 2002

8:30–9 a.m.—Approval of Minutes; Agency Updates; Public Comment Session; Facilitator Update
9–9:30 a.m.—Chair Update
9:30–11 a.m.—Strategic and Long-Term Issues Committee
11–11:45 a.m.—Nuclear Materials Committee Report
11:45–12 a.m.—Public Comments
12 noon Lunch Break
1–1:45 p.m.—Administrative Committee Report
—Bylaws Amendment Proposal
—Presentation of 2003 Candidates
1:45–2 p.m.—Long-Term Stewardship Committee
2–3:15 p.m.—Waste Management Committee Report
3:15–3:50 p.m.—Environmental Restoration Committee
3:50–4 p.m.—Public Comments
4 p.m.—Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, October 21, 2002.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make the oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Fleming, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on September 30, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–25339 Filed 10–3–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–2375–035]

International Paper Company; Notice of Availability of Environmental Assessment

September 30, 2002.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR part 380), Commission staff have reviewed an application for a non-capacity related license amendment at the Riley-Jay-Livermore Project, FERC No. 2375, and have prepared an Environmental Assessment (EA) on the application. The project is located on Androscoggin River at the junction of Franklin, Androscoggin, and Oxford Counties, Maine.

Specifically, the project licensee (International Paper Company) has requested Commission approval to amend the present license to maintain the existing Livermore powerhouse as is, and construct a new powerhouse to contain a single new turbine and generator with an installed capacity of 1 MW. This unit will discharge into the upper portion of the lower bypass reach and will serve as a minimum flow unit with a hydraulic capacity of 450 cfs, which would bring the Livermore development's total hydraulic capacity to 3,906 cfs, instead of the authorized hydraulic capacity of 5,400 cfs. The authorized installed capacity of the project would be reduced from 23,185 kW to 19,725 kW. In the EA, Commission staff have analyzed the

probable environmental effects of the proposed amendment and have concluded that approval of the proposal, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in Public Reference Room 2–A of the Commission's offices at 888 First Street, NE., Washington, DC. The EA also may be viewed on the Commission's Internet Web site (*http://www.ferc.gov*) using the ''FERRIS'' link. Additional information about the project is available from the Commission's Office of External Affairs, at (202) 502–6088 or on the Commission's Web site using the FERRIS link. Click on the FERRIS link, enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance with FERRIS, the FERRIS helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or by e-mail to *FERCONLINESUPPORT@FERC.GOV*. The FERRIS link on the FERC's Internet website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25259 Filed 10–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1932–004, 1933–010, and 1934–010]

Southern California Edison Company; Notice Granting Late Intervention

September 30, 2002.

On May 15, 2001, the Commission issued a notice of application ready for environmental analysis and soliciting comments, recommendations, terms and conditions, and prescriptions for Lytle Creek Hydroelectric Project No. 1932, located on the Lytle Creek near the town of Devore, San Bernardino County, California. The notice established August 31, 2001, as the deadline for filing motions to intervene in this proceeding.

On April 22, 2002, the State Water Resources Control Board, filed a motion to intervene in this proceeding. Granting the late motion to intervene will not unduly delay or disrupt the proceeding or prejudice other parties to it. Therefore, pursuant to Rule 214,[1] the motion to intervene filed in this proceeding by the State Water Resources Control Board is granted, subject to the Commission's rules and regulations.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25260 Filed 10–3–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

September 30, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently received in the Office of the Secretary. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502–8222 or for TTY, (202) 208–1659.

EXEMPT

Docket No.	Date filed	Presenter or requester
1. Project No. 1494–000	8–22–02	Edward and Karen James.
2. CP01–415–000	9–03–02	Donald R. Joyce.
3. Project No. 1354–000	9–26–02	Dave Miller (Van Button).
4. CP02–37–000	9–27–02	Kurt Schweiger.
5. CP02–45–000	9–27–02	Matthew J. Satterwhite.
6. Project No. 2661–012	9–27–02	Tom Jereb.
7. CP01–415–000	9–27–02	John and Laura Cobler.
8. CP01–384–000	9–27–02	William C. Horne.
9. CP01–415–000	9–27–02	Jason L. Brown.
10. CP02–396–000	9–27–02	The Honorable Eric Cantor.
11. CP01–415–000	9–30–02	John and Laura Cobler.

[1] 18 CFR 385.214 (2001).

EXEMPT—Continued

Docket No.	Date filed	Presenter or requester
12. Project No. 1494–243	9–30–02	Rodger Tucker.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25258 Filed 10–3–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7390–5]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby at (202) 566–1672, or e-mail at *Auby.susan@epa.gov.* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 0988.08 Water Quality Standards Regulation in 40 CFR part 131; was approved 08/20/2002; OMB No. 2040–0049; expires 08/31/2005.

EPA ICR No. 1688.04; RCRA Expanded Public Participation; in 40 CFR 124.31–124.33, 270.62, and 270.66; was approved 08/16/2002; OMB No. 2050–0149; expires 08/31/2005.

EPA ICR No. 2081.01; National Epidemiological and Environmental Assessment of Recreational Water Study (N.E.E.A.R.); was approved 08/15/2002; OMB No. 2080–0068; expires 08/31/2005.

EPA ICR No. 0328.10; Spill Prevention, Control and Countermeasures (SPCC) Plans; in 40 CFR 112.1–112.7; was approved 08/12/2002; OMB No. 2050–0021; expires 08/31/2005.

EPA ICR No. 2030.01; Reliability, Validity, and Variability in Behavioral Determinants of Drinking Water Disinfection By-Product Exposure; was approved 08/20/2002; OMB No. 2080–0067; expires 08/31/2005.

EPA ICR No. 1100.11; National Emission Standards for Hazardous Air Pollutants: Radionclides in 40 CFR part 61, subparts B, H, K, R and W; was approved 8/26/2002; OMB No. 2060–0191; expires 08/31/2005.

EPA ICR No. 1788.03; NESHAP: Oil and Natural Gas Production in 40 CFR part 63, subpart HH was approved 08/26/2002; OMB No. 2060–0417; expires 08/31/2005.

EPA ICR No. 1983.02; NESHAP for Source Categories: Generic Maximum Achievable Control Technology Standards (Final Rule); in 40 CFR part 63, subpart YY; OMB No. 2060–0489; was approved 08/29/2002; expires 08/31/2005.

EPA ICR No. 1974.02; National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing (Final Rule); in 40 CFR part 63, subparts F, G, H and UU; was approved 08/30/2002; OMB No. 2060–0488; expires 08/31/2005.

EPA ICR No. 2063.01; 2003 Report to Congress on Impacts and Control of Combined Sewer Overflows and Sanitary Sewer Overflows; was approved 09/16/2002; OMB No. 2040–0248; expires 07/31/2003.

EPA ICR No. 0138.07; Modification of Secondary Treatment Requirements for Discharges into Marine Waters; in 40 CFR part 125, subpart G; was approved 09/16/2002; OMB No. 2040–0088; expires 09/30/2005.

EPA ICR No. 0982.07; NSPS for Metallic Mineral Processing Plants (subpart LL); in 40 CFR part 60, subpart LL; was approved 09/06/2002; OMB No. 2060–0016; expires 09/30/2005.

EPA ICR No. 1789.03; NESHAP: Natural Gas Transmission and Storage Facilities in 40 CFR part 63, subpart HHH; was approved 09/04/2002; OMB No. 2060–0418; expires 09/30/2005.

EPA ICR No. 1957.02; Reporting and Recordkeeping Requirements for Metal Coil Surface Coating Plants; in 40 CFR part 63, subpart SSSS; OMB No. 2060–0487; was approved 08/12/2002; expires 08/31/2005.

EPA ICR No. 1996.01; National Survey on Environmental Management of Asthma; OMB No. 2060–0490; was approved 08/14/2002; expires 08/31/2005.

EPA ICR No. 2056.01; National Emission Standards for Hazardous Air Pollutants; Miscellaneous Metal Parts and Products Surface Coating Operations; in 40 CFR part 63, subpart MMMM; OMB No. 2060–0486; was approved 8/19/2002; expires 08/31/2005.

EPA ICR No. 1852.02; Exclusion Determinations for New Non-road Spark-ignited Engines at or Below 19 Kilowatts, New Non-road Compression-ignited Engines New Marine Engines, and New on-road Heavy Duty Engines; in 40 CFR part 85; was approved on 8/21/2002; OMB No. 2060–0395; expires 08/31/2005.

Short Term Extensions

EPA ICR No. 1286.05; Used Oil Management Standards Recordkeeping and Reporting Requirements; in 40 CFR 279.10; 279.11, 279.42–279.44, 279.52–279.55, 279.57, 279.63 and 279.82; OMB No. 2050–0124; on 08/29/2002 OMB extended the expiration date through 09/30/2002.

EPA ICR No. 0601.06; FIFRA Section 29 Annual Report on Conditional Registrations; OMB No. 2070–0026; on 08/30/2002 OMB extended the expiration date through 11/30/2002.

EPA ICR No. 0595.07; Notice of Pesticide Registration by States to Meet a Special Local Need—Section 24(c); OMB No. 2070–0055; on 08/30/2002 OMB extended the expiration date through 11/30/2002.

EPA ICR No. 0161.08; Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides; OMB No. 2070–0027; on 08/30/2002 OMB extended the expiration date through 11/30/2002.

EPA ICR No. 1188.06; Significant New Use Rules for Existing Chemicals—TSCA Section 5(a); OMB No. 2070–0038; on 08/30/2002 OMB extended the expiration date through 11/30/2002.

EPA ICR No. 1912.01; Information Collection Request: National Primary Drinking Water Regulation for Lead and Copper (Final Rule); OMB No. 2040–0210; on 09/19/2002 OMB extended the expiration date through 12/31/2002.

EPA ICR No. 0940.16; Ambient Air Quality Surveillance in 40 CFR part 58; OMB No. 2060–0084; on 09/19/2002 OMB extended the expiration date through 12/31/2002.

EPA ICR No. 1813.02; Final Regional Haze Rule; OMB No. 2060–0421; on 09/20/2002 OMB extended the expiration date through 12/31/2002.

Withdrawn

EPA ICR No. 2036.01; Superfund De Minimis Settlement Reform Survey; was withdrawn by EPA on 08/22/2002.

EPA ICR No. 2037.01; Superfund PRP Oversight Reform Survey; was withdrawn by EPA on 08/22/2002.

EPA ICR No. 2035.01; Superfund Orphan Share Compensation Reform Survey; was withdrawn by EPA on 9/22/2002.

Disapproved

EPA ICR No. 1842.03; Notice of Intent for Storm Water Discharges Associated with Construction Activity under an NPDES General Permit (Proposed Rule for construction and Development); OMB No. 2040–0188; on 8/20/2002 OMB disapproved the ICR for the proposed rule and continued approval for the base ICR through 03/31/2003.

Dated: September 25, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–25303 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6633–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 09, 2002 Through September 13, 2002 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167 An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D–FHW–D40319–PA Rating EC2, Mon/Fayette Transportation Project, Improvements from PA–51 to I–376 in Monroeville and Pittsburg, Funding, U.S. Coast Guard Bridge Permit and US Army COE Section 404 Permit Issuance, Allegheny County, PA.

Summary: EPA expressed environmental concern regarding avoidance and minimization of project impacts to community and natural resources. NEPA history and cumulative impacts of the entire expressway should be provided in addition to the development of an acceptable mitigation plan.

ERP No. D–FHW–J40154–WY Rating EC2, US 287/26 Improvements Project, Moran Junction to 12 miles west of Dubois to where the roadway traverses thru the Bridger-Teton and Shoshone National Forests and Grand Teton National Park, NPDES and U.S. Army COE Section 404 Permits Issuance, Teton and Fremont Counties, WY.

Summary: EPA expressed environmental concern about the selection of an alternative that may not be the least damaging practicable alternative and would result in direct impacts to endangered species habitat and wetlands.

ERP No. DS–FHW–L40208–WA Rating 3, Cross-Base Highway Project, Updated Information concerning New Roadway Construction between I–5 at the Thorne Lane Interchange and WA–7 at 176th Street South, Major Investment Study (MIS) and US Army COE Section 404 Permit Issuance, Pierce County, WA.

Summary: EPA believes that the documentation for the proposal is inadequate. Major issues include the lack of a detailed mitigation plan and inadequate analysis and disclosure of information regarding project alternatives, western gray squirrel habitat, genetic studies, cumulative and secondary impacts and Environmental Justice.

Final EISs

ERP No. F–DOE–L08060–00 Wallula Power Project and Wallula-McNary Transmission Line Project, Construction and Operation, 1300 megawatt (MW) Natural Gas Fired Combustion Gas Turbine Facility and a new 500-kilovolt (kV) Transmission Line and Upgrade of the McNary Substation, U.S. COE Section 10 and 404 Permits, Walla-Walla Co., WA and Umatilla Co., OR.

Summary: No formal comment letter was sent to the preparing agency.

Dated: October 1, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–25279 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6633–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa*

Weekly receipt of Environmental Impact Statements

Filed September 23, 2002 Through September 27, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020404, DRAFT EIS, COE, AK, Akutan Harbor Navigation Improvements Project, Construction, National Economic Development Plan (NED), Bering Sea, City of Akutan, AK, Comment Period Ends: November 18, 2002, Contact: Guy R. McConnell (907) 753–2614.

EIS No. 020405, DRAFT EIS, FHW, NH, Interstate 93 Improvements, From Salem to Manchester, IM–IR–93–1(174)0, 10418–C, Funding, NPDES and COE Section 404 Permits, Hillsborough and Rockingham Counties, NH, Comment Period Ends: November 18, 2002, Contact: William F. O'Donnell (603) 228–3057.

EIS No. 020406, DRAFT EIS, AFS, IL, Kudzu Eradication, Proposal to Eradicate Known Kudzu Infestations in the Shawnee National Forest, Application for Herbicide and Mechanical Treatment, Jackson, Alexander and Pope Counties, IL, Comment Period Ends: December 3, 2002, Contact: Tom Neal (618) 658–2111.

Dated: October 1, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02–25280 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7389–8]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act for the Marina Cliffs/Northwestern Barrel Superfund Site, South Milwaukee, Wisconsin

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice; request for public comment on proposed *de minimis* settlement.

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended (''CERCLA''), notification is hereby given of a proposed administrative agreement concerning the Marina Cliffs/Northwestern Barrel hazardous waste site located between 5th Avenue and Lake Michigan in South Milwaukee, Wisconsin (the ''Site''). EPA proposes to enter into this agreement under the authority of section 122(g) and 107 of CERCLA. Subject to review and comment by the public pursuant to this notice, the agreement has been approved by the United States Department of Justice. The proposed agreement has been executed by the following *de minimis* parties: Benjamin Moore & Co.; Hydrite Chemical Co.; Pabst Brewing Company; Raytheon Company; and SBC Holdings, Inc. (f/k/a The Stroh Brewery Company).

Under the proposed agreement, the *de minimis* Settling Parties will pay a total of approximately $261,410.45 which will be used for response costs incurred and to be incurred at the Site. EPA incurred response costs overseeing response activities conducted to mitigate an imminent and substantial endangerment to human health or the environment present or threatened by hazardous substances present at the Site.

For thirty days following the date of publication of this notice, the EPA will receive written comments relating to this proposed agreement. EPA will consider all comments received and may decide not to enter or to require modifications to this proposed agreement if comments disclose facts or considerations which indicate that the proposed agreement is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before November 4, 2002.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, and should refer to: In the Matter of Marina Cliffs/Northwestern Barrel, South Milwaukee, Wisconsin, U.S. EPA Docket No. V-W–02C–706.

FOR FURTHER INFORMATION CONTACT: Thomas J. Krueger, U.S. Environmental Protection Agency, Office of Regional Counsel, C–14J, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, (312) 886–0562.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 02–25301 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7389–7]

Proposed Amendment to Settlement Under Sections 122(g) and 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act for the Marina Cliffs/Northwestern Barrel Superfund Site, South Milwaukee, Wisconsin

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice; request for public comment on proposed amendment to *de minimis* settlement.

SUMMARY: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended (''CERCLA''), notification is hereby given of a proposed amendment to an administrative agreement concerning the Marina Cliffs/Northwestern Barrel hazardous waste site located between 5th Avenue and Lake Michigan in South Milwaukee, Wisconsin (the ''Site''). The settlement agreement, issued by EPA on September 21, 2001, would be amended to add Mautz Paint Company as a non-*de minimis* settling party. EPA entered the settlement in EPA Docket No V–W–01C–630 after publishing a notice and request for comments in the **Federal Register** on May 10, 2001, and reviewing and responding to the comments it received.

Under the existing agreement, the *de minimis* settling parties paid a total of approximately $5.6 million toward cleanup costs at the Site to resolve fully their liability at the Site. A group of six non-*de minimis* settlors agreed to perform the remaining removal actions to be conducted at the Site, and pay EPA's costs of overseeing these removal actions. After the settlement was completed, EPA and the remaining non-*de minimis* settling parties reached agreement with Mautz Paint Company to add that company as an additional non-*de minimis* settlor. Adding this party to the settlement will not alter the obligations of, or protections received by, the *de minimis* parties.

For thirty days following the date of publication of this notice, the EPA will receive written comments relating to this proposed agreement. EPA will consider all comments received and may decide not to enter or to require modifications to this proposed amendment if comments disclose facts or considerations which indicate that the proposed agreement is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before November 4, 2002.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, and should refer to: In the Matter of Marina Cliffs/Northwestern Barrel, South Milwaukee, Wisconsin, U.S. EPA Docket No. V–W–01C–630.

FOR FURTHER INFORMATION CONTACT: Thomas J. Krueger, U.S. Environmental Protection Agency, Office of Regional Counsel, C–14J, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590, (312) 886–0562.

A copy of the proposed amendment to the administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

Wendy L. Carney,

Acting Director, Superfund Division, Region 5.

[FR Doc. 02–25302 Filed 10–3–02; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board was held at the offices of the Farm Credit Administration in McLean, Virginia, on September 26, 2002, from 3:30 p.m. until such time as the Board concluded its business.

FOR FURTHER INFORMATION CONTACT: Jeanette C. Brinkley, Acting Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703)883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board was open to the public (limited space available). The matter considered at the meeting was:

Open Session

- New Business—Other
- FY 2003 Revised Budget and FY 2004 Proposed Budget.

Dated: October 1, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02–25369 Filed 10–2–02; 8:58 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

En Banc Hearing on Steps Toward Recovery in the Telecommunications Industry

AGENCY: Federal Communications Commission.

ACTION: Notice of meeting.

SUMMARY: The hearing will bring together experts from the financial community and academic economists at an *en banc* hearing to conduct a comprehensive assessment of the current state of the telecommunications sector and to discuss steps needed to restore its financial health.

DATES: The meeting will be held on Monday, October 7, 2002, from 2 p.m. to 4 p.m.

ADDRESSES: The meeting will be held in the Commission Meeting Room, Federal Communications Commission, 445 12th St. SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Pepper at (202) 418–2030 voice and e-mail *rpepper@fcc.gov.*

Robert Pepper,

Chief, Office of Plans and Policy, Federal Communications Commission.

[FR Doc. 02–25220 Filed 10–3–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 67 FR 61341.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 p.m.–October 2, 2002.

CORRECTION: The correct time of the meeting is 10 a.m. not 10 p.m.

CONTACT PERSON FOR MORE INFORMATION: Bryant L. VanBrakle, Secretary, (202) 523–5725.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–25364 Filed 10–1–02; 4:18 pm]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

AGENCY: Federal Maritime Commission.

ACTION: Notice of posting of final information quality guidelines.

SUMMARY: Pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554, 114 Stat. 2763) and guidelines issued by the Office of Management and Budget, the Federal Maritime Commission (''Commission'') is posting its final Information Quality Guidelines (''Guidelines'') on its website at *http://www.fmc.gov.*

DATES: Effective October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001, E-mail: *secretary@fmc.gov.*

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–25249 Filed 10–3–02; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 21, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Robert B. Whitlock, Minneapolis, Minnesota, Jonathon H. Berg, M.D., Northwood, North Dakota, and Marie Gillespie, LaGrange Park, Illinois; as trustees of the Lake Bank Shares, Inc., Employee Stock Ownership Plan, Emmons, Minnesota, and thereby indirectly control Lake Bank Shares, Inc., Emmons, Minnesota and its subsidiaries, Security Bank of Minnesota, Albert Lea, Minnesota, and First State Bank of Emmons, Emmons, Minnesota.

Board of Governors of the Federal Reserve System, September 30, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–25215 Filed 10–3–02; 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 Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 30, 2002.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309–4470:

1. Hazlehurst Investors, Inc., Hazlehurst, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Hazlehurst, Hazlehurst, Georgia.

2. Synovus Financial Corp., Columbus, Georgia; to merge with United Financial Holdings, Inc., and thereby indirectly acquire United Bank and Trust Company, both of St. Petersburg, Florida, and United Bank of the Gulf Coast, Sarasota, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Mercantile Bancorp, Inc., Quincy, Illinois; to acquire up to an additional 9.14 percent, for a total of 29 percent of New Frontier Bancshares, Inc., Saint Charles, Missouri, and thereby indirectly acquire New Frontier Bank, Saint Charles Missouri.

Board of Governors of the Federal Reserve System, September 30, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–25214 Filed 10–3–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Governmentwide Per Diem Advisory Board

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Governmentwide Per Diem Advisory Board will hold an open meeting from 8:30 a.m. to 4 p.m. on Thursday, October 17, 2002. The meeting will be held at The Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202. This meeting is open to the public. Members of the public who wish to file a written statement with the Board may also be permitted 5 minutes for summary oral presentations at this meeting, assuming GSA receives a written copy c/o Rob Miller, Designated Federal Officer (MTT), General Services Administration, 1800 F St., NW Room 1221B, Washington, DC 20405, or via email at *robl.miller@gsa.gov* of any such oral presentation not later than 5 p.m. (ET) October 11, 2002.

Purpose: To review the current process and methodology that is used by GSA's Office of Governmentwide Policy to determine the per diem rates for destinations within the continental United States (CONUS), and to provide advice on best practices for a Federal lodging program. The Board will receive preliminary recommendations for improving the per diem process, and identifying best practices for a Governmentwide lodging program.

For security and building access: (1) ADA accessible facility; (2) public seating may be limited.

FOR FURTHER INFORMATION CONTACT: Rob Miller (202) 501–4621, Designated Federal Officer, or Joddy Garner (202) 501–4857, Per Diem Program Manager, General Services Administration. Also, inquiries may be sent to *robl.miller@gsa.gov.*

Dated: September 27, 2002.

Becky Rhodes,

Deputy Associate Administrator, Office of Transportation and Personal Property.

[FR Doc. 02–25240 Filed 10–3–02; 8:45 am]

BILLING CODE 6820–14–M

GENERAL SERVICES ADMINISTRATION

President's Homeland Security Advisory Council

AGENCY: Office of Governmentwide Policy, General Services Administration.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The President's Homeland Security Advisory Council (PHSAC or Council) will meet in closed session on Monday, October 21, 2002, in Washington, DC. The PHSAC will meet to receive briefings on sensitive homeland security matters and to review and discuss the draft National Strategy for the Physical Protection of Critical Infrastructures and Key Assets.

Objectives: The President's Homeland Security Advisory Council was established by Executive Order 13260 (67 FR 13241, March 21, 2002). The objectives of the PHSAC are to provide advice and recommendations to the President of the United States through the Assistant to the President for Homeland Security on matters relating to homeland security.

Basis for Closed Meeting: In accordance with section 10(d) of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App.), it has been determined that this PHSAC meeting concerns matters sensitive to homeland security within the meaning of 5 U.S.C. 552b(c)(7) and (9)(B) and that, accordingly, the meeting will be closed to the public.

Public Comments: Members of the public who wish to file a written statement with the PHSAC may do so by mail to Mr. Charles Howton at the following address: President's Homeland Security Advisory Council, U.S. General Services Administration (GSA/MC, Room G–230), 1800 F St., NW., Washington, DC 20405. Comments also may be sent to Charles Howton by e-mail at *charles.howton@gsa.gov*, or by facsimile (FAX) to (202) 273–3559.

Dated: October 1, 2002.

James L. Dean,

Director, Committee Management Secretariat, Office of Governmentwide Policy, General Services Administration.

[FR Doc. 02–25276 Filed 10–3–02; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Notice of Award of Non-Competitive Grant

AGENCY: Administration for Native Americans, ACF, DHHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that ACF is considering awarding FY 2002 ANA grant funds without competition to the Chickasaw Nation for a 12 month project in the amount of $150,000. The project period would begin September 30, 2002 and end September 29, 2003. This award will be made to the Chickasaw Nation to provide Federal support for the integration of Tribal, State and regional resources to offer services that will provide the skills and knowledge needed to sustain healthy families and marriages.

The Chickasaw Nation's Strong Family Project is designed to eliminate the fragmentation of services and integrate community services that

impact couples, youth and families such as the tribal court system and other family services, as well as partner with the State's Oklahoma Marriage Initiative for training of tribal staff.

Statutory Authority: This award will be made pursuant to the Native American Programs Act, as amended, 42 U.S.C. 2991 *et seq.*

ADDRESSES: Interested parties, including qualified organizations which would be interested in competing for the funding if a competition were held, should write to: Sharon G. McCully, Administration for Native Americans, Administration for Children and Families, 370 L'Enfant Promenade SW., Aerospace Center 8th Floor West, Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Sharon G. McCully, ANA, at 1–877–922–9262.

(Catalog of Federal Domestic Assistance Program Number 93612, ANA)

Dated: September 27, 2002.

Sharon G. McCully,

Acting Deputy Commissioner, Administration for Native Americans.

[FR Doc. 02–25273 Filed 10–3–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Minority Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Pubic Health and Science, Office of Minority Health.

ACTION: Notice.

SUMMARY: The Advisory Committee on Minority Health will meet to discuss racial and ethnic disparities in health, as well as other related issues. This meeting is open to the public. There will be an opportunity for public comment, which will be limited to five minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority health at least two business days prior to the meeting.

DATES: The Advisory Committee on Minority Health will meet on Thursday, October 17, 2002 from 9 a.m. to 5 p.m. and on Friday, October 18, 2002 from 8:30 a.m. till noon.

ADDRESSES: The meeting will be held at the Holiday Inn Georgetown, Mirage I Room, 2101 Wisconsin Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Sheila P. Merriweather, Rockwall II Building, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852. Phone: 301–443–9923, Fax: 301–443–8280.

Dated: October 1, 2002.

Nathan Stinson, Jr.,

Deputy Assistant Secretary for Health.

[FR Doc. 02–25250 Filed 10–3–02; 8:45 am]

BILLING CODE 4150–29–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifiers: CMS–377/378/R–54, CMS–359/360/R–55]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1.) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Certification, CMS–377 and the Ambulatory Surgical Center Survey Report Form, CMS–378 and CMS–R–0054 Supporting Regulations Contained in 42 CFR 416.1 thru 416.49; *Form No.:* CMS–0377/0378/R–0054 (OMB# 0938–0200); *Use:* The ASC request for certification form is utilized as an application for facilities wishing to participate in the Medicare program as an ASC. This form initiates the process of obtaining a decision as to whether the conditions of coverage are met. It also promotes data retrieval from the Online Data Input Edit (ODIE system, a subsystem of the Online Survey Certification and Report (OSCAR) system by CMS Regional Offices (RO)). The ASC report form is an instrument used by the State survey agency to record data collection in order to determine supplier compliance with individual conditions of coverage and to report it to the Federal government. The form is primarily a coding worksheet designed to facilitate data reduction and retrieval into the ODIE/OSCAR system at the CMS ROs. This form includes basic information on compliance (*i.e.*, met, not met and explanatory statements) and does not require any descriptive information regarding the survey activity itself; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 2,798; *Total Annual Responses:* 2,798; *Total Annual Hours:* 2,100.

(2.) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Comprehensive Outpatient Rehabilitation Facility (CORF) Eligibility and Survey Forms and Information Collection Requirements in 42 CFR 485.56, 485.58, 485.60, 485.64, 485.66, 410.105; *Form No.:* CMS–0359/0360/R–0055 (OMB# 0938–0267); *Use:* In order to participate in the Medicare program as a CORF, providers must meet federal conditions of participation. The certification form is needed to determine if providers meet at least preliminary requirements. The survey form is used to record provider compliance with the individual conditions and report findings to CMS; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 556; *Total Annual Responses:* 556; *Total Annual Hours:* 264,877.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security

Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 26, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 02–25218 Filed 10–3–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10064, CMS–416]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1.) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Minimum Data Set (MDS) for Swing Bed Hospitals and Supporting Regulations in 42 CFR, Sections 413.337 and 483.20; *Form No.:* CMS–10064 (OMB# 0938–0872); *Use:* We are requesting re-approval of resident assessment information that swing bed hospitals are required to submit as described at 42 CFR 483.20 in the manner necessary to administer the payment rate methodology described in 42 CFR 413.337; *Frequency:* Other: Days 5, 14, 30, 60 & 90 of stay; *Affected Public:* Not-for-profit institutions, and State, Local or Tribal Government; *Number of Respondents:* 1,250; *Total Annual Responses:* 156,480; *Total Annual Hours:* 132,360.

(2.) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Annual Early and Periodic Screening, Diagnostic, and Treatment Services (EPSDT) Participation Report and Supporting Regulations in 42 CFR 441.60; *Form No.:* CMS–416 (OMB# 0938–0354); *Use:* States are required to submit an annual report on the provision of EPSDT services to CMS pursuant to section 1902(a)(43) of the Social Security Act. These reports provide CMS with data necessary to assess the effectiveness of State EPSDT programs. It is also helpful in developing trend patterns, national projections, responding to inquiries, and determining a State's results in achieving its participation goal; *Frequency:* Annually; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 1,568.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.hcfa.gov/regs/prdact95.htm,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 26, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.

[FR Doc. 02–25217 Filed 10–3–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0418]

Agency Information Collection Activities; Proposed Collection; Comment Request; Adverse Experience Reporting for Licensed Biological Products; and General Records

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register**concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to FDA?s adverse experience reporting (AER) for licensed biologicalproducts, and general records associated with the manufacture and distribution of biological products.

DATES: Submit written or electronic comments on the collection of information by December 3, 2002.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm.* Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All documents should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request

or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60–day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Adverse Experience Reporting for Licensed Biological Products; and General Records—21 CFR Part 600 (OMB Control Number 0910–0308)—Extension

Under the Public Health Service Act (42 U.S.C. 262), FDA is required to ensure the marketing of only those biological products that are safe and effective. FDA must, therefore, be informed of all adverse experiences occasioned by the use of licensed biological products. FDA issued the AER requirements in part 600 (21 CFR part 600) to enable FDA to take actions necessary for the protection of the public health in response to reports of adverse experiences related to licensed biological products. The primary purpose of FDA's AER system is to flag potentially serious safety problems with licensed biological products, focusing especially on newly licensed products. Although premarket testing discloses a general safety profile of a new drug's comparatively common adverse effects, the larger and more diverse patient populations exposed to the licensed biological product provides the opportunity to collect information on rare, latent, and long-term effects. Reports are obtained from a variety of sources, including patients, physicians, foreign regulatory agencies, and clinical investigators. Information derived from the adverse experience reporting system contributes directly to increased public health protection because such information enables FDA to recommend important changes to the product's labeling (such as adding a new warning), to initiate removal of a biological product from the market when necessary, and to assure the manufacturer has taken adequate corrective action if necessary.

The regulation in § 600.80(c)(1) requires the licensed manufacturer to report each adverse experience that is both serious and unexpected, regardless of source, as soon as possible but in any case within 15 working days of initial receipt of the information. Section 600.80(e) requires licensed manufacturers to submit a 15–day alert report obtained from a postmarketing clinical study only if there is a reasonable possibility that the product caused the adverse experience. Section 600.80(c)(2) requires the licensed manufacturer to report each adverse experience not reported under paragraph (c)(1) at quarterly intervals, for 3 years from the date of issuance of the product license, and then at annual intervals. The majority of the periodic reports will be submitted annually since a large percentage of the current licensed biological products have been licensed longer than 3 years. Section 600.80(i) requires the licensed manufacturer to maintain for a period of 10 years records of all adverse experiences known to the licensed manufacturer, including raw data and any correspondence relating to the adverse experiences. Section 600.81 requires the licensed manufacturer to submit information about the quantity of the product distributed under the product license, including the quantity distributed to distributors at an interval of every 6 months. The semiannual distribution report informs FDA of the quantity, the lot number, and the dosage of different products. Section 600.90 requires a licensed manufacturer to submit a waiver request with supporting documentation when asking for waiving the requirement that applies to them under §§ 600.80 and 600.81.

Manufacturers of biological products for human use must keep records of each step in the manufacture and distribution of products including recalls of the product. The recordkeeping requirements serve preventative and remedial purposes. These requirements establish accountability and traceability in the manufacture and distribution of products, and enable FDA to perform meaningful inspections.

Section 600.12 requires that all records of each step in the manufacture and distribution of a product be made and retained for no less than 5 years after the records of manufacture have been completed or 6 months after the latest expiration date for the individual product, whichever represents a later date. In addition, records of sterilization of equipment and supplies, animal necropsy records, and records in cases of divided manufacturing of a product are required to be maintained. Section 600.12(b)(2) requires complete records to be maintained pertaining to the recall from distribution of any product.

Respondents to this collection of information are manufacturers of biological products. Under table 1 of this document, the number of respondents is based on the estimated number of manufacturers that submitted the required information to FDA in the year 2000 and 2001. Based on information obtained from the Center for Biologics Evaluation and Research's (CBER's) database system, there were approximately 95 licensed manufacturers. This number excludes those manufacturers who produce blood and blood components and in-vitro diagnostic licensed products because they are specifically exempt from the regulations. However, not all manufacturers may have any submissions in a given year and some may have multiple submissions. The total annual responses are based on the estimated number of submissions received annually by FDA. There were an estimated 13,938 15–day alert reports, 10,102 periodic reports, and 339 distribution reports submitted to FDA. The number of 15–day alert report for postmarketing studies as stated in § 600.80(e) was minimal and is included in the total number of 15–day alert reports. FDA received an average of 12 waiver requests under § 600.90, of which 11 were approved for exemption of the AER requirements. The hours per response are based on FDA's experience. The burden hours required to complete the MedWatch Form for § 600.80(c)(1), (e), and (f) are reported under OMB control number 0910–0291.

FDA estimates the burden of this information collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
600.80(c)(1) and (e)	95	146.72	13,938	1	13,938
600.80(c)(2)	95	106.34	10,102	28	282,856
600.81	95	3.57	339	1	339
600.90	12	1	12	1	12
Totals					297, 145

[1] There are no capitol costs or operating and maintenance costs associated with this collection of information.

Under table 2 of this document, the number of respondents is based on the number of manufacturers subject to those regulations. Based on information obtained from CBER?s database system, there were approximately 329 licensed manufacturers of biological products. However, the number of recordkeepers listed for § 600.12(a) through (e) excluding paragraph (b)(2) is estimated to be 111. This number excludes manufacturers of blood and blood components because their burden hours for recordkeeping have been reported under § 606.160 in OMB control number 0910–0116. The total annual records is based on the annual average of lots released (6,747), number of recalls made (1,646) and total number of AER reports received (24,040) in the year 2000 and 2001. The hours per record are based on FDA's experience.

FDA estimates the burden of this recordkeeping as follows:

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Record-keepers	Annual Frequency of Recordkeeping	Total Annual Responses	Hours per Record	Total Hours
600.12	111	60.78	6,747	32	215,904
600.12(b)(2)	329	5.00	1,646	24	39,504
600.80(i)	95	253.05	24,040	1	24,040
Totals					279,448

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–25193 Filed 10–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0112]

Agency Information Collection Activities; Announcement of OMB Approval; Regulations Under the Federal Import Milk Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Regulations Under the Federal Import Milk Act'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 18, 2002 (67 FR 47388), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0212. The approval expires on September 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: September 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–25192 Filed 10–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0062]

Agency Information Collection Activities; Announcement of OMB Approval; Premarket Notification for a New Dietary Ingredient

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Premarket Notification for New Dietary Ingredient'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 10, 2002 (67 FR 39728), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0330. The approval expires on July 31, 2005. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: September 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–25194 Filed 10–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Docket No. 01D–0202

Medical Devices: The Least Burdensome Provisions of the FDA Modernization Act of 1997; Concept and Principles; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the final guidance entitled ''The Least Burdensome Provisions of the FDA Modernization Act of 1997: Concept and Principles.'' This final guidance discusses the agency's interpretation of the least burdensome provisions of the Federal Food, Drug, and Cosmetic Act (the act).

DATES: Submit written or electronic comments on the guidance at any time. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''The Least Burdensome Provisions of the FDA Modernization Act of 1997: Concept and Principles'' to the Division of Small Manufacturers, International and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. *See* the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Joanne R. Less, Center for Devices and Radiological Health (HFZ–403), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850 301–594–1190; or Leonard Wilson, Center for Biologics Evaluation and Research (HFM–25), Food and Drug Administration, Bldg. 29B, rm. 5G07, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

A central purpose of the Food and Drug Administration Modernization Act of 1997 (FDAMA) was to ensure the timely availability of safe and effective new products that would benefit the American public. While Congress wanted to reduce unnecessary burdens associated with the premarket clearance and approval processes, Congress did not lower the statutory thresholds for substantial equivalence or reasonable assurance of safety and effectiveness. To help achieve this goal, Congress added section 513(i)(1)(D) and (a)(3)(D)(ii) to the act (21 U.S.C. 360c(i))(l)(D) and (a)(3)(D)(ii). Specifically, section 513(i)(1)(D) states:

> Whenever the Secretary requests information to demonstrate that devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to making substantial equivalence determinations. In making such request, the Secretary shall consider the least burdensome means of demonstrating substantial equivalence and request information accordingly.

Section 513(a)(3)(D)(ii) states that:

> Any clinical data, including one or more well-controlled investigations, specified in writing by the Secretary for demonstrating a reasonable assurance of device effectiveness shall be specified as a result of a determination by the Secretary that such data are necessary to establish device effectiveness. The Secretary shall consider, in consultation with the applicant, the least burdensome appropriate means of evaluating device effectiveness that would have a reasonable likelihood of resulting in approval.

These two paragraphs of section 513 of the law contain what are commonly referred to as the ''least burdensome provisions'' of the act. CDRH worked with its stakeholders to develop an interpretation of the least burdensome provisions that would accurately capture Congress' intent and that could be implemented consistently by the agency and industry. As presented in this final guidance, the agency considers the least burdensome concept to be one that could affect almost all premarket regulatory activities, including presubmission meetings with industry, premarket submissions, and the development of guidance documents and regulations.

The level 1 draft was made available in the **Federal Register** of May 3, 2001 (66 FR 22241), and the 90-day comment period for the draft ended on August 1, 2001. While almost all of the comments strongly supported the guidance and encouraged full implementation of it as soon as possible, several comments included recommendations for the agency. Specifically, it was recommended that FDA develop a training program for its staff on the least burdensome approach as well as ways to assess both the agency's success in implementing the principles and industry's satisfaction with FDA's incorporation of them into its daily activities. The agency agrees with these comments, and its responses to them are discussed in the ''Foreword'' of the guidance.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on the least burdensome provisions of the act. 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 applicable statute and regulations.

III. Electronic Access

In order to receive ''The Least Burdensome Provisions of the FDA Modernization Act of 1997; Concept and Principles'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1332) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at *http://www.fda.gov/cdrh*.

IV. Comments

Interested persons may, at any time, submit written comments regarding this guidance to Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. In many cases, comments may be submitted electronically at *http://www.fda.gov/opacom/backgrounders/voice.html*. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 27, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–25195 Filed 10–3–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NIH Intramural Research, Training Award, Program Application

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 Office of the Director, 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: NIH Intramural Research Training Award, Program Application.

Type of Information Collection Request: Revision/OMB No. 0925–0299; 3/31/2003.

Need and Use of Information Collection: The proposed information collection activity is for the purpose of collecting data related to the availability of Training Fellowships under the NIH Intramural Research Training Award Program. This information must be submitted in order to received due consideration for an award and will be used to determine the eligibility and quality of potential awardees.

Frequency of Response: On occasion.

Affected Public: Individuals seeking Intramural Training award opportunities.

Type of Respondents: Postdoctoral, pre-doctoral, post-baccalaureate, technical, and student IRTA applicants. There are no capital costs, operating costs, and/or maintenance cost to report.

Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Postdoctoral IRTA	1,375	1.00	1.00	1375
Predoctoral	306	1.00	1.00	306
Postbaccalaureate	793	1.00	1.00	793
Technical IRTA	83	1.00	1.00	83
Student IRTA	3,800	1.00	1.00	3,800
References for all IRTA categories	15,188	1.00	0.33	5,012
Total	21,545	1.00	0.5276862	11,369

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 agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and the clarity of 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: Edie Bishop, Personnel Management Specialist, Office of Human Resource Management, OD, NIH, Building 31, Room B3C07, 31 Center Drive MSC 2203, Behtesda, MD, 20892–2203, or call non-toll-free number (301) 496–1443, or e-mail your request, including your address to: *Bishope@od.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within60 days of the date of this publication.

Dated: September 26, 2002.

Frederick C. Walker,

Acting Director of Human Resources.

[FR Doc. 02–25230 Filed 10–3–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Environmental Impact Statement: Ravalli County, MT

AGENCY: National Institutes of Health (NIH), DHHS.

ACTION: Notice of intent.

SUMMARY: Department of Health and Human Services (DHHS) National

Institutes of Health (NIH) announces its intent to prepare an environmental impact statement (EIS) to evaluate a proposed new containment laboratory on the campus of Rocky Mountain Laboratories (RML) in Hamilton, Montana. This EIS is being prepared and considered in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, and the President's Council on Environmental Quality Regulations (40 CFR parts 1500–1508).

DATES: A public scoping meeting will be held on October 21, 2002 beginning at 7 pm in Hamilton, Montana. Comments on the scope of the EIS for the proposed project should be received no later than November 4, 2002. To ensure that the full range of issues related to this proposed action and the scope of this EIS are addressed, comments are invited from all interested parties, including appropriate Federal, State, and local agencies, and private organizations and citizens. Comments and questions should be directed to the NIH at the address listed below.

ADDRESSES: The scoping meeting will be held at Hamilton High School, Commons Room. Comments should be addressed to: Valerie Nottingham, Chief, Pollution Control Section, EPB, ORS, National Institutes of Health, B13/2W64, 9000 Rockville Pike, Bethesda, Maryland 20892.

FOR FURTHER INFORMATION CONTACT: Valerie Nottingham, Chief, Pollution Control Section, EPB, ORS, National Institutes of Health, B13/2W64, 9000 Rockville Pike, Bethesda, Maryland 20892, telephone: 301–496–7775.

SUPPLEMENTARY INFORMATION: Rocky Mountain Laboratories (RML) in Hamilton, MT is one of the oldest research components of the NIH, and plays a key role in the nation's biomedical research program. RML's mission is to study infectious microbes that cause diseases in humans and animals. The RML campus currently includes Biosafety Level 1, 2, and 3 laboratories and administrative and support areas. The lab employs approximately 230 people.

The Federal Government has approved 66.5 million dollars to fund a proposed expansion of the existing Rocky Mountain Laboratory for biodefense and emerging infectious diseases research. The proposed expansion includes a new suite of laboratories designed and constructed to the maximum biosafety level, Biosafety Level 4 (BSL–4).

NIH originally determined that an Environmental Assessment should be prepared to evaluate whether an EIS was needed for this project. A public scoping/open house meeting was held on July 15, 2002 at the Hamilton Community Center to solicit public comment and discussion of issues. Notification of the meeting was via local print and radio media. A web site for comments was also provided.

After review of public comment and information collected to date, NIH has determined that an EIS should be prepared to assess potential impacts of the proposed project.

The proposed action is to construct and operate a new laboratory building that includes BSL–4, BSL–3, and BSL–2 laboratories and administrative and support offices for all of the associated activities. In addition, upgrades to the RML facility infrastructure including heating and cooling facilities, electrical service, security, and emergency power generation will be made to support the laboratory.

Preliminary alternatives will be considered including the No Action Alternative under which the new facility would not be built.

Authority: 42 U.S.C. 4321–4347 (National Environmental Policy Act).

Dated: September 27, 2002.

Stephen A. Ficca,

Associate Director for Research Services, National Institutes of Health.

[FR Doc. 02–25233 Filed 10–3–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting: Scientific Workshop—Menopausal Hormone Therapy

Notice is hereby given that the Office of the Director, National Institutes of Health (NIH), Department of Health and Human Services, will convene a workshop on October 23, 2002, 8:30 am–5 pm; and October 24, 2002, 8:30 am–3:30 pm. The workshop will be held at the Natcher Conference Center, NIH, 45 Center Drive, Bethesda, Maryland 20892.

This meeting is open to the public. Advance registration and evidence of such upon arrival are required as seating is limited. Proceedings will be videocast to additional conference rooms within the Natcher Conference Center. The meeting will be webcast at *http://videocast.nih.gov/*. 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 purpose of this NIH conference is to review the results from the arm of the Women's Health Initiative (WHI) clinical trial studying the use of combination estrogen and progestin in post-menopausal women. This portion of the clinical trial was halted recently. The workshop will place the results of this portion of the trial in the context of other completed and ongoing Federally funded research on menopausal combination hormone therapy (HT). It will help clinicians and patients understand the implications of current knowledge on decisions regarding short- and long-term use of HT. In addition, the most recent information from the U.S. Preventive Services Task Force on hormone therapy and its use for chronic disease prevention will be presented, as will recommendations on specific clinical uses of HT from professional organizations. The conference will provide information about alternatives for HT for treatment of specific conditions such as osteoporosis, heart disease, and vasomotor symptoms that include mood and sleep disorders. Other ongoing studies will be reviewed.

Time will be provided for public statements to be presented during the second day of the workshop, October 24. Any registered participant may submit a statement of no more than five double-spaced typewritten pages. All statements submitted will be made available as handouts during the conference. Due to time constraints, oral statements will be accommodated on a first-come first-served basis, and will be limited to three minutes each. Registration forms and requests to present oral statements should be sent to Ms. Robin Counts, Courtesy Associates Inc., 2025 M Street, NW, Suite 800, Washington, DC, 20036. To register for this conference, please use the online registration form at *http://www4.od.nih.gov/orwh/* or contact the Courtesy Associates HT Conference Line at 202–973–8673 (*HT@courtesyassoc.com*) by October 14, 2002.

Dated: September 26, 2002.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 02–25231 Filed 10–3–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye 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 Eye Institute Special Emphasis Panel R03 Small Grants for Pilot Research.

Date: November 14–15, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Jeanette M. Hosseini, PhD, Scientific Review Administrator, Division of Extramural Research, National Eye Institute, Bethesda, MD 20892, (301) 451–2020.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institute of Health, HHS)

Dated: September 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25234 Filed 10–3–02; 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 Pulmonary Training Grants.

Date: November 12, 2002.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Roy L. White, PhD, Scientific Review Administrator, Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892, 301–435–0287.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25235 Filed 10–3–02; 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, Services Research Committee Conflicts.

Date: October 16, 2002.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel & Suites, 2033 M Street, NW., Washington, DC 20036–3305.

Contact Person: Michael J. Kozak, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9608, Bethesda, MD 20892–9608, 301–443–6471, *kozakm@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: National Institute of Mental Health Special Emphasis Panel, PTSD.

Date: October 17, 2002.

Time: 3 p.m. to 5 p.m.

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: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@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: National Institute of Mental Health Special Emphasis Panel, Treatments for Depression.

Date: October 31, 2002.

Time: 11:30 a.m. to 1:30 p.m.

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: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, T32 Institutional Training in Social Sciences and Mental Health.

Date: November 4, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD, 20892–9606, 301–443–6102, *jsherrill@;mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Minority Development and Dissertation Awards.

Date: November 7, 2002.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 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.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Treatment for Bulimia Nervosa.

Date: November 8, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Career Awards to Develop Treatments.

Date: November 8, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Treatment for Depressed Latino Youth.

Date: November 13, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Primary Care Interventions for Mental Health.

Date: November 13, 2002.

Time: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Treatments for Bipolar Illness.

Date: November 15, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Depression in Alzheimer's Treatment.

Date: November 18, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, IP–RISP.

Date: November 19, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@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: September 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25236 Filed 10–3–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel ZAl1–AR–M–J1: NOT–02–023: Biodefense And Emerging Infectious Diseases.

Date: October 28, 2002.

Time: 3:30 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 6700 B Rockledge Dr, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alec Ritchie, PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 2223, 6700B Rockledge Drive, MSC-7616, Bethesda, MD 20892–7616, 301–496–2550 *ar266w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

September 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25237 Filed 10–3–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Special Emphasis Panel, October 16, 2002, 8:30 a.m. to October 17, 2002, 5 p.m., Governor's House Hotel, 17th & Rhode Island Avenue,

NW., Washington, DC, 20036 which was published in the **Federal Register** on September 13, 2002, 67 FR 178.

The meeting will be held on the same dates at the St. Gregory Hotel and Suites, 2033 M Street, NW., Washington, DC 20036. The meeting will end at 1:30 p.m. on 10/17/2002. The meeting is closed to the public.

Dated: September 27, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25238 Filed 10–3–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Listing of Members of the National Institutes of Health's Senior Executive Service Performance Review Board (PRB)

The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals, and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Mr. Charles Leasure, Jr. (Chair)
Dr. Robert Balaban
Dr. Wendy Baldwin
Dr. Milton Corn
Dr. Thomas Gallagher
Ms. Maureen Gormley
Dr. Michael Gottesman
Dr. Marvin Kalt
Dr. Thomas Kindt
Dr. Ruth Kirschstein
Mr. Richard Millstein
Dr. Richard Nakamura
Mr. Donald Poppke
Mr. Kenneth Stith

For further information about the NIH Performance Review Board, contact the Office of Human Resource Management, Senior and Scientific Employment Division, National Institutes of Health, Building 31/B3C08, Bethesda, Maryland 20892, telephone (301) 496–1443 (not a toll-free number).

Dated: September 26, 2002.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 02–25232 Filed 10–3–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–56]

Notice of Submission of Proposed Information Collection to OMB: Monthly/Quarterly Single Family Delinquent Loan Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 4, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0060) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: MonthlyQuarterly Single Family Delinquent Loan Reporting.

OMB Approval Number: 2502–0060.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Information is collected for the evaluation and monitoring of origination and servicing performance by HUD-approved mortgagees. Used to identify potential areas of risk to the insurance fund.

Respondents: Business or other for-profit.

Frequency of Submission: Monthly and quarterly.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
600	9,600		0.4		4,200

Total Estimated Burden Hours: 4,200

Status: Reinstatement, with change, of previously approved collection for whcih approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 27, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–25211 Filed 10–3–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–57]

Notice of Submission of Proposed Information Collection to OMB: Assistance Payment Contract—Notice of Termination, Suspension, or Reinstatement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 4, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0094) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washiongton, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Assistance Payment Contract—Notice of (1) Termination, (2) Suspension, or (3) Reinstatement.

OMB Approval Number: 2502–0094.

Form Numbers: HUD–93114.

Description of the Need for the Information and Its Proposed Use: This information collection documents for review and audit each Section 235 mortgage serviced by lenders where HUD financial assistance to qualified low and moderate income families is terminated, suspended, and/or reinstated.

Respondents: Business or other for-profit, individuals or households.

Frequency of Submission: On occasion.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
300	7,800		0.5		3,900

Total Estimated Burden Hours: 3,900.

Status: Reinstatement, without change, of previously approved collection for which approval has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 27, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–25212 Filed 10–3–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–58]

Notice of Submission of Proposed Information Collection to OMB: Flexible Subsidy, Capital Improvement Loan Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, a required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 4, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0395) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as descried below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information; (1) The title of the information collection proposal; (2) the office of agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Flexible Subsidy, Capital Improvement Loan Program.

OMB Approval Number: 2502–0395.

Form Numbers: HUD–9823A, 9824A, 9826, 9835, 9834A, and 9835B.

Description of the Need for the Information and its Proposed Use: Information provided to the Flexible Subsidy Program, and Capital Improvement Loan Program insures progress reporting on project physical, financial, and management improvement goals.

Respondents: Business or other for-profit, not-for profit institutions, State, Local or Tribal Government.

Frequency of Submission: On occasion, monthly quarterly, annually.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
20	20		1.5		2,030

Total Estimated Burden Hours: 2,030

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 27, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–25213 Filed 10–3–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species for the Lincoln Meadows Commercial Development, Douglas County, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

On March 21, 2002, a notice was published in the **Federal Register** (Vol. 67 No. 55 FR 13184), that an application had been filed with the U.S. Fish and Wildlife Service (Service) by Strawberry Meadows, Inc., on behalf of the Lincoln Meadows commercial development, Douglas County, Colorado, for a permit to incidentally take Preble's meadow jumping mouse (*Zapus hudsonius preblei*), pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539), as amended. The ''Environmental Assessment/Habitat Conservation Plan for Issuance of an Endangered Species Section 10(a)(1)(B) Permit for the Incidental Take of the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) at Lincoln Meadows in Douglas County, Colorado'' accompanied the permit application.

Notice is hereby given that on August 28, 2002, as authorized by the provisions of the Endangered Species Act, the Service issued a permit (TE–053241) to the above named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

Additional information on this permit action may be requested by contacting the Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, telephone (303) 275–2370, between the hours of 7 am and 4:30 pm weekdays.

Dated: August 27, 2002.

Ralph O. Morganweck,

Regional Director, Region 6.

[FR Doc. 02–25239 Filed 10–3–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Information Quality Guidelines Pursuant to Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of availability of information quality guidelines.

SUMMARY: The U.S. Geological Survey hereby issues Information Quality Guidelines to comply with guidance by the Office of Management and Budget in the **Federal Register**, Vol. 2, No. 67, dated January 2, 2002 (67 FR 369, January 3, 2002), and re-issued February 22, 2002, Vol. 67, No. 36, page 8452 for implementing Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554).

FOR FURTHER INFORMATION CONTACT: Nancy Faries, Geographic Information Office, U.S. Geological Survey, 807 National Center, Reston, VA 20192, telephone (703–648–6879), e-mail *InfoQual@usgs.gov.* The Information Quality Guidelines may be viewed at *www.gov/info_qual/*

SUPPLEMENTARY INFORMATION: The U.S. Geological Survey serves the Nation by providing reliable scientific information to: Describe and undestand the Earth; minimize loss of life and property from natural disasters; manage water, biological, energy and mineral resources; and enhance and protect our quality of life.

Dated: September 24, 2002.

Anne Frondorf,

Deputy Geographic Information Officer.

[FR Doc. 02–25207 Filed 10–3–02; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing

in the National Register were received by the National Park Service before September 21, 2002. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by October 21, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Madera County

Executive Office Building, Old Warner Brothers Studio, 5800 Sunset Blvd., Los Angeles, 02001257

Santa Clara County

Mountain View Adobe, 157 Moffett Blvd., Mountain View, 02001256

COLORADO

El Paso County

First Congregational Church, 20 E. St. Vrain St., Colorado Springs, 02001258

Shasta County

Phillips Brothers Mill, Approx. 30 mi. NE of Redding, and 5 mi. E of Oak Run, Oak Run, 02001255

FLORIDA

Sarasota County

Hermitage—Whitney Historic District, 6660 Manasota Key Rd., Englewood, 02001261

GEORGIA

Grady County

Evergreen Congregational Church and School, 497 Meridian Rd., Beachton, 02001260

McDuffie County

Hillman—Bowden House, 1348 Pyland Crossing Rd., Thomson, 02001259

KANSAS

Dickinson County

Freeman—Zumbrunn House, 3052 Quail Rd., Chapman, 02001266

Douglas County

Santa Fe Trail—Douglas County Trail Segments (Santa Fe Trail MPS), US 56, 2.5 mi. E of Baldwin City, Baldwin, 02001262

US Post Office—Lawrence, 645 New Hampshire, Lawrence, 02001265

Harvey County

Goerz, David, House, 2512 N. College Ave., North Newton, 02001267

Kingman County

Prather, Charles M., Barn, NW 30th St. and NW 60th Ave., Kingman, 02001263

Stafford County

First Methodist Episcopal Church, 219 W. Stafford, Stafford, 02001264

MAINE

Oxford County

Hall House, 10 Kilborn St., Bethel, 02001271

Somerset County

Bates, Asa, Memorial Chapel, 2 Ten Lots Rd., Fairfield Center, 02001272

Thatcher, Henry Knox, House, Old ME 3 and Elm St., Mercer, 02001273

Waldo County

Moody Farm, Jct. of Lawry Rd. and ME 173, Searsmont, 02001269

York County

Ayer, Caleb R., House, 7 Main St., Cornish, 02001270

MISSOURI

St. Louis County

Robinson, George R. and Elsie, House, (Kirkwood MPS), 443 E. Argonne, Kirkwood, 02001268

NEVADA

Washoe County

Nichols, Mary Lee, School, 400–406 Pyramid Way, Sparks, 02001277

NEW JERSEY

Passaic County

Goffle Brook Park, Goffle Rd., bet. Lafayette and MacFarlan Ave., Hawthorne, 02001276

OHIO

Stark County

French, Garnet B., House, 2410 Cleveland Ave., Canton, 02001275

Summit County

Hall Park Allotment Historic District, Roughly along Oakland Ave., from Crestwood Ave. and Crosby St., Akron, 02001274

OREGON

Clackamas County

Rosenfeld, Walter, Estate, 15361 S. Clackamas River Dr., Oregon City, 02001280

Josephine County

Cornell, Albert B. and Mary, House, 121 NE B St., Grants Pass, 02001279

Yamhill County

Evangelical Church of Lafayette, 605 Market St., Lafayette, 02001278

PENNSYLVANIA

Westmoreland County

Citizens National Bank of Latrobe, 816 Ligonier St., Latrobe, 02001281

SOUTH DAKOTA

Bon Homme County

Monfore, Peter and Minnie, House, 612 12th St., Springfield, 02001287

Clay County

Andre, William, House, 31256 452nd Ave., Gayville, 02001284

Armory, Old, —Vermillion, 414 E. Clark St., Vermillion, 02001285

Downtown Vermillion Historic District, Main St., roughly bounded by Market and Dakota Sts., Vermillion, 02001288

Davison County

Bobb, E.B., House, 501 E. 4th St., Mitchell, 02001282

Meade County

Graf, Stephen and Maria, House, 1233 Main St., Sturgis, 02001283

Minnehaha County

Steven's, Dr., House, 21 S. Riverview Heights, Sioux Falls, 02001286

By request of the state, building owner, and certified local official the comment period has been waived for the following resource:

NEW JERSEY

Camden County

Building 17, RCA Victor Company, Camden Plant, 17 Market St., Camden, 02001253

[FR Doc. 02–25254 Filed 10–3–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 14, 2002.

Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St., NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by October 21, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Los Angeles County

Grey, Zane, Estate, 396 E. Mariposa St., Altadena, 02001187

GEORGIA

Carroll County

Whitesburg Baptist Church, 662 Main St., Whitesburg, 02001220

Douglas County

Douglas County Courthouse, 6754 W. Broad St., Douglasville, 02001216

Floyd County

Main High School, 41 Washington Dr., Rome, 02001219

Sullivan—Hillyer House, 309 E. Second Ave., Rome, 02001215

Harris County

Story—Hadley House, 2626 Hadley Rd., Pine Mountain, 02001217

Morgan County

Bostwick Historic District, Jct. of Bostwick Rd. and Fairplay Rd., Bostwick, 02001221

Taliaferro County

Chapman—Steed House, Broad St., Crawfordville, 02001218

Warren County

Warrenton Gymnasium—Auditorium, 304 S. Gibson St., Warrentown, 02001214

IOWA

Cass County

Atlantic High School, (Public Schools for Iowa: Growth and Change MPS) 1100 Linn St., Atlantic, 02001248

Cerro Gordo County

Thornton Consolidated School, (Public Schools for Iowa: Growth and Change MPS) 100 5th St. N, Thornton, 02001238

Ventura Consolidated School Historic District, (Public Schools for Iowa: Growth and Change MPS) Jct. of Mian and Park Sts., Ventura, 02001231

Delaware County

Lincoln Elementary School, (Public Schools for Iowa: Growth and Change MPS) 401 Lincoln St., Manchester, 02001243

Harrison County

Woodbine Normal School—Woodbine High School—Woodbine Grade School, (Public Schools for Iowa: Growth and Change MPS) 5th and Weare, Woodbine, 02001227

Henry County

Mt. Pleasant High School, (Public Schools for Iowa: Growth and Change MPS) 307 E. Monroe, Mt. Pleasant, 02001244

Jasper County

Emerson Hough Elementary School, (Public Schools for Iowa: Growth and Change MPS) 700 N. 4th Ave. E, Newton, 02001232

Polk County

Abraham Lincoln High School, (Public Schools for Iowa: Growth and Change MPS) 2600 SW 9th St., Des Moines, 02001250

East High School, (Public Schools for Iowa: Growth and Change MPS), 815 E. 13th St., Des Moines, 02001233

Greenwood School, (Public Schools for Iowa: Growth and Change MPS), 316 37th St., Des Moines, 02001235

James Callanan Junior High School, (Public Schools for Iowa: Growth and Change MPS), 3010 Center St., Des Moines, 02001236

Smouse, David W., Opportunity School, (Public Schools for Iowa: Growth and Change MPS), 2820 Center St., Des Moines, 02001251

Theodore Roosevelt Historic School, (Public Schools for Iowa: Growth and Change MPS), 4419 Center St., Des Moines, 02001234

Scott County

Jefferson Elementary School—Davenport, (Public Schools for Iowa: Growth and Change MPS), 1027 Marquette, Davenport, 02001241

Lincoln School, (Public Schools for Iowa: Growth and Change MPS), 318 E 7th St., Davenport, 02001239

Madison Elementary School, (Public Schools for Iowa: Growth and Change MPS), 116 East Locust, Davenport, 02001226

McKinley Elementary School, (Public Schools for Iowa: Growth and Change MPS), 1716 Kenwood, Davenport, 02001222

Monroe Elementary School, (Public Schools for Iowa: Growth and Change MPS), 1926 West 4th St., Davenport, 02001225

Washington Elementary School, (Public Schools for Iowa: Growth and Change MPS), 1608 East Locust, Davenport, 02001224

Shelby County

Irwin Consolidated School, (Public Schools for Iowa: Growth and Change MPS), North Street, Irwin, 02001246

Story County

Ames High School, (Public Schools for Iowa: Growth and Change MPS), 515 Clark Ave., Ames, 02001229

Union County

Jefferson Elementary School, (Public Schools for Iowa: Growth and Change MPS), 501 North Cherry, Creston, 02001223

Van Buren County

Bonaparte School, (Public Schools for Iowa: Growth and Change MPS), 610 8th St., Bonaparte, 02001242

Wapello County

Ottumwa High School, (Public Schools for Iowa: Growth and Change MPS), 501 East Second, Ottumwa, 02001245

Warren County

Inianola High School, (Public Schools for Iowa: Growth and Change MPS), 301 N. Buxton, Indianola, 02001247

Webster County

North High School, (Public Schools for Iowa: Growth and Change MPS), 1015 5th Ave. N, Fort Dodge, 02001249

South Junior High School, (Public Schools for Iowa: Growth and Change MPS), 416 S. 10th St., Fort Dodge, 02001240

Winnebago County

Lake Mills Senior High School, (Public Schools for Iowa: Growth and Change MPS), 102 S. 4th Ave. E, Lake Mills, 02001230

Woodbury County

Leeds Junior High School, (Public Schools for Iowa: Growth and Change MPS), 3919 Jefferson St., Sioux City, 02001228

MASSACHUSETTS

Hampshire County

Mill—Prospect Street Historic District, Prospect, Chetnut, Bridge, School Sts., Raymond Ave., Prospect Court, Hatfield, 02001188

Middlesex County

Cambridge Home for the Aged and Infirm, 650 Concord Ave., Cambridge, 02001189

Suffolk County

Harrison Square Historic District, Bounded by MBTA Braintree line embankment, Park, Everett, Freeport, Mill, Asland, Blanche Sts., Victory Rd., Boston, 02001190

MISSOURI

Bates County

Papinville Marais des Cygnes River Bridge, Cty. Rd. 648 over the Marais des Cygenes R., Papinville, 02001192

Greene County

Heer's Department Store, (Springfield, Missouri MPS (Additional Documentation)), 138 Park Central Square, Springfield, 02001207

Jackson County

Circle Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 1200 Paseo Blvd., Kansas City, 02001199

Ellsworth Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 928 Paseo Blvd., Kansas City, 02001203

Kessler Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 924 Paseo Blvd., Kansas City, 02001202

Maine Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 1300 Paseo Blvd., Kansas City, 02001198

Maples Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 1401 E. 10th St., Kansas City, 02001196

Maryland Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 930 Paseo Blvd., Kansas City, 02001204

McMahon Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 1106 Paseo Blvd., Kansas City, 02001195

Missouri Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 1304 Paseo Blvd., Kansas City, 02001197

New England Apartments, (Apartment Buildings on the North End of the Paseo

Boulevard in Kansas City, Missouri MPS), 1116 Paseo Blvd., Kansas City, 02001200
Parkview, The, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 1000 Paseo Blvd., Kansas City, 02001205
Virginia Apartments, (Apartment Buildings on the North End of the Paseo Boulevard in Kansas City, Missouri MPS), 1100 Paseo Blvd., Kansas City, 02001201

Jasper County

St. Louis and San Francisco Railroad Building, 605 Main St., Joplin, 02001193

Marion County

Marion County Courthouse, 906 Broadway, Hannibal, 02001194

St. Louis Independent City

General American Life Insurance Co. Buildings, 1501–1511 Locust St., St. Louis (Independent City), 02001206

Wayne County

Fort Benton, MO U, 3.5 mi. S of jct of MO 34 and MO U, Patterson, 02001191

OHIO

Cuyahoga County

Gordon Square Historic District, Detroit Ave. and W. 65th St., Cleveland, 02001209

Medina County

Medina Masonic Temple and Medina Theater, 120 N. Elmwood Ave. and 139 W. Liberty St., Medina, 02001210

PUERTO RICO

Salinas Municipality Central Aguirre Historic District, PR 705, at PR 3, km. 151.3, Salinas, 02001208

TEXAS

Hays County

Michaelis, M.G., Ranch, 3600 FM 150 West, Kyler, 02001212
Onion Creek Post Office and Stagecoach House, 109 N. Loop 4, Buda, 02001211

WISCONSIN

Outagamie County

Appleton City Park Historic District, Roughly bounded by E. Washington, N. Durkee, E. Atlantic, and Lawe Sts., Appleton, 02001213

[FR Doc. 02–25255 Filed 10–3–02; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Carlsbad Project Water Operations and Water Supply Conservation

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement and Announcement of Public Scoping Meetings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) and the New Mexico Interstate Stream Commission (NMISC) will prepare a draft environmental impact statement (EIS) on Carlsbad Project water operations and water supply conservation to address changes in the operation of Sumner Dam, located on the Pecos River, New Mexico, and implementation of a proposed water acquisition program in the Pecos River Basin. Reclamation is the lead federal agency and the NMISC will serve as a joint lead agency for NEPA compliance for the proposed action. The purpose of Reclamation's proposed federal action is to conserve the Pecos bluntnose shiner, a federally threatened fish species, and to conserve the Carlsbad Project water supply. The underlying need for Reclamation action is compliance with the Endangered Species Act and Reclamation's responsibility to conserve the Carlsbad Project water supply.

Operation of Sumner Dam, and related operations of Santa Rosa, Brantley, and Avalon Dams, and the authorities under which those facilities are operated, will be reviewed to identify operational flexibility and opportunities to accomplish the purposes of the Carlsbad Project. As the EIS progresses, there may develop a need to assess some change in the operation of Fort Sumner Irrigation District Diversion Dam (owned by Reclamation and operated by the Fort Sumner Irrigation District). Effects of proposed operational changes on water supply and other affected resources will be analyzed and options to mitigate for any adverse impacts will be identified. A water acquisition program will be proposed to conserve Carlsbad Project water supply. The EIS will also identify potential effects to Texas state line water deliveries and to the state of New Mexico's ability to comply with the Pecos River Compact and the U.S. Supreme Court Amended Decree in *Texas* v. *New Mexico* and will include reasonable options to avoid or minimize effects. The proposed operational changes and mitigation options will be within the existing authority of Reclamation, and will comply with state, federal, and other applicable laws and regulations. During the process, opportunities to provide additional environmental, recreational, and water supply benefits may be identified and incorporated.

The following agencies, governmental bodies, and irrigation/conservancy districts will be invited to participate in the EIS process: Carlsbad Irrigation District, Pecos Valley Artesian Conservancy District, Fort Sumner Irrigation District, U.S. Fish and Wildlife Service, New Mexico Department of Game and Fish, U.S. Army Corps of Engineers, Pecos Valley Water Users Organization, Chaves County, De Baca County, Eddy County, and Guadalupe County.

To receive input from interested organizations and individuals, public scoping meetings will be held and additional input invited. Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The purpose of scoping is to obtain information that will focus the environmental documentation on significant issues. The scoping period is open through December 6, 2002.

DATES AND ADDRESSES: Public scoping meetings will be held during the month of October in Santa Rosa, Ft. Sumner, Carlsbad, and Roswell, New Mexico. The dates and times of the meetings are as follows:

- Monday, October 21, 2002, 7 p.m. to 9 p.m., City Hall Meeting Room, 141 5th Street, Santa Rosa, New Mexico 88435.
- Tuesday, October 22, 2002, 7 p.m. to 9 p.m., Village Community House, 1204 North 4th Street, Ft. Sumner, New Mexico 88119.
- Wednesday, October 23, 2002, 7 p.m. to 9 p.m., Pecos River Village Conference Center, 711 Muscatel, Room 3, Carlsbad, New Mexico 88220.
- Thursday, October 24, 2002, 7 p.m. to 9 p.m., Bureau of Land Management Conference Room, 2909 West 2nd Street, Roswell, New Mexico 88201.

The release date of the draft EIS for public comment as well as the dates that the public hearings will be conducted to receive comments on the EIS will be announced in the **Federal Register** and in the local news media.

Reclamation also invites written input to the scoping process. Written comments regarding the scope and content of the EIS should be addressed to Lori Robertson, Bureau of Reclamation, Albuquerque Area Office, 505 Marquette, NW., Suite 1313, Albuquerque, New Mexico 87102; faxogram (505) 248–5356; e-mail: *lrobertson@uc.usbr.gov.* In order to be most useful, comments should be received by December 6, 2002. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which

we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

FOR FURTHER INFORMATION CONTACT: Ms. Lori Robertson, Bureau of Reclamation, 505 Marquette, NW., Suite 1313, Albuquerque, New Mexico 87102; e-mail: ; telephone (505) 248–5326, or Mr. John W. Longworth, New Mexico Interstate Stream Commission, Bataan Memorial Building, State Capitol, PO Box 25102, Santa Fe, New Mexico 87504; e-mail: *jlongworth@ose.nm.us;* telephone (505) 827–7847.

SUPPLEMENTARY INFORMATION: Federal involvement in the Pecos River Basin began in 1905 with authorization of the Carlsbad Project. Reclamation stores and delivers Carlsbad Project water for the benefit of the Carlsbad Irrigation District (CID). Reclamation's Carlsbad Project facilities on the Pecos River now include Sumner Dam, Brantley Dam, and Avalon Dam. The Black River Diversion Dam is also a Carlsbad Project facility. Reclamation and CID are also permitted to store Carlsbad Project water in Santa Rosa Lake provided total storage in all four reservoirs does not exceed 176,500 acre-feet. The Fort Sumner Diversion Dam is owned by Reclamation but it is not associated with the Carlsbad Project. The Fort Summer Irrigation District operates the facility and holds title to all water rights diverted at the dam.

In 1987, the Pecos bluntnose shiner was listed by the U.S. Fish and Wildlife Service as a threatened species and approximately 101 miles of the Pecos River were designated as critical habitat. Releases from Sumner Dam in 1989 adversely affected the Pecos bluntnose shiner. Reclamation consulted with the U.S. Fish and Wildlife Service and received a biological opinion from them in 1991 indicating that operation of Reclamation's Pecos River facilities was jeopardizing the continued existence of the Pecos bluntnose shiner. In 1992, Reclamation began a cooperative research program aimed at determining how to meet the needs of the Pecos bluntnose shiner and downstream water users. Through a multi-agency collaborative effort, a hydrologic model has been developed and various biological reports have been prepared.

For several years, Reclamation and the NMISC have worked together to address Pecos River water issues. Recently, the two agencies developed an approach for environmental review of proposed Pecos River Basin activities. One EIS would be prepared for Reclamation's Carlsbad Project water operations and water acquisition (Carlsbad Project Water Operations and Water Supply Conservation EIS which is the subject of this Notice of Intent). Another EIS would be prepared for a miscellaneous purposes contract that would allow the NMISC to use Carlsbad Project water allocated to approximately 6,000 acres of Carlsbad Irrigation District land for purposes other than agriculture (Miscellaneous Purposes Contract EIS). Reclamation and the NMISC plan to conduct both EIS processes concurrently to the extent possible and fully coordinate environmental analyses.

The range of alternatives to be analyzed in this EIS would likely include various operational scenarios for Sumner Dam and various sources and quantities of water for the water acquisition program. Adjustments to the timing, magnitude, frequency, duration, and rate of change of releases from Sumner Dam will likely be addressed. The quantity of water stored in or bypassed through Sumner Reservoir during low-flow periods will be addressed. To the extent that revised operations diminish the Carlsbad Project water supply, the alternatives will include various water acquisition options. Water offsets could be through acquisition of water rights voluntarily offered for sale or lease and other cooperative mitigation efforts. The concept of adaptive management would be incorporated to allow refinement of operations or changes to targets and ranges as new information becomes available, and in response to environmental conditions.

The environmental evaluation will assess potential effects that the proposed action may have on Indian Trust Assets. It will also assess potential disproportionate effects on minority or low-income communities. Currently, there are no known environmental justice or Indian Trust Asset issues related to the proposed action. Operational scenarios and water right acquisitions and other cooperative mitigation efforts have the potential to adversely affect New Mexico's ability to maintain compliance with the Pecos River Compact and Amended Decree. Effects of each alternative on New Mexico's state line deliveries and its Pecos River Compact obligations will be evaluated. With successful mitigation measures, the most significant issues associated with the proposed action are thought to be economic and social change associated with permanent retirement of irrigated farmland.

Dated: September 17, 2002.

Rick Gold,

Regional Director, Upper Colorado Region.

[FR Doc. 02–25438 Filed 10–3–02; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1020 (Preliminary)]

Barium Carbonate From China

AGENCY: International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–1020 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of barium carbonate, provided for in subheading 2836.60.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by November 14, 2002. The Commission's views are due at Commerce within five business days thereafter, or by November 21, 2002.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179 or *ffischer@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain

information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on September 30, 2002, by Chemical Products Corp., Cartersville, GA.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on October 22, 2002, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Fischer (202–205–3179 or *ffischer@usitc.gov*) not later than October 16, 2002, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 25, 2002, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 1, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–25323 Filed 10–3–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–480]

Certain Panel Fasteners, Products Containing Same, and Components Thereof; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 4, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Kason Industries, Inc. of Shenandoah, Georgia. A supplement to the complaint was filed on September 19, 2002. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain panel fasteners, products containing same, and components thereof by reason of infringement of claim 1 of U.S. Letters Patent 6,299,224 and claims 1–4 of U.S. Letters Patent 6,409,235. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: Jay Reiziss, Esq., Office of Unfair Import

Investigations, U.S. International Trade Commission, telephone 202–205–2579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2002).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on September 27, 2002, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain panel fasteners, products containing same, or components thereof by reason of infringement of claim 1 of U.S. Letters Patent 6,299,224 or claims 1, 2, 3 or 4 of U.S. Letters Patent 6,409,235 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Kason Industries, Inc., 57 Amlajack Blvd., Shenandoah, GA 30265.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Cheng Tai Company, Flat A–68F, Mai Hing Industrial, Bldg. 16–18, Hing Yip Street, Kwun Tong Kowloon, Hong Kong;

Ningbo Foreign Trading Company, Ltd., No. 1 Youngor Avenue, Ningbo, China;

Component Hardware Group, 1890 Swarthmore Avenue, Lakewood, NJ 08701.

(c) Jay Reiziss, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's rules of practice and procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown. Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

Issued: September 30, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–25228 Filed 10–3–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: reinstatement, without change, of a previously approved collection for which approval has expired application for suspension of deportation.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 3, 2002.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Chuck Adkins-Blanch, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041; telephone (703) 305–0470.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the 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:* Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) *Title of the form/collection:* Application for Suspension of Deportation.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: EOIR–40, Executive Office for Immigration Review, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: None. Abstract: This form is used by certain deportable aliens to apply for suspension of deportation pursuant to former section 244 of the Immigration and Nationality Act and 8 CFR 240.56 (2002).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,000 responses per year at 5 hours, 45 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 11,500 hours annually.

If additional information is required contact: 11,500 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: September 30, 2002.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 02–25229 Filed 10–3–02; 8:45 am]

BILLING CODE 4410–30–M

DEPARTMENT OF JUSTICE

Department of Justice Information Quality Guidelines for Information Disseminated to the Public

AGENCY: Justice Management Division, Justice.

ACTION: Notice of availability of guidelines.

SUMMARY: The Department of Justice, in accordance with Section 515 of the Treasury and General Government Appropriations Act for FY 2001 (Pub. L. 106–554) and the Office of Management and Budget Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies published in the **Federal Register** on September 28, 2001 (66 FR 49718) and on January 3, 2002 (67 FR 369) (and reprinted in their entirety on February 22, 2002, 67 FR 8452), has posted its final Information Quality Guidelines for Information Disseminated to the Public on the DOJ Web site, *www.usdoj.gov.* These guidelines explain how DOJ will ensure and maximize the quality, objectivity, utility, and integrity of information disseminated by DOJ. The guidance also details the administrative mechanisms that will allow affected persons to seek and obtain appropriate correction of information maintained and disseminated by DOJ that does not comply with agency or OMB guidelines.

DATES: The guidelines will become effective on October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Nelson, (202) 307–1825.

Dated: September 26, 2002.

Dated: September 30, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

Dated: September 27, 2002.

Vance Hitch,

Chief Information Officer.

[FR Doc. 02–25274 Filed 10–3–02; 8:45 am]

BILLING CODE 4410–AP–M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Committee on Veterans' Employment and Training; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA, the Secretary of Labor has determined that the renewal of the Advisory Committee on Veterans' Employment and Training is in the public interest in connection with the performance of duties imposed on the Department by section 4110 of title 38, United States Code.

The Advisory Committee on Veterans' Employment and Training shall: Assess the employment and training needs of veterans; determine the extent to which the programs and activities of the Department of Labor are meeting such needs; carry out such other activities that are necessary to make the reports and recommendations required by law; and, not later than July 1 of each year, report to the Secretary of Labor on the employment and training needs of veterans.

The Committee shall consist of at least 12, but not more than 18, individuals appointed by the Secretary of Labor to serve as members of the Advisory Committee, consisting of representatives nominated by veterans' organizations that have a national employment program; and not more than 6 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.

The Advisory Committee will report to the Assistant Secretary for Veterans' Employment and Training. It will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act, and its charter will be filed under the Act.

For further information contact Mr. John R. Muckelbauer, Executive Assistant, Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–4700.

Signed at Washington, DC, this 30th day of September, 2002.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 02–25336 Filed 10–3–02; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determination in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276(a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wage payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used

in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Hampshire:
NH020011 (Mar. 1, 2002)
New Jersey:
NJ020006 (Mar. 1, 2002)
New York:
NY020001 (Mar. 1, 2002)
NY020002 (Mar. 1, 2002)
NY020003 (Mar. 1, 2002)
NY020004 (Mar. 1, 2002)
NY020005 (Mar. 1, 2002)
NY020007 (Mar. 1, 2002)
NY020008 (Mar. 1, 2002)
NY020009 (Mar. 1, 2002)
NY020011 (Mar. 1, 2002)
NY020012 (Mar. 1, 2002)
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NY020076 (Mar. 1, 2002)

Volume II

Distict of Columbia:
DC020001 (Mar. 1, 2002)
DC020003 (Mar. 1, 2002)
Maryland:
MD020001 (Mar. 1, 2002)
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MD020006 (Mar. 1, 2002)
MD020010 (Mar. 1, 2002)
MD020015 (Mar. 1, 2002)
MD020019 (Mar. 1, 2002)
MD020031 (Mar. 1, 2002)
MD020034 (Mar. 1, 2002)
MD020035 (Mar. 1, 2002)
MD020040 (Mar. 1, 2002)
MD020048 (Mar. 1, 2002)
MD020055 (Mar. 1, 2002)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* they are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support,

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 26th Day of September 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02–25054 Filed 10–3–02; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–120)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Polyumac Technology, Inc. of 1060 E. 30 Street, Hialeah, FL 33013, has applied for an exclusive license to practice the inventions described in: NASA Case No. LAR–15767–1, entitled Polyimide Precursor Solid Residuum,'' for which a U.S. Patent 6,180,746 was issued to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration; NASA Case No. LAR15977–1, entitled ''Aromatic Polyimide Foam,'' for which a U.S. Patent No. 6,133,330 was issued to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration; NASA Case No. LAR15831–1, entitled ''Hollow Polyimide Microspheres,'' for which a U.S. Patent No. 5,994,418 was issued to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration; NASA Case No. LAR–15831–2, entitled ''Hollow Polyimide Microspheres,'' for which a U.S. Patent No. 6,235,803 was issued to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration; NASA Case No. LAR–15831–3, entitled ''Hollow Polyimide Microspheres,'' for which a U.S. Patent No. 6,084,000 was issued to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration; NASA Case No. LAR–15745–1, entitled ''Films, preimpregnated tapes and composites made from polyimide ''Salt-like'' solutions,'' for which a U.S. Patent No. 6,222,007 was issued to the United States of America as represented by the Administrator of the National Aeronautics and Space filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATES: Responses to this notice must be received by October 21, 2002.

FOR FURTHER INFORMATION CONTACT: Patrick Roughen, Patent Attorney, Langley Research Center, Mail Stop 212, Hampton, VA 23681–2199, telephone (757) 864–9340; fax (757) 864–9190.

Dated: September 30, 2002.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 02–25270 Filed 10–3–02; 8:45 am]

BILLING CODE 7510–02–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 18, 2002. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–837–3698 or by e-mail to *records.mgt@nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Larry Baume, Acting Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1505. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Commerce, Bureau of Industry and Security (N1–476–02–3, 15 items, 10 temporary items). Records accumulated by the Office of the Assistant Secretary for Export Administration. Included are such records as country files, chronological files, export control subject files, and licensing logs and decision files. Electronic copies of records created using electronic mail and word processing are also included. Records proposed for permanent retention include recordkeeping copies of subject files accumulated by the Assistant and Deputy Assistant Secretary, export policy advisory committee files, review board files, and operating committee files.

2. Department of Defense, Defense Information Systems Agency (N1–371–02–6, 46 items, 46 temporary items). Records relating to classified information accounting and control, information security, physical security, personnel security, communications security, and special compartmented information. Also included are electronic copies of documents created using electronic mail and word processing.

3. Department of Energy, Bonneville Power Administration (N1–305–02–1, 21 items, 21 temporary items). Records relating to the development and management of RTO West, a Regional Transmission Organization. Included are such records as reports, analyses, financial and technical records, and supporting materials. Also included are electronic copies of records created using word processing and electronic mail.

4. Department of Justice, Executive Office for United States Attorneys (N1–60–99–1, 26 items, 14 temporary items). Inputs, outputs, master files, and system documentation of the automated case management, collection management, and personnel resource management systems. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are the following master files with related system documentation: civil flagged master file; criminal flagged master file; criminal charge file; civil immediate declinations file; and criminal immediate declinations file. Also proposed for permanent retention are recordkeeping copies of the United States Attorney Annual Statistical Report.

5. Department of Justice, United States Attorneys Offices (N1–118–99–1, 7 items, 7 temporary items). Inputs, outputs, master files, and system documentation for the automated case management system (Legal Information Office Network System), collection management, and personnel management systems of the United States Attorneys. Also included are electronic copies of documents created using electronic mail and word processing.

6. Department of the Treasury, Bureau of the Public Debt (N1–53–02–13, 2 items, 2 temporary items). Records relating to redemption table verification and interest rate certification of current income bonds.

7. Environmental Protection Agency, Office of Enforcement and Compliance Assurance (N1–412–02–03, 5 items, 3 temporary items). Electronic software programs and paper and electronic input records associated with the Section Seven Tracking System, as automated system used to register and monitor domestic and foreign pesticide producing companies. The electronic data in this system is proposed for permanent retention as is the system documentation.

8. Federal Emergency Management Agency, Office of General Counsel (N1–311–02–4, 5 items, 5 temporary items). Records relating to the agency's Alternative Dispute and Resolution Program, including such records as case files, agreements, an electronic case file database, statistical reports, and summaries. Also included are electronic copies of records created using electronic mail and word processing.

9. Office of the Corrections Trustee, Agency-wide (N1–220–02–25, 5 items, 3 temporary items). Staff working files, financial records, and electronic copies of records created using electronic mail and word processing. Records proposed for permanent retention include recordkeeping copies of organization and interagency workgroup files, correspondence files, appointment calendars, and publications.

Dated: September 30, 2002.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 02–25242 Filed 10–3–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Quality Guidelines

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of final information quality guidelines.

SUMMARY: NARA is giving notice of availability of its Information Quality Guidelines (guidelines). The guidelines contain NARA's standards of quality, utility, objectivity, and integrity for information that is disseminated to the public, and the administrative procedures for preparing, reviewing, and correcting information products. The guidelines also describe the mechanisms for the public to request correction of information, and to request reconsideration of a NARA decision to deny a request for correction.

The guidelines are available electronically at *http://www.archives.gov/about_us/information_quality/guidelines.html*. For a paper copy of the guidelines, contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

EFFECTIVE DATE: The guidelines were effective October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Lisa Weber at 301–837–3112.

Dated: October 1, 2002.

Nancy Allard,

Federal Register Liaison.

[FR Doc. 02–25393 Filed 10–3–02; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COUNCIL ON DISABILITY

International Watch Advisory Committee Meeting (Conference Call)

AGENCY: National Council on Disability (NCD).

DATES: 12 noon, EST, November 21, 2002.

ADDRESSES: National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC.

Status: All parts of this meeting will be open to the public. Those interested in participating in the conference call should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for the conference call.

Agenda: Roll call, announcements, overview of accomplishments, planning for FY 2003, reports, new business, adjournment.

FOR FURTHER INFORMATION CONTACT: Joan Durocher, Attorney Advisor and Designated Federal Official, National Council on Disability, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *jdurocher@ncd.gov* (e-mail).

International Watch Advisory Committee Mission: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Dated: October 1, 2002.

Ethel D. Briggs,

Executive Director.

[FR Doc. 02–25253 Filed 10–3–02; 8:45 am]

BILLING CODE 6820–MA–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–29 and DPR–30 issued to Exelon Generation Company, LLC (Exelon, the licensee), for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, IL.

The proposed amendment would revise the Updated Safety Analysis Report (UFSAR) to allow lifting heavier loads with the reactor building crane during the Unit 1 refueling outage beginning in November 2002.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will allow use of the reactor building crane at Quad Cities Nuclear Power Station (QCNPS) during power operations to lift heavy loads up to 125 tons for removal and re-installation activities for the reactor cavity shield blocks during the Unit 1 refueling outage (*i.e.*, Q1R17). The reactor building crane has additional margin for a total lifted load of 125 tons with single failure-proof features if a Design Basis Earthquake (DBE) is not assumed. Exelon has qualitatively demonstrated that the probability of a DBE occurring during the limited duration (estimated to be 24 hours) of the request is very small. The probability of load drop accidents previously evaluated is not increased since the capacity of the reactor building crane equals or exceeds the weight of the reactor cavity shield blocks.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes allow use of the QCNPS reactor building crane for a limited duration to lift heavy loads up to a total of 125 tons during removal and reinstallation activities for the reactor cavity shield blocks. The reactor building crane has additional margin for a lifted load of 125 tons with single failure-proof features if a DBE is not assumed. The probability of a DBE during the limited duration of the request is very small. Therefore, the single failure-proof features ensure that the proposed changes provide an equivalent level of safety and will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The reactor building crane is rated for lifting loads up to 125 tons. The NRC has approved qualification of the QCNPS reactor building crane as single failure-proof for loads of up to 110 tons. The proposed change allows use of the crane for a limited duration to lift loads up to 125 tons. Existing safety margins are enhanced when lifting loads up to 125 tons if a DBE is not assumed, and Exelon has demonstrated that the probability

of a DBE during the limited duration of the request is very small. Therefore, it is concluded that the proposed changes do not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 4, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest .

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.''

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. Edward J. Cullen, Deputy General Counsel, Exelon BSC—Legal, 2301 Market Street, Philadelphia, PA 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 1, 2002, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 2nd day of October 2002.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–25385 Filed 10–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–395]

South Carolina Electric and Gas Co., Virgil C. Summer Nuclear Station; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for a Hearing Regarding Renewal of Facility Operating License No. NPF–12 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (the Commission) is considering an application for the renewal of Operating License No. NPF–12, which authorizes South Carolina Electric & Gas Company to operate Virgil C. Summer Nuclear Station, at 2900 megawatts thermal. The renewed license would authorize the applicant to operate the Virgil C. Summer Nuclear Station for an additional 20 years beyond the period specified in the current license. The current operating license for Virgil C. Summer Nuclear Station expires on August 6, 2022.

On August 6, 2002, the Commission received an application from South Carolina Electric & Gas Company to renew the operating license for the Virgil C. Summer Nuclear Station. A Notice of Receipt of Application, ''Virgil C. Summer Nuclear Station; Notice of Receipt of Application for Renewal of Facility Operating License No. NPF–12 for an Additional 20-year Period,'' was published in the **Federal Register** on September 3, 2002, (67 FR 56316).

The Commission's staff (the staff) has determined that South Carolina Electric & Gas Company has submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is complete and acceptable for docketing. The current Docket No. 50–395 for Operating License No. NPF–12 will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the Commission will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the Commission will prepare an environmental impact statement that is a supplement to NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants'' (May 1996). Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. The Commission also intends to hold public meetings to discuss the license renewal process and the schedule for conducting the review. The Commission will provide prior notice of these meetings. As discussed further herein, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

Within 30 days from the date of publication of this **Federal Register** notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the licenses in accordance with the provisions of 10 CFR 2.714.

Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's Public Document Room (PDR), 11555 Rockville Pike (first floor) Rockville, Maryland, and on the Commission's Web site at *http://www.nrc.gov* (the Public Electronic Reading Room). If a request for a hearing or a petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request(s) and/or petition(s), and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed by the above date, the Commission may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the licenses without further notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth, with particularity, the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding, (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the board up to 15 days before the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specific requirements described above.

Not later than 15 days before the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov*. A copy of the request for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and, because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. Stephen A. Byrne, Sr. Vice President—Nuclear Operations, South Carolina Electric & Gas Company, Virgil C. Summer Nuclear Station, PO Box 88, Jenkinsville, SC 29065.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Detailed information about the license renewal process can be found on the Commission's Web page at *http://www.nrc.gov*. A copy of the application is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or on the NRC Web site at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/summer.html*, while the application is under review. The staff has verified that a copy of the license renewal application for the Virgil C. Summer Nuclear Station is also available to local residents at the Fairfield County Library, in Winnsboro, South Carolina, and at the Thomas Cooper Library, at the University of South Carolina in Columbia, South Carolina.

Dated at Rockville, Maryland, this 27th day of September, 2002.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts Division of Regulatory Improvement Programs Office of Nuclear Reactor Regulation.

[FR Doc. 02–25245 Filed 10–3–02; 8:45 am]

BILLING CODE 7590–01–P

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and paragraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows:

In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things: (i) The nature of the petitioner's right under the Act to be made a party to the proceeding. (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding. (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if: (i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or (ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

NUCLEAR REGULATORY COMMISSION

Proposed Plan to Perform Fire Testing of Hemyc (1-Hour) and MT (3-Hour) Fire Protection Wrap; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The NRC staff will hold a public meeting to present an overview of the draft plant-specific proposed plan to perform fire testing of Hemyc (1-hour) and MT (3-hour) fire protection wrap and to accept public comments on the document.

DATES: October 31, 2002, 10 a.m. to 12 p.m.

ADDRESSES: One White Flint North, Room O–10 B4, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Mr. R. Subbaratnam, Project Directorate II, Section 2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 1–800–368–5642, extension 1478, or eMail at *RXS@nrc.gov;* or Mr. D. Frumkin, Fire Protection and Special Projects Section, Plant Systems Branch, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 1–800–368–5642, extension 2280, or e-mail at *DXF1@nrc.gov.*

SUPPLEMENTARY INFORMATION: As a result of fire protection inspections, unresolved items (URIs) were opened at some nuclear power stations due to questions raised regarding the fire rating of two fire barrier materials (Shearon Harris (ADAMS ML003685341), and McGuire (ML003778709)). The URIs involve the fire rating of Hemyc and MT fire barrier materials produced by Promatec, Inc. A recent staff review of the original fire tests for these materials shows that the original test results may not be consistent with the staff's safety evaluation report. The NRC has chosen to perform fire tests of these materials to determine their actual fire rating when applied to meet the requirements of Title 10 of the Code of Federal Regulations (10 CFR) part 50, appendix R, ''Fire Protection Program for Nuclear Facilities Operating Prior to January 1, 1979,'' section III.G, as required by 10 CFR 50.48, ''Fire Protection.''

The purpose of this meeting is to gather stakeholder input into the proposed testing plan to help assure that the testing plan as proposed includes a representative sample of configurations. The meeting may also gather other information, such as comments on scope of testing and testing methods, and serve as a vehicle for members of the public to express concerns and provide advice.

The proposed testing plan is available electronically for public inspection in the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm.html* (the Public Electronic Reading Room). The ADAMS accession number for the test plan is ML022280394. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209 or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Any interested party may submit comments on the draft test plan. Comments may be delivered to Room 6 D22, Two White Flint North, at 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Electronic comments may be submitted to the NRC by e-mail to *RXS2@nrc.gov* for consideration by the NRC staff. To be certain of consideration, comments on the proposed testing plan must be received by November 7, 2002. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date. Written comments on the testing plan should be addressed to: R. Subbaratnam, Project Directorate II, Section 2, Division of Licensing Project Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All comments received by the Commission, including those made by Federal, State, and local agencies, Indian tribes, or other interested persons, will be made available electronically at the Commission's PDR in Rockville, Maryland and from the PARS component of ADAMS.

The NRC staff will host an informal discussion 1 hour prior to the start of the session. No comments on the proposed testing plan will be accepted during the informal discussions. To be considered, comments must be provided in writing as discussed above. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. R. Subbaratnam by telephone at 1–800–368–5642, extension 1478, or by e-mail at *RXS2@nrc.gov* no later than October 17, 2002. Members of the public may also register to provide oral comments within 15 minutes of the start of the session. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. R. Subbaratnam's attention no later than October 17, 2002, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

Dated at Rockville, Maryland, this 30th day of September, 2002.

For the Nuclear Regulatory Commission.

John N. Hannon,

Chief, Plant Systems Branch, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 02–25246 Filed 10–3–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Termination of Uranium Milling Licenses in Agreement States; Opportunity To Comment on Draft Revision of NRC Procedure

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of a draft revision of the Office of State and Tribal Programs (STP) Procedure SA–900: Termination of Uranium Milling Licenses in Agreement States for review and comment. The procedure describes the NRC review process for making determinations that all applicable standards and requirements have been met before Agreement State uranium milling license termination. Stakeholder's comments are requested on the draft revised procedure before NRC issues the final procedure.

DATES: The comment period expires November 4, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted either electronically or via U.S. mail. Submit written comments to: Chief, Rules and Directives Branch, Mail Stop T6–D59, U.S. Nuclear Regulatory

Commission, Washington, DC 20555–0001. Comments may be submitted by electronic mail to *MTL@NRC.GOV.*

The draft revised procedure is available at the STP Web site at ''Procedure,'' *http://www.hsrd.ornl.gov/nrc/procfrm.htm* on the tool bar. A single paper copy of the procedure may be obtained from the For Further Information Contact.

FOR FURTHER INFORMATION CONTACT: Kevin Hsueh, Mail Stop: O–3C10, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–2598.

SUPPLEMENTARY INFORMATION: On March 29, 2001, the NRC published a notice in the **Federal Register** (66 FR 17206) announcing the formation of a Working Group composed of representatives from the NRC and Agreement States. The Working Group was tasked to identify areas that need improvements in the NRC review process and propose a draft revised procedure that addresses issues identified by the Working Group and stakeholders.

The Working Group, consisting of five representatives from the States, three NRC representatives and an NRC resource representative, began work in April 2001. Over the past year, the Working Group held four teleconference calls and one public meeting with stakeholders. A draft revised STP Procedure SA–900 entitled, ''Termination of Uranium Milling Licenses in Agreement States'' was prepared and published for public comment on August 23 2001 in the **Federal Register** (66 FR 44389).

Based on the Working Group evaluation and discussions, comments provided during the teleconference calls and the meeting with stakeholders, and comments received on the draft revised Procedure SA–900, the Working Group prepared and issued a final report in July 2002. The final report includes a draft revised STP Procedure SA–900 that addresses issues identified by the Working Group and stakeholders and an analysis of public comments. A copy of the Working Group final report dated July 2002 is available for your information at the STP Web site at ''U Mill License Termination,'' *http://www.hsrd.ornl.gov/nrc/Umill.htm* on the tool bar.

Dated at Rockville, Maryland this 24th day of September, 2002.

For the Nuclear Regulatory Commission.

Josephine M. Piccone,

Acting Director, Office of State and Tribal Programs.

[FR Doc. 02–25244 Filed 10–3–02; 8:45 am]

BILLING CODE 7590–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Final Information Quality Guidelines

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of guidelines.

SUMMARY: On May 3, 2002, The Occupational Safety and Health Review Commission (Review Commission) solicited comments on its information quality guidelines. (67 FR 22469). Few comments were received. Those that were received were general in nature and did not address the Review Commission's proposal with specificity. The only changes to the proposal were made pursuant to suggestions from OMB. The definition of ''disseminate'' was amended to conform to the OMB position that dissemination ''also does not include distribution limited to correspondence with individuals or persons, archival records, public filings, subpoenas or adjudicative processes. In addition, dissemination does not include distribution limited to press releases, unless the release contains new substantive information not covered by a previous information dissemination subject to the guidelines.''

Additionally, the guidelines now require that where an initial request for correction or a request for reconsideration requires more than 30 working days to resolve, ''the agency will inform the complainant that more time is required and indicate the reason why and an estimated decision date.''

The guidelines are posted on the Review Commission's Web site at *http://www.oshrc.gov.*

DATES: The guidelines are currently available on the Review Commission website and are effective immediately.

FOR FURTHER INFORMATION CONTACT: Linda Whitsett, Public Information Officer, One Lafayette Centre, 1120 20th St., NW., 9th Floor, Washington, DC 20036–3419, phone (202) 606–5410, extension 215.

Authority: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; 114 Stat. 2763).

Dated: September 30, 2002.

W. Scott Railton,

Chairman.

[FR Doc. 02–25261 Filed 10–3–02; 8:45 am]

BILLING CODE 7600–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Employee's Certification.

(2) *Form(s) submitted:* G–346.

(3) *OMB Number:* 3220–0104.

(4) *Expiration date of current OMB clearance:* 1/31/2003.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 5,400.

(8) *Total annual responses:* 5,400.

(9) *Total annual reporting hours:* 450.

(10) *Collection description:* Under section 2 of the Railroad Retirement Act, spouses of retired railroad employees may be entitled to an annuity. The collection obtains information from the employee about the employee's previous marriages, if any, to determine if any impediment exists to the marriage between the employee and his or her spouse.

Additional Information or Comments

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 02–25219 Filed 10–03–02; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Nationwide Capital Corporation; Order of Suspension of Trading

October 1, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Nationwide Capital Corporation (''Nationwide'') because of questions regarding the accuracy of assertions by or about Nationwide on its Internet website, marketing materials, company press releases and other publicly available sources to investors concerning, among other things: (a) The company's business operations, (b) the company's business relationships, (c) the company's current financial condition, (d) the company's acquisition of Your Corner Office (''YCO''), a privately held company, and (e) trading in the company's common stock by related shareholders.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EDT, October 1, 2002 through 11:59 p.m. EDT, on October 14, 2002.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–25347 Filed 10–1–02; 4:05 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46568; File No. SR–Amex–2002–23]

Self-Regulatory Organizations; the American Stock Exchange LLC; Order Granting Approval to a Proposed Rule Change To Make Permanent a Pilot Program Under Amex Rule 126(g), Commentary .01, Relating to Size Precedence

September 27, 2002.

On March 22, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change would make permanent a pilot program under Amex Rule 126(g), Commentary .01, regarding a 5,000 share minimum block cross size to establish size precedence. The pilot program was established in SR-Amex-2001–01, and has been in operation since March 28, 2001.[3] Notice of the proposed rule change was published in the **Federal Register** on April 3, 2002).[4] The Commission received no comments on the proposal.

The Commission has reviewed carefully the Amex's proposed rule change, and finds, for the reasons set forth below, that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5)[5] of the Act. Section 6(b)(5) requires the rules of a registered national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange has represented that the reduction in the size precedence for clean crosses does not impair the application of Amex Rule 152, which provides price improvement opportunities for all or a portion of one side of a proposed cross.[6] Moreover, the Commission finds that the size precedence reduction for clean crosses from 25,000 to 5,000 shares reflects an appropriate adjustment to a decimalized environment in which the minimum price variation for equity quotes has been reduced from the fractional equivalent of slightly over six cents to one cent. For these reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with section 6(b)(5).[7]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Amex-2002–23) be, and hereby is, approved.[9]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25225 Filed 10–3–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44122 (March 28, 2001), 66 FR 18125 (April 5, 2001).

[4] Securities Exchange Act Release No. 45660 (March 27, 2002), 67 FR 15841.

[5] 15 U.S.C. 78f(b)(5).

[6] *See* September 17, 2002 letter from Michael Cavalier, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46554; File No. SR–CSE–2002–12]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to an Extension and Expansion of an Existing Pilot Amending CSE Rule 12.6, Customer Priority, to Require Designated Dealers to Better Customer Orders at the National Best Bid or Offer by Whole Penny Increments

September 25, 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 September 19, 2002, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change for a pilot period through December 1, 2002.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the initial pilot that amended CSE Rule 12.6, Customer Priority, by adding new Interpretation .02 and requiring a CSE Designated Dealer (''Specialist'') to better the price of a customer limit order that is held by that Specialist if that Specialist determines to trade with an

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

incoming market or marketable limit order.[3] Under the pilot rule, the Specialist is required to better a customer limit order at the NBBO by at least one penny and at a price outside the current NBBO by at least the nearest penny increment. The Exchange is also proposing to expand the pilot to cover trading in all securities traded on the CSE, rather than simply Nasdaq National Market (''NNM'') securities and SmallCap securities. The Exchange is requesting approval of the proposed rule change on a pilot basis, through December 1, 2002. Because the class of securities covered by the Initial Pilot was restricted to NNM and SmallCap securities by discussion language in the Initial Pilot approval order and by the exemption letter associated therewith[4] (rather than the actual rule text), no changes are required to the Initial Pilot rule text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 12.6[5] by adding an interpretation to the rule covering the trading of securities in subpenny increments.[6] New Interpretation .02 to the Rule will require a Specialist to better the price of a customer limit order held by the Specialist by at least one penny (for those customer limit orders at the NBBO) or by at least the nearest penny increment (for those customer limit orders that are not at the NBBO) if the Specialist determines to trade with an incoming market or marketable limit order.[7]

The purpose of the new Interpretation is to prevent a Specialist from taking unfair advantage of customer limit orders held by that Specialist by trading ahead of such orders with incoming market or marketable limit orders. Notwithstanding the fact that a Specialist may price-improve incoming orders by providing prices superior to that of customer limit orders it holds, customers should have a reasonable expectation to have their orders filled at their limit order prices. This expectation should be reflected in reasonable access to incoming contra-side order flow, unless other customers place better-priced limit orders with the Specialist or the Specialist materially improves upon the customer limit order prices (not the customers' quoted prices) it holds.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b) of the Act,[8] in general, and section 6(b)(5) of the Act,[9] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange requests that this rule be approved on a pilot basis through December 1, 2002, to be co-extensive with the conditional temporary exemptive relief granted concurrently by the Commission in the Exemption Letter.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CSE–2002–12 and should be submitted by October 25, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national

[3] *See* Securities Exchange Act Release No. 46274 (July 29, 2002), 67 FR 50743 (August 5, 2002) (File No. SR–CSE–2001–06) (''Initial Pilot'').

[4] *See* letter from Robert L.D. Colby, Deputy Director, Division of Market Regulation (''Division''), Commission, to Jeffrey T. Brown, General Counsel, CSE (July 26, 2002) (''Initial Exemption Letter'') and letter from Jeffrey T. Brown, General Counsel, CSE, to Annette Nazareth, Director, Division, Commission (November 27, 2001) (''Initial Exemptive Request'').

[5] CSE Rule 12.6 provides, in pertinent part, that no member shall (i) personally buy or initiate the purchase of any security traded on the Exchange for its own account or for any account in which it or any associated person of the member is directly or indirectly interested while such a member holds or has knowledge that any person associated with it holds an unexecuted market or limit price order to buy such security in the unit of trading for a customer, or (ii) sell or initiate the sale of any such security for any such account while it personally holds or has knowledge that any person associated with it holds an unexecuted market or limit price order to sell such security in the unit of trading for a customer.

[6] In conjunction with this proposed rule change, the CSE has requested that the Commission extend and expand upon the Initial Exemption Letter pursuant to Rules 11Ac1–1(e) (17 CFR 240.11Ac1–1(e)), 11Ac1–2(g) (17 CFR 240.11Ac1–2(g)) and 11Ac1–4(d) (17 CFR 240.11Ac1–4(d)) to allow subpenny quotations to be rounded down (buy orders) and rounded up (sell orders) to the nearest penny for quote dissemination for Nasdaq and listed securities. *See* Letter to Annette Nazareth, Director, Division, Commission, from Jeffrey T. Brown, Senior Vice President & General Counsel, CSE (September 18, 2002) (''Exemptive Request''). Concurrent with the instant accelerated approval, the Commission has granted the Exemptive Request. *See* letter from Robert L.D. Colby, Deputy Director, Division, Commission, to Jeffrey T. Brown, Senior Vice President & General Counsel, CSE (September 25, 2002) (''Exemption Letter'').

[7] Interpretation .01 to Rule 12.6 provides that ''[i]f a Designated Dealer holds for execution on the Exchange a customer buy order and a customer sell order that can be crossed, the Designated Dealer shall cross them without interpositioning itself as a dealer.''

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

securities exchange,[10] and, in particular section 6(b)(5) of the Act.[11] As discussed above, by the Exemption Letter the Division has extended and expanded upon the relief granted by the Initial Exemption Letter. The Commission believes that the proposed rule change should provide protection to customer limit orders in the subpenny trading environment by helping to ensure that such orders will continue to have access to market liquidity ahead of Exchange Specialists in appropriate circumstances.

The Commission finds good cause for approving the proposed rule change on a pilot basis prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval to the proposed rule change will allow the Exchange to provide uninterrupted protection to customer limit orders in subpenny increments in Nasdaq securities and expedite the protection of customer limit orders in subpenny increments in listed securities.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CSE–2002–12) is hereby approved on an accelerated basis for a pilot period through December 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25223 Filed 10–3–02; 8:45 am]

BILLING CODE 8010–01–P

[10] In granting approval of the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46566; File No. SR–NYSE–2001–24]

Self Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Amending Exchange Rule 97 Which Limits Member Trading Because of Block Positioning

September 27, 2002.

On August 17, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 97 (Limitation on Member Trading Because of Block Positioning) so that it applies only to transactions executed at or near the end of the trading day, and to provide exceptions to the rule for member organizations that establish the requisite internal information barriers and for certain hedging transactions. The Exchange filed Amendment No. 1 to the proposed rule change on April 17, 2002.[3] The Exchange filed Amendment No. 2 to the proposed rule change on June 28, 2002.[4]

The proposed rule change, as amended, was published for comment in the **Federal Register** on July 19, 2002.[5] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, the requirements of Section 6 of the Act[7] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act[8] because it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Currently, NYSE Rule 97 prohibits a member firm that holds any part of a long position in its trading account, which resulted from a block transaction with a customer, from purchasing for an account in which such member firm has an interest, additional shares of such stock on a ''plus'' or ''zero plus'' tick for the remainder of the trading day under certain conditions. NYSE Rule 97 is intended to address concerns that a member firm might engage in manipulative practices by attempting to ''mark-up'' the price of a stock to enable the member firm to liquidate a position it acquired during a block transaction it effected with a customer at a profit, or to maintain the market at the price at which the position was acquired.

Under the proposed rule change, NYSE Rule 97 would prevent a member organization that holds a long position in a security that resulted from a block transaction with a customer from effecting within twenty minutes of the close of trading on the Exchange, a purchase on a ''plus'' tick in that security at a price higher than the lowest price at which any block was acquired in a previous transaction on that day, if the person responsible for the entry of such order to purchase the security had knowledge of the block position.[9] The proposed rule change would also add an exception to permit a member firm to make an otherwise prohibited purchase during the last twenty minutes of the trading day to hedge a position that is economically equivalent to a short position that the firm acquired in the course of facilitating a customer order. Under this exception, the hedge must be clearly related to transaction that created the short position and the size of the hedge must be commensurate with the number of shares required to hedge such position.

The Commission believes that the proposal to limit the restrictions on purchasing stock when a firm holds a long position that resulted from a block facilitation to the last twenty minutes of the trading day is consistent with the Act. The Commission believes it is appropriate for the NYSE to restrict such trading activities during this time of the trading day. However, the Commission notes that purchases executed during any time of the trading day continue to be subject to the anti-manipulative provisions of the Act. Accordingly, the Commission expects the NYSE to continue to surveil the activities of firms that trade while holding positions that result from block transactions with customers to ensure that they are not engaging in manipulative acts and practices during the entire trading day.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard P. Bernard, Executive Vice President and General Counsel, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated April 16, 2002 (''Amendment No. 1'').

[4] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated June 27, 2002 (''Amendment No. 2'').

[5] *See* Securities Exchange Act Release No. 46191 (July 12, 2002), 67 FR 47588.

[6] In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] NYSE Rule 97 only applies to transactions on the NYSE. However, NYSE Rule 97 would apply to transactions on the NYSE regardless of where the member firm acquired the block position. Telephone conversation between Jeffrey Rosenstrock, Senior Special Counsel, NYSE, and Christopher Solgan, Attorney, Division, Commission, on September 13, 2002.

In addition, the Commission believes that the use of information barriers should ensure that member firms' traders are not executing trades to mark-up or maintain the price of a security it acquired during a block transaction with a customer. Finally, the Commission believes that the hedge exception is consistent with the Act. The Commission believes that the NYSE has tailored the hedge exception to ensure that when a member firm purchases a security to hedge a position that is economically equivalent to a short position, it does so to hedge that short position, not to affect the security's price.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [10], that the proposed rule change, as amended, (File No. SR–NYSE–2001–24) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25224 Filed 10–3–02; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3449]

State of Louisiana

As a result of the President's major disaster declaration on September 27, 2002, I find that Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa and Terrebonne Parishes in the State of Louisiana constitute a disaster area due to damages caused by Tropical Storm Isidore occurring on September 21, 2002, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 26, 2002 and for economic injury until the close of business on June 27, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous parishes and counties may be filed until the specified date at the above location: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Lafayette, St. Helena, St. James, St. Martin, St. Mary, Vermilion and Washington in the State of Louisiana; Amite, Hancock, Pearl River and Pike counties in the State of Mississippi.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere,	6.625
Homeowners without Credit Available Elsewhere,	3.312
Businesses with Credit Available Elsewhere,	7.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere,	3.500
Others (Including Non-Profit Organizations) with Credit Available Elsewhere,	6.375
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere,	3.500

The number assigned to this disaster for physical damage is 344911. For economic injury the number is 9R8500 for Louisiana; and 9R8600 for Mississippi.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 30, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–25267 Filed 10–3–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3440, Amdt. #1]

State of Wisconsin

In accordance with a notice received from the Federal Emergency Management Agency, dated September 27, 2002, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on September 2, 2002 and continuing through September 6, 2002.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 12, 2002, and for economic injury the deadline is June 10, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 30, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–25266 Filed 10–3–02; 8:45 am]

BILLING CODE 8025–01–P

TENNESSEE VALLEY AUTHORITY

Notice of Publication of Final Report Implementing Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies

AGENCY: Tennessee Valley Authority.

ACTION: Notice of publication of final report.

SUMMARY: On September 28, 2001 the Office of Management and Budget published Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies. In response to those guidelines, the Tennessee Valley Authority (TVA) has posted a final report setting forth its information quality guidelines on its Web site at *www.tva.gov/infoquality.* (**Authority:** Section 515, Pub. L. 106–554, 66 FR 49718 (Sept. 28, 2001))

DATES: *Effective Date:* October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Robin Robinson, Information Quality Officer, 400 West Summit Hill Drive, ET 5D–K, Knoxville, Tennessee 37902. Telephone 865–632–7119.

Dated: September 23, 2002.

Diane J. Bunch,

Chief Information Officer.

[FR Doc. 02–25262 Filed 10–3–02; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Review and Clearance From the Office of Management and Budget (OMB) of a Proposed One-Time Public Collection of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3510 *et seq.*), this notice announces that the FAA is submitting a proposed information collection request (ICR) to the Office of Management and Budget and requesting that they grant an emergency clearance by October 23, 2002. The information collection abstracted below is a one-time, voluntary questionnaire going out to only 200 potential respondents.

FOR FURTHER INFORMATION CONTACT: Judith Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Research for Development and Distribution of Enhanced or New Cockpit Graphical Products for Terminal Operations.

Affected Public: A total of 200 individual airmen and airline dispatchers.

Abstract: The Department of Transportation (DOT), in accordance with 49 CFR part 141, delegated responsibility for aviation safety oversight to the FAA. The FAA, on October 4, 1995, established the Aviation Weather Division (now Aerospace Weather Policy and Standards Staff, ARS–20) to centralize all aviation weather policy and requirements in one organization. ARS–20 continues to serve as the focal point for all weather activities and is conducting a user needs analysis to identify how well current and future aviation weather products for use in the cockpit meet operational needs. The survey is tailored for the flight crew and dispatcher decision-makers. Feedback will aid in decisions affecting research, development and distribution of enhanced or new graphical products for terminal operations.

Estimated Annual Burden Hours: An estimated one-time 100 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently approved OMB Control Number. Once assigned by OMB, the control number will be provided to the respondents with the survey.

Issued in Washington, DC, on September 27, 2002.

Judith D. Street,

FAA Information Collection Clearance Officer, Standards and Information Division, APF–100.

[FR Doc. 02–25322 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aging Transport Systems Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aging Transport Systems Rulemaking Advisory Committee (ATSRAC).

DATES: The FAA will hold the meeting on October 22, 23, and 24, 2002, in Wichita, Kansas from 8 a.m. to 3 p.m. on the 22nd and 23rd and from 8 a.m. to 12 p.m. on the 24th.

ADDRESSES: Holiday Inn Select, 549 S. Rock Road, Wichita, Kansas 67207.

FOR FURTHER INFORMATION CONTACT: Shirley Stroman, Office of Rulemaking, ARM–208, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470; fax (202) 267–5075; or e-mail *shirley.stroman@faa.gov.*

SUPPLEMENTARY INFORMATION: The ATSRAC will meet at the Holiday Inn Select in Wichita, Kansas at the address shown under the **ADDRESSES** heading in this notice. The meeting agenda will include the following:

- Review of Working Group 6 (Wire System Certification Requirements) and 7's (Standard Wire Practice Manual) final reports.
- Review of draft final report from Working Group 10 (Small Transport Airplane Harmonization Working Group).
- Discussion of compliance schedule for Enhanced Airworthiness Program for Airplane Systems (EAPAS) rulemaking.

The meeting is open to the public, but attendance will be limited to the availability of meeting room space. The FAA will make the following services available if you request them by October 11, 2002:

- Teleconferencing;
- Sign and oral interpretation;
- A listening device.

Individuals using the teleconferencing service and calling from outside the Washington, DC metropolitan area will be responsible for paying long distance charges. To arrange for any of the above services, contact the persons listed under the **FOR FURTHER INFORMATION CONTACT** heading of this notice.

The public may present written statements to the Committee at any time by providing 20 copies to the Committee's Executive Director or by bringing the copies to the meeting. Public statements will be considered if time permits.

Issued in Washington, DC, on September 26, 2002.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–25318 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for October 16 from 9 a.m. to 5 p.m., and October 17 from 9 a.m. to noon. Arrange for oral presentations by October 11.

ADDRESSES: Boeing Facility, 1200 Wilson Boulevard, Room 234, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075, or e-mail at *effie.upshaw@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held October 16–17 in Arlington, Virginia.

The agenda will include:

October 16, 2002

- Opening remarks
- FAA/Joint Aviation Authorities Conference report
- FAA report
- JAA report, including statuses of Single Worldwide Certification Code and the European Aviation Safety Agency
- Transport Canada report
- Executive Committee report
- Harmonization Management Team report
- ARAC tasking priorities discussion
- Design for Security Harmonization Working Group (HWG) report and approval
- Powerplant Installation HWG report and approval
- Ice Protection HWG report and approval
- Loads & Dynamics HWG report and approval
- Human Factors HWG report
- Mechanical Systems HWG report
- Electrical Systems HWG report and update on Aging Transport Systems Rulemaking Advisory Committee activity
- Written reports, as required, from the following harmonization working

groups: Electromagnetic Effects, Flight Test, Avionics, Seat Test, Flight Control, Flight Guidance, and System Design and Analysis

October 17, 2002

- General Structures HWG report
- Airworthiness Assurance Working Group report
- Engine HWG report and approval

Four working groups will be seeking approval of working group documents:

1. The Design for Security HWG will present proposed advisory material on passenger cabin smoke evacuation.
2. The Powerplant Installation HWG will present proposed certification requirements for areas in transport category airplanes that are subject to flammable fluid leakage.
3. The Ice Protection HWG will present a recommendation addressing the operation of aircraft in icing conditions.
4. The Engine HWG will present a recommendation addressing bird ingestion standards for aircraft turbine engines

Attendance is open to the public, but will be limited to the availability of meeting room space and telephone lines. Visitor badges are required to gain entrance to the Boeing building where the meeting is being held. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than October 11. Please provide the following information: full legal name, country of citizenship, and name of your company, if applicable.

For those participating by telephone, the call-in number is (206) 655–0054, Passcode: 3777#. Details are also available on the ARAC calendar at *http://www.faa.gov/avr/arm/araccal/htm.* To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent by October 11. Anyone participating by telephone will be responsible for paying long-distance charges.

The public must make arrangements by October 11 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by providing copies at the meeting. Copies of the documents to be presented to ARAC for decision or as recommendations to the FAA may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on September 27, 2002.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–25319 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Occupant Safety Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss occupant safety (OS) issues.

DATES: The meeting is scheduled from 1 to 5 p.m. on October 17. Arrange for oral presentations by October 11.

ADDRESSES: Boeing Facility, 1200 Wilson Boulevard, Room 234, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075, or e-mail at *effie.upshaw@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app.III), notice is given of an ARAC meeting to be held October 17 in Arlington, Virginia.

The agenda will include:

- Opening remarks;
- FAA report;
- JAA report, including statuses of Single Worldwide Certification Code and the European Aviation Safety Agency;
- Transport Canada report;
- Cabin Safety Harmonization Working Group (CSHWG) report and approval of final report addressing § 25.810, emergency egress assist means and escape routes.

Attendance is open to the public, but will be limited to the availability of meeting room space and telephone lines. Visitor badges are required to gain entrance to the Boeing building where the meeting is being held. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than October 11. Please provide the following information: full legal name, country of citizenship, and name of your company, if applicable.

For those participating by telephone, the call-in number is (206) 655–0054, Passcode: 3777#. Details are also available on the ARAC calendar at *http://www.faa.gov/avr/arm/araccal/htm.* To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent by October 11. Anyone participating by telephone will be responsible for paying long-distance charges.

The public must make arrangements by October 11 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by providing copies at the meeting. Copies of the documents to be presented to ARAC for decision or as recommendations to the FAA may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on September 27, 2002.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–25320 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In June 2002, there were 10 applications approved. This notice also includes information on one application, approved in September 2001, inadvertently left off the September

2001 notice. Additionally, 14 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Texarkana, Arkansas.

Application Number: 01–03–C–00–TXK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $125,891.

Earliest Charge Effective Date: August 1, 2004.

Estimated Charge Expiration Date: June 1, 2005.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Enclose drainage ditch.
Rehabilitate apron.
Rehabilitate runway 4/22 lighting.
Acquire airfield sweeper.
PFC administrative costs.

Decision Date: September 13, 2001.

For Further Information Contact: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: City of Phoenix, Arizona.

Application Number: 02–06–C–00–PHX.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $221,402,900.

Earliest Charge Effective Date: July 1, 2002.

Estimated Charge Expiration Date: November 1, 2005.

Classes of Air Carriers not Required to Collect PFC's:

(1) Nonscheduled/on-demand air carriers filing FAA Form 1800–31; (2) commuters or small certificated air carriers filing Department of Transportation Form 298–C T1 or E1 with less than 7,500 annual enplanements; (3) large certificated route air carriers filing Research and Special Programs Administration Form T–100 with less than 7,500 annual enplanements.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Phoenix Sky Harbor International Airport.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level: Complete third runway (7R–25L) and associated projects.

Brief Description of Projects Partially Approved for Collection and Use at a $4.50 PFC Level: Rebuild center runway (7L–25R) and associated projects.

Determination: Partially approved. The approved amount was reduced from that requested due to the public agency's receipt of additional Airport Improvement Program (AIP) funds.

Residential sound assistance program.

Determination: Partially approved. The approved amount was reduced from that requested due to the public agency's receipt of PFC funds from an early application to partially fund this project.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level.

Community noise reduction program (voluntary land acquisition/property exchange).
Automated people mover-design only.

Brief Description of Withdrawn Projects:

Capital security improvement.
Operating security improvement.

Determination: These projects were withdrawn by the public agency by letter dated June 3, 2002. Therefore the FAA did not rule on these projects in this determination.

Decision Date: June 5, 2002.

For Further Information Contact: Kevin Flynn Western Pacific Region Airports Division, (310) 725–3632.

Public Agency: City of Saint Louis Airport Authority, Saint Louis, Missouri.

Application Number: 01–07–C–00–STL

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $99,103,000.

Earliest Charge Effective Date: January 1, 2014.

Estimated Charge Effective Date: March 1, 2015.

Classes of Air Carriers Not Required to Collect PFCS: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Lambert-St. Louis International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

New runway, taxiway, perimeter road, and security fences.
New west aircraft rescue and firefighting building.
Taxiway delta improvements.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Northeast quadrant roads.
Deicing pads and glycol recovery.
Terminal improvements (Federal Inspection Service facility)
Concourse improvements.

Decision Date: June 11, 2002.

For Further Inforamtion Contact: Lorna Sandridge, Central Regional Airports Division, (816) 329–2641.

Public Agency: City of Fayetteville, North Carolina.

Application Number: 02–02–U–00–FAY.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in this Decision: $468,918.

Charge Effective Date: November 1, 2000.

Estimated Charge Expiration Date: November 1, 2005.

Class of Air Carriers Not Required to Collect PFCS: No change from previous decision.

Brief Description of Projects Approved for Use:

North general aviation ramp.
Security system upgrade, phase II.
Runway safety area 4 improvements, phase I.
Acquire land—runway 4 approaches.
Renovate terminal, phase II.
Runway safety area 4 improvements, phase II.
Land acquisition—runway 22 approaches.
Renovate terminal, phase III.
Construct runway safety area, runway 22.
Acquire land—runway 4/22 runway safety area.
Construct non-licensed vehicle road.
Construct jet bridge modification.
Construct taxiway K.

Decision Date: June 18, 2002.

For Further Information Contact: Tracie D. Kleine, Atlanta Airports District Office, (404) 305–7148.

Public Agency: Jackson-Madison County Airport Authority, Jackson, Tennessee.

Application Number: 02–01–C–00–MKL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $332,248.

Earliest Charge Effective Date: October 1, 2002.

Estimated Charge Expiration Date: June 1, 2010.

Classes of Air Carriers Not Required to Collect PFC's: Non-scheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA had determined that the proposed class accounts for less than 1 percent of the total annual enplanements at McKeller-Sipes Airport.

Brief Description of Projects Approved for Collection and Use:

Master plan update.
Aircraft rescue and firefighting vehicle.
Taxiway B construction.
Taxiway B rehabilitation.
West apron rehabilitation.
Taxiway lighting rehabilitation.
Localizer fence replacement.
Drainage improvements (design).
Apron expansion (phase 1).
Airfield drainage rehabilitation.
Terminal building improvements.
Land acquisition in approach.
Apron expansion (phase 2).
Precision approach path indicator installation.
Airfield signage installation.
Airfield lighting rehabilitation.
Airfield drainage improvements.
Rotating beacon relocation.
Taxiway C overlay.
Terminal building heating, ventilation, and air conditioning replacement.
Runway 2/20 pavement rehabilitation.
Runway safety area improvements.
Runway safety area improvements (phase 2).
PFC administration costs.

Decision Date: June 18, 2002.

For Further Information Contact: Peggy S. Kelly, Memphis Airports District Office, (901) 544–3495, ext. 19.

Public Agency: Hillsborough County Aviation Authority, Tampa, Florida.

Application Number: 02–05–C–00–TPA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $135,782,200.

Earliest Charge Effective Date: September 1, 2002.

Estimated Charge Expiration Date: July 1, 2006.

Class of Air Carriers Not Required to Collective PFC'S:

On-demand air taxi/commercial operators that (1) do not enplane or deplane passengers at the main passenger terminal buildings, or (2) enplane less than 500 passengers per year at Tampa International Airport (TPA).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at TPA.

Brief Description of Project Approved for Collection and Use At A $4.50 PFC Level: Airside E development.

Brief Description of Projects Approved for Collection and Use At A $3.00 PFC Level:

Departure level expansion and modernization.
Purchase passenger loading bridges.
Taxiway J extension.
North Hillsborough property acquisition.

Brief Description of Withdrawn Project: Reconstruct a portion of taxiway A.

Determination: This project was withdrawn by the public agency by letter dated February 18, 2002. Therefore, the FAA will not rule on this project in this decision.

Decision Date: June 19, 2002.

For Further Information Contact: Vernon P. Rupinta, Orlando Airports District Office, (407) 812–6331

Public Agency: Country of Brown, Green Bay, Wisconsin.

Application Number: 02–04–C–00–GRB.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $528,943.

Earliest Charge Effective Date: October 1, 2002.

Estimated Charge Expiration Date: February 1, 2003.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Austin Straubel International Airport.

Brief Description of Project Approved for Collection and Use: Terminal entrance road expansion.

Decision Date: June 19, 2002.

For Further Information Contact: Daniel J. Milenacker, Minneapolis Airports District Office, (612) 713–4359.

Public Agency: City of Texarkana, Arkansas.

Application Number: 02–04–C–00–TXK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $63,855.

Earliest Charge Effective Date: June 1, 2005.

Estimated Charge Expiration Date: October 1, 2005.

Class of Air Carriers Not Required to collect PFC's: None.

Brief Description of Project Approved for Collection and Use: Improve runway 31 safety area.

Decision Date: June 24, 2002.

For Further Information Contact: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: County of Gregg, Longview, Texas.

Application Number: 02–02–C–00–GGG.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $699,232.

Earliest Charge Effective Date: September 1, 2002.

Estimated Charge Expiration Date: May 1, 2011.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators operating under part 135 and required to file FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at East Texas Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Renovate aircraft rescue and firefighting station, phase I.
Reconstruct terminal apron, phase IV.
Renovate aircraft rescue and firefighting station phase II.
Reconstruct terminal apron, phase V.
Runway safety area improvements.
Construct taxiway M and associated development.
Electrical improvements.
Taxiway pavement study.
Convert runway 4/22 to taxiway N.
Administrative expenses.

Decision Date: June 24, 2002.

For Further Information Contact: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: City of Lubbock, Texas.

Application Number: 02–04–C–00–LBB.

Application Type: Impose and use a PFC.

PFC Level: $3.00

Total PFC Revenue Approved in this Decision: $3,220,308.

Earliest Charge Effective Date: September 1, 2002.

Estimated Charge Expiration Date: November 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: (1) Air taxi/commercial operators operating under part 135 certificate and filing FAA Form 1800–31; and (2) air carriers filing Research and Special Programs Form 298C, schedule E1 or T1.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Lubbock International Airport.

Brief Description of Projects Approved for Use:

Westport apron and taxiway expansion.

Construct high-speed taxiway B–1.

Acquire Americans with Disabilities Act aircraft access.

Brief Description of Projects Approved for Collection and Use:

Construct aircraft rescue and firefighting training facility.

Install aircraft guidance signs.

Acquire 1,500-gallon aircraft rescue and firefighting truck.

Update airport master plan.

Reconstruct and expand general aviation apron.

Construct blast wall.

Brief Description of Project Approved for Collection: Acquire 254 acres for development.

Decision Date: June 26, 2002.

For Further Information Contact: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

Public Agency: New Orleans Aviation Board, New Orleans, Louisiana.

Application Number: 02–06–C–00–MSY.

Application Type: Impose and use a PFC.

PFC Level: $4.50

Total PFC Revenue Approved in This Decision: $148,375,724.

Earliest Charge Effective Date: April 1, 2005.

Estimated Charge Expiration Date: January 1, 2012.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Louis Armstrong New Orleans International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Airfield lighting control vault alternative power source.

Airfield safety improvement program—north canal enclosure.

Airport trench drains.

Concourse C reconstruction.

Environmental impact study for new air carrier runway.

Expansion of concourse D.

New access control and security badging systems.

New aircraft rescue and firefighting station.

Rehabilitate runway 1/19.

Rehabilitate taxiway Sierra.

Rehabilitate runway 10/28.

Rehabilitate rotating beacon.

Terminal apron rehabilitation.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Aircraft loading bridges.

Benefit cost analysis for new air carrier runway.

South Lafon Airpark land purchase.

Terminal heating, ventilation, and air conditioning rehabilitation.

West air cargo complex land acquisition program.

Decision Date: June 27, 2002.

For Further Information Contact: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

AMENDMENTS TO PFC APPROVAL

Amendment No., City, State	Amendment approved, date	Original approved net PFC, revenue	Amended approved net PFC, revenue	Original estimated charge, exp. date	Amended estimated chage, exp. date
99–01–C–01–ACY, Atlantic City, NJ	05/13/02	$7,224,348	$7,333,485	03/01/04	07/01/05
98–03–C–01–FAR, Fargo, ND	05/16/01	1,341,857	1,468,938	09/01/02	07/01/02
00–02–C–03–SWF, Newburg, NY	06/03/02	6,308,000	6,833,600	08/01/05	11/01/05
99–01–C–02–ACY, Atlantic City, NJ	06/05/02	7,333,485	7,633,735	07/01/05	09/01/05
01–03–C–01–LYH, Lynchburg, VA	06/06/02	844,951	705,654	01/01/05	06/01/05
*02–05–C01–BGM, Binghamton, NY	06/11/01	1,445,438	1,508,873	10/01/06	08/01/05
96–01–C–02–RDD, Redding, CA	06/14/02	920,000	1,009,264	07/01/02	12/01/02
96–01–C–01–MBS, Saginaw, MI	06/14/02	1,400,000	874,682	12/01/98	05/01/98
98–02–C–01–MBS, Saginaw, MI	06/14/02	812,050	438,614	01/01/00	11/01/98
96–02–C–02–PLB, Plattsburgh, NY	06/19/02	64,725	62,455	7/01/99	10/01/98
00–10–C–02–BDL, Windsor Locks, CT	06/26/02	1,869,103	1,870,469	08/01/00	08/01/00
00–10–C–03–BDL, Windsor Locks, CT	06/26/02	1,870,469	1,894,805	08/01/00	08/01/00
95–01–C–BGR, Bangor, ME	06/26/02	8,742,415	8,961,006	05/01/05	09/01/10
*97–01–C–02–ABI, Abilene, TX	06/26/02	2,008,611	2,008,611	01/01/15	07/01/08

(Note: The amendments denoted by an asterisk (*) include a change to PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Binghamton, NY and Abilene, TX, this change is effective on September 1, 2002.)

Issued in Washington, DC on September 18, 2002.

Barry Molar,

Manager, Airports Financial Assistance Division

[FR Doc. 02–25321 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Highway Administration

Designation of Transportation Management Areas

AGENCIES: Federal Transit Administration (FTA), Federal Highway Administration (FHWA), DOT.

ACTION: Supplementary notice of designation.

SUMMARY: The Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) are modifying their announcement designating Transportation Management Areas (TMAs) issued on July 8, 2002. This action is necessary because in August 2002 the Census Bureau published a list of corrections to their population figures that we used to designate the TMAs. This notice is effective immediately and supersedes the other notice issued on July 8, 2002.

DATES: October 4, 2002.

FOR FURTHER INFORMATION CONTACT: For FTA related questions, Paul L. Verchinski, Office of Planning Operations (TPL–11), (202) 366–1626, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590. e-mail: *Paul.verchinski@fta.dot.gov.* Scott Biehl, Office of Chief Counsel (TCC), (202) 366–4063, Federal Transit Administration, 400 Seventh Street., SW., Washington, DC 20590. e-mail: *scott.biehl@fta.dot.gov.* Office hours for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

For FHWA related questions, John Humeston, Office of Metropolitan Planning (HEPM), (404) 562–3667, Federal Highway Administration, 60 Forsyth Street, Suite 8M5; Atlanta, Georgia 30303–3104; e-mail: *john.humeston@fhwa.dot.gov.* Reid Alsop, Office of Chief Counsel (HCC), (202) 366–1371, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590; e-mail: *reid.alsop@fhwa.dot.gov.* Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Titles 23 and 49 of the United States Code (23 U.S.C. 134 (i), and 49 U.S.C. 5305, respectively) require the Secretary of Transportation to designate urbanized areas over 200,000 population as Transportation Management Areas (TMAs).

The Census Bureau defined the Census 2000 urbanized areas using the criteria published in the **Federal Register** on March 15, 2002 (67 FR 11663). As a result, there were significant changes in the Census 2000 universe of urbanized areas from those defined, based on the 1990 census and criteria. A detailed description of the terminology and changes noted in the column entitled ''Area Comparison to 1990 Census TMAs'' is presented in the Census Bureau's notice of ''Qualifying Urban Areas for Census 2000'' in the **Federal Register** on May 1, 2002 (67 FR 21961).

On July 8, 2002, the Secretary of Transportation through the FTA and the FHWA, in compliance with the agencies' authorizing statutes, 23 U.S.C. 134 and 49 U.S.C. 5305, published the list of TMAs in the **Federal Register** (67 FR 45173).

On August 23, 2002, the Census Bureau published a corrected list of urbanized areas and urban clusters in the **Federal Register** (67 FR 54630). This notice also modified the area of and population of a few urbanized areas and urban clusters by adding small amounts of territory to selected urbanized areas and urban clusters.

As a result of these Census published changes, it became necessary for the FHWA and FTA to amend the list of urbanized areas designated as TMAs. The three changes to the list of TMAs are the merging of San Rafael—Novato, California TMA with the San Francisco—Oakland, California TMA into a larger San Francisco—Oakland, California TMA; the modification of population figures in the Denver '' Aurora, Colorado TMA; and the modification of population figures for the Fort Collins, Colorado TMA. Therefore, this action modifies the list of urbanized areas that are designated as TMAs. This action supersedes the previous list of urbanized areas designated as TMAs issued on July 8, 2002, at 67 FR 45173. This modification includes the Census originated corrections and provides an inclusive list of designated TMAs.

Authority: 23 U.S.C. 315; 23 U.S.C. 134(i), 49 U.S.C. 5305, 49 CFR 1.48 and 1.51.

Issued on: September 30, 2002.

Robert D. Jamison,

Deputy Federal Transit Administrator.

Mary E. Peters,

Federal Highway Administrator.

State/Urbanized Area (UZA)	UZA 2000 population	Area comparison to 1990 census TMAs
Alabama:		
Birmingham, AL	663,615	No change.
Mobile, AL	317,605	No change.
Huntsville, AL	213,253	New TMA.
State Total	1,194,473	
Alaska:		
Anchorage, AK	225,744	Reduced in Geographic Area.
State Total	225,744	
Arizona:		
Phoenix-Mesa, AZ	2,907,049	No change.
Tucson, AZ	720,425	Reduced in Geographic Area.
State Total	3,627,474	
Arkansas:		
Little Rock, AR	360,331	Name Change.
State Total	360,331	
California:		

State/Urbanized Area (UZA)	UZA 2000 population	Area comparison to 1990 census TMAs
Los Angeles-Long Beach-Santa Ana, CA	11,789,487	TMA formed by UA split.
San Francisco-Oakland, CA	3,228,605	Increased in Geographic Area.
San Diego, CA	2,674,436	No change.
San Jose, CA	1,538,312	Reduced in Geographic Area.
Riverside-San Bernardino, CA	1,506,816	No change.
Sacramento, CA	1,393,498	No change.
Fresno, CA	554,923	No change.
Concord, CA	552,624	TMA formed by UA split.
Mission Viejo, CA	533,015	TMA formed by UA split.
Bakersfield, CA	396,125	No change.
Oxnard, CA	337,591	TMA formed by UA split.
Stockton, CA	313,392	No change.
Modesto, CA	310,945	No change.
Santa Rosa, CA	285,408	New TMA.
Lancaster-Palmdale, CA	263,532	New TMA.
Indio-Cathedral City-Palm Springs, CA	254,856	TMA formed by UA merger with Name Change.
Temecula-Murrieta, CA	229,810	No change.
Antioch, CA	217,591	New TMA with Name Change.
Thousand Oaks, CA	210,990	TMA formed by UA split.
Victorville-Hesperia-Apple Valley, CA	200,436	New TMA with Name Change.
State Total	26,792,392	
Colorado:		
Denver-Aurora, CO	1,984,889	Name Change.
Colorado Springs, CO	466,122	No change.
Fort Collins, CO	206,757	New TMA.
State Total	2,657,768	
Connecticut:		
Bridgeport-Stamford, CT–NY	888,890	TMA formed by UA merger with Name Change.
Hartford, CT	851,535	TMA formed by UA merger with Name Change.
New Haven, CT	531,314	Name Change.
State Total	2,271,739	
Delaware:		
State Total	.....	
District of Columbia:		
Washington, DC–VA–MD	3,933,920	Name Change.
State Total	3,933,920	
Florida:		
Miami, FL	4,919,036	TMA formed by UA merger with Name Change.
Tampa-St. Petersburg, FL	2,062,339	Name Change.
Orlando, FL	1,157,431	Reduced in Geographic Area.
Jacksonville, FL	882,295	No change.
Sarasota-Bradenton, FL	559,229	No change.
Palm Bay-Melbourne, FL	393,289	No change.
Cape Coral, FL	329,757	Name Change.
Pensacola, FL–AL	323,783	Name Change.
Port St. Lucie, FL	270,774	TMA formed by UA merger with Name Change.
Daytona Beach-Port Orange, FL	255,353	Name Change.
Bonita Springs-Naples, FL	221,251	New TMA with Name Change.
Tallahassee, FL	204,260	New TMA.
State Total	11,578,797	
Georgia:		
Atlanta, GA	3,499,840	No change:
Augusta-Richmond County, GA–SC	335,630	Name Change.
Columbus, GA–AL	242,324	No change.
Savannah, GA	208,886	New TMA, Reduced in Geographic Area.
State Total	4,286,680	
Hawaii:		
Honolulu, HI	718,182	No change.
State Total	718,182	
Idaho:		
Boise City, ID	272,625	New TMA.
State Total	272,625	
Illinois:		
Chicago, IL–IN	8,307,904	TMA formed by UA merger with Name Change.
Rockford, IL	270,414	Increased in Geographic Area.

State/Urbanized Area (UZA)	UZA 2000 population	Area comparison to 1990 census TMAs
Peoria, IL	247,172	No change.
Round Lake Beach-McHenry-Grayslake, IL–WI	226,848	New TMA.
State Total	9,052,338	
Indiana:		
Indianapolis, IN	1,218,919	No change.
Fort Wayne, IN	287,759	No change.
South Bend, IN–MI	276,498	Name Change.
Evansville, IN—KY	211,989	New TMA.
State Total	1,995,165	
Iowa:		
Des Moines, IA	370,505	No change.
Davenport, IA–IL	270,626	Name Change.
State Total	641,131	
Kansas:		
Wichita, KS	422,301	No change.
State Total	422,301	
Kentucky:		
Louisville, KY–IN	863,582	No change.
Lexington-Fayette, KY	250,994	No change.
State Total	1,114,576	
Louisiana:		
New Orleans, LA	1,009,283	No change.
Baton Rouge, LA	479,019	No change.
Shreveport, LA	275,213	No change.
State Total	1,763,515	
Maine:		
State Total	.....	
Maryland:		
Baltimore	2,076,354	TMA formed by UA merger with Name Change.
State Total	2,076,354	
Massachusetts:		
Boston, MA–NH–RI	4,032,484	TMA formed by UA merger with Name Change.
Springfield, MA–CT	573,610	No change.
Worcester, MA–CT	429,882	No change.
Barnstable Town, MA	243,667	New TMA.
State Total	5,279,643	
Michigan:		
Detroit, MI	3,903,377	No change.
Grand Rapids, MI	539,080	No change.
Flint, MI	365,096	No change.
Lansing, MI	300,032	Name Change.
Ann Arbor, MI	283,904	No change.
State Total	5,391,489	
Minnesota:		
Minneapolis-St. Paul, MN	2,388,593	No change.
State Total	2,388,593	
Mississippi:		
Jackson, MS	292,637	Reduced in Geographic Area.
Gulfport-Biloxi, MS	205,754	New TMA.
State Total	498,391	
Missouri:		
St. Louis, MO–IL	2,077,662	No change.
Kansas City, MO–KS	1,361,744	TMA formed by UA split.
Springfield, MO	215,004	New TMA.
State Total	3,654,410	
Montana:		
State Total	.....	
Nebraska:		
Omaha, NE–IA	626,623	No change.

State/Urbanized Area (UZA)	UZA 2000 population	Area comparison to 1990 census TMAs
Lincoln, NE	226,582	New TMA.
State Total	853,205	
Nevada:		
Las Vegas, NV	1,314,357	No change.
Reno, NV	303,689	No change.
State Total	1,618,046	
New Hampshire:		
State Total	.....	
New Jersey:		
Atlantic City, NJ	227,180	New TMA.
Trenton, NJ	268,472	Name Change.
State Total	495,652	
New Mexico:		
Albuquerque, NM	598,191	No change.
State Total	598,191	
New York:		
New York & Newark, NY–NJ–CT	17,799,861	Name Change, Reduced in Geographic Area.
Buffalo, NY	976,703	Name Change.
Rochester, NY	694,396	No change.
Albany, NY	558,947	Name Change.
Syracuse, NY	402,267	No change.
Poughkeepsie-Newburgh, NY	351,982	TMA formed by UA merger with Name Change.
State Total	20,784,156	
North Carolina:		
Charlotte, NC–SC	758,927	Name Change, Increased in Geographic Area.
Raleigh, NC	541,527	No change.
Winston-Salem, NC	299,290	New TMA.
Durham, NC	287,796	No change.
Fayetteville, NC	276,368	No change.
Greensboro, NC	267,884	New TMA.
Asheville, NC	221,570	New TMA.
State Total	2,653,362	
North Dakota:		
State Total	.....	
Ohio:		
Cleveland, OH	1,786,647	No change.
Cincinnati, OH–KY–IN	1,503,262	Name Change, Increased in Geographic Area.
Columbus, OH	1,133,193	No change.
Dayton, OH	703,444	Increased in Geographic Area.
Akron, OH	570,215	Reduced in Geographic Area.
Toledo, OH–MI	503,008	No change.
Youngstown, OH–PA	417,437	TMA formed by UA merger with Name Change.
Canton, OH	266,595	No change.
State Total	6,883,801	
Oklahoma:		
Oklahoma City, OK	747,003	No change.
Tulsa, OK	558,329	No change.
State Total	1,305,332	
Oregon:		
Portland, OR–WA	1,583,138	Name Change.
Eugene, OR	224,049	New TMA.
Salem, OR	207,229	New TMA.
State Total	2,014,416	
Pennsylvania:		
Philadelphia, PA–NJ–DE–MD	5,149,079	TMA formed by UA merger with Name Change.
Pittsburgh, PA	1,753,136	No change.
Allentown-Bethlehem, PA–NJ	576,408	Name Change.
Scranton, PA	385,237	Name Change.
Harrisburg, PA	362,782	No change.
Lancaster, PA	323,554	New TMA.
Reading, PA	240,264	New TMA.
State Total	8,790,460	

State/Urbanized Area (UZA)	UZA 2000 population	Area comparison to 1990 census TMAs
Rhode Island:		
Providence, RI–MA	1,174,548	TMA formed by UA merger with Name Change.
State Total	1,174,548	
South Carolina:		
Charleston-North Charleston, SC	423,410	Name Change.
Columbia, SC	420,537	No change.
Greenville, SC	302,194	No change.
State Total	1,146,141	
South Dakota:		
State Total	.....	
Tennessee:		
Memphis, TN–MS–AR	972,091	Name Change.
Nashville-Davidson, TN	749,935	Name Change.
Knoxville, TN	419,830	No change.
Chattanooga, TN–GA	343,509	No change.
State Total	2,485,365	
Texas:		
Dallas-Fort Worth-Arlington, TX	4,145,659	Name Change.
Houston, TX	3,822,509	Increased in Geographic Area.
San Antonio, TX	1,327,554	No change.
Austin, TX	901,920	No change.
El Paso, TX	674,801	No change.
McAllen, TX	523,144	Name Change.
Denton-Lewisville, TX	299,823	TMA formed by UA merger with Name Change.
Corpus Christi, TX	293,925	No change.
Lubbock, TX	202,225	New TMA.
State Total	12,191,560	
Utah:		
Salt Lake City, UT	887,650	Reduced in Geographic Area.
Ogden-Layton, UT	417,933	Name Change, Increased in Geographic Area.
Provo-Orem, UT	303,680	No change.
State Total	1,609,263	
Vermont:		
State Total	.....	
Virginia:		
Virginia Beach, VA	1,394,439	Name Change, Reduced in Geographic Area.
Richmond, VA	818,836	TMA formed by UA merger with Name Change.
State Total	2,213,275	
Washington:		
Seattle, WA	2,712,205	TMA formed by UA split with UA merger.
Spokane, WA–ID	334,858	Name Change.
State Total	3,047,063	
West Virginia:		
State Total	.....	
Wisconsin:		
Milwaukee, WI	1,308,913	No change.
Madison, WI	329,533	No change.
State Total	1,638,446	
Wyoming:		
State Total	.....	
Puerto Rico:		
San Juan, PR	2,216,616	TMA formed by UA merger with Name Change.
Aguadilla-Isabella-San Sebastian, PR	299,086	New TMA with Name Change.
State Total	2,515,702	
U.S. Totals	163,700,313	
U.S. & Puerto Rico Totals	166,216,015	

[FR Doc. 02–25277 Filed 10–3–02; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Privacy Act of 1974, as Amended; System of Records

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of proposed alterations to three Privacy Act systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury is proposing to revise a routine use in two of its systems of records and adding the revised routine use to a third system of records.

DATES: Comments must be received no later than November 4, 2002. The revised systems of records will be effective as of November 13, 2002, unless comments are received that result in a contrary determination and notice is published to that effect.

ADDRESSES: Comments should be sent to Chief of Records, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. You may also send your comments by Fax to (202) 622–2500.

FOR FURTHER INFORMATION CONTACT: Director, Office of Foreign Assets Control, (202) 622–2500.

SUPPLEMENTARY INFORMATION: The Office of Foreign Assets Control (OFAC), is the Office of the Department of the Treasury with responsibility for a variety of functions relating to economic sanctions imposed by the United States in the interests of national security, foreign policy and the economy.

The Department of the Treasury is giving notice of an alteration to a routine use currently utilized in two systems of records maintained by OFAC. Currently, routine use (3) found in DO .114-Foreign Assets Control Enforcement Records, and routine use (4) found in DO .118-Foreign Assets Control Licensing Records reads as follows: ''Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in response to a subpoena or in connection with criminal law proceedings.''

The two routine uses are to be altered by adding the following clause to the end of the existing text: ''when the United States or any agency or subdivision thereof is a party to any of the above proceedings and such information is determined to be arguably relevant to the proceeding.'' The alteration is necessary to clarify the scope of the routine use within the context of legal proceedings.

In addition, the routine use, as revised above, will be added to DO .111-Office of Foreign Assets Control Census Records which is also maintained by OFAC.

Under ''Authority for maintenance of the system '' for both DO .114-Foreign Assets Control Enforcement Records and DO .118-Foreign Assets Control Licensing Records, the authority citation is being changed to permit the reader to more easily locate the statute under which OFAC is acting, and to conform the citation to the style used by the Office of the Federal Register.

The report of altered systems of records, as required by 5 U.S.C. 552a(r), has been submitted to the Committee on Government Reform in the House of Representatives, the Committee on Governmental Affairs in the Senate, and Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' November 30, 2000.

The proposed alterations to the OFAC systems of records; DO .111—Office of Foreign Assets Control Census Records; DO .114—Foreign Assets Control Enforcement Records, and DO .118—Foreign Assets Control Licensing Records are set forth below.

Dated: September 26, 2002.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

TREASURY/DO .111

SYSTEM NAME:

Office of Foreign Assets Control Census Records—Treasury/DO.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

DESCRIPTION OF CHANGES:

The period ''.'' at the end of routine use (5) is replaced with a semicolon '';'', and the following routine use is added at the end thereof:

* * * * *

''(6) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or witnesses, in the course of civil discovery, litigation, or settlement negotiations in response to a subpoena or in connection with criminal law proceedings when the United States or any agency or subdivision thereof is a party to any of the above proceedings and such information is determined to be arguably relevant to the proceeding.''

* * * * *

TREASURY/DO .114

SYSTEM NAME:

Foreign Assets Control Enforcement Records—Treasury/DO.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

* * * * *

DESCRIPTION OF CHANGE:

The text ''100 Stat. 1086, as amended by H.J. Res. 756, Pub. L. 99–631'' at the end of the sentence is removed and add in its place:

''Pub. L. 99–440, 100 Stat. 1086, as amended by Pub. L. 99–631, 100 Stat. 3515''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

DESCRIPTION OF CHANGES:

The following language is inserted at the end of routine use (3), before the semicolon '';'':

(3) * * *

''when the United States or any agency or subdivision thereof is a party to any of the above proceedings and such information is determined to be arguably relevant to the proceeding''

* * * * *

TREASURY/DO .118

SYSTEM NAME:

Foreign Assets Control Licensing Records—Treasury/DO.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

* * * * *

DESCRIPTION OF CHANGE:

The text ''100 Stat. 1086, as amended by H.J. Res. 756, Pub. L. 99–631'' at the end of the sentence is removed and add in its place:

''Pub. L. 99–440, 100 Stat. 1086, as amended by Pub. L. 99–631, 100 Stat. 3515''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

DESCRIPTION OF CHANGES:

The following language is inserted at the end of routine use (4), before the semicolon ''; ''

(4) * * *

''when the United States or any agency or subdivision thereof is a party to any of the above proceedings and such information is determined to be arguably relevant to the proceeding''

* * * * *

[FR Doc. 02–25275 Filed 10–3–02; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0251]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 4, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0251.'' Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0251'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Present Status of Loan, VA Form 26–8778.

OMB Control Number: 2900–0251.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–8778 is used to collect information from the servicer regarding a defaulted loan and as a code sheet to input data in the automated Loan Service and Claims System. The information is needed to take the necessary action to cure the defaulted loan.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on July 25, 2002, at pages 48715 and 48716.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 29,167 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Total Respondents: 175,000.

Dated: September 23, 2002.

By direction of the Secretary.

Ernesto Castro,

Director, Records Management Service.

[FR Doc. 02–25268 Filed 10–3–02; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0003]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 4, 2002.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.via.gov.* Please refer to ''OMB Control No. 2900–0003.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0003'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Burial Benefits (Under 38 U.S.C. Chapter 23), VA Form 21–530.

OMB Control Number: 2900–0003.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to apply for burial benefits, including transportation expenses. The information is used to determine if the deceased veteran had appropriate service and/or disability and that the claimant has made payment for burial or has contracted to make appropriate payment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on July 25, 2002, at page 48715.

Affected Public: Individuals or households and business or other for-profit.

Estimated Annual Burden: 100,000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 300,000.

Dated: September 23, 2002.

Ernesto Castro,

Director, Records Management Service.

[FR Doc. 02–25269 Filed 10–3–02; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 67, No. 193

Friday, October 4, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Easy Access Dental Field Operating and Treatment System Having Over-the-Patient Delivery

Correction

In notice document 02–23849 appearing on page 59271 in the issue of Friday, September 20, 2002 make the following correction:

On page 59271, in the third column, under the heading **SUMMARY:**, in the ninth line, ''IPCT/US02/01283)'' should read ''(PCT/US02/01283)''.

[FR Doc. C2–23849 Filed 10–3–02; 8:45 am]

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AF00

Small Business Size Standards; Adoption of Size Standards by 2002 North American Industry Classification System for Size Standards

Correction

In rule document 02–22200 beginning on page 56905 in the issue of Friday, September 6, 2002, make the following corrections:

§121.201 [Corrected]

1. On page 56908, in §121.201, in the table, in **Subsector 221–Utilities**, the entry for NAICS code 22121 is corrected as set forth below:

2. On page 56924, in the same section, in the same table, in **Subsector 562–Waste Management and Remediation Services**, the entryfor *EXCEPT,* is corrected as set forth below:

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY–CONTINUED

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
	Sector 22—Utilities		
	Subsector 221—Utilities		
221121	Electric Bulk Power Transmission and Control	See footnote 1	.....
	* * * * *		
	Subsector 562—Waste Management and Remediation Services		
EXCEPT,	Environmental Remediation Services[14]		500[14]

[FR Doc. C2–22200 Filed 10–3–02; 8:45 am]

BILLING CODE 1505–01–P

Federal Register

Friday,
October 4, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Improved Seats in Air Carrier Transport Category Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2002–13464; Notice No. 02–17]

RIN 2120–AC84

Improved Seats in Air Carrier Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The Federal Aviation Administration proposes to require that all passenger and flight attendant seats in transport category airplanes used in part 121 passenger-carrying operations meet improved crashworthiness standards. This proposed rule is necessary to provide an increased level of safety for part 121 operations. The intended effect of this proposed rulemaking is to increase passenger protection and survivability in impact-survivable accidents.

DATES: Comments must be received on or before December 3, 2002.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, NW., Washington, DC 20590–0001. You must identify the docket number FAA 2002–13464 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA has received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing comments to these proposed regulations in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aircraft Certification Service, Aircraft Engineering Division, AIR–120, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8807; facsimile (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicative to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals contained in this notice may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–2002–13464.'' The postcard will be date stamped and mailed to the commenter.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page, type in the last four digits of the docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the docket summary information for the docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the FAA's Web page at *http://www.faa.gov/avr/arm/nprm/nprm.html* or the **Federal Register**'s web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

Statutory Requirement

Title III, section 303(b), of the Airport and Airway Safety and Capacity Expansion Act of 1987 (Act of 1987) directs the Secretary of Transportation to initiate rulemaking to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based on the best available testing standards for crashworthiness. On May 17, 1988, the FAA published Notice No. 88–8, Retrofit of Improved Seats In Air Carrier Transport Category Airplanes; Notice of Proposed Rulemaking (53 FR 17650). That notice proposed to require all seats of transport category airplanes used under part 121 and part 135 to comply with improved crashworthiness standards. The NPRM proposed to prohibit the operation of these airplanes unless all seats meet the crashworthiness performance standards required by Amendment No. 25–64, Improved Seat Safety Standards; Final Rule (53 FR 17640, May 17, 1988).

Improved Seat Safety Standards—Amendment No. 25–64

Amendment No. 25–64 upgraded the certification standards for occupant protection during emergency landing conditions in transport category airplanes. Based on research, testing, and service experience, the amendment revised the seat and restraint system requirements and defined occupant injury criteria for impact conditions. The improved seating systems provide increased occupant protection in airplanes involved in impact-survivable accidents.

Specifically, Amendment No. 25–64 revised § 25.561(b)(3) to increase the ultimate inertial forces in the upward, sideward, and downward directions, and to add an ultimate inertial force requirement in the aft direction. The ultimate inertial forces prescribed in § 25.561(b)(3) are static load forces, and the type-certificate applicant must show that the airplane, including seating systems and items of mass (and their supporting structure), can withstand these forces. The static load requirements of § 25.561(b)(3) increased the ultimate inertial forces (expressed in multiples of the acceleration of gravity, or g) for emergency landing conditions

from (1) 2.0g to 3.0g in the upward direction; (2) 1.5g to 3.0g on the airframe and 1.5g to 4.0g on seats and seat attachments in the sideward direction; and (3) 4.5g to 6.0g in the downward direction. The amendment also added a 1.5g requirement in the rearward direction. Revised § 25.561(d) requires that seats and items of mass (and their supporting structure) meet the static load requirements without deforming in a manner that would impede rapid evacuation of the occupants from the airplane. The static load factors adopted by Amendment No. 25–64 were selected to reflect industry design practices and to take advantage of existing airframe floor strength.

Amendment No. 25–64 also added § 25.562 to include new dynamic performance standards for seating systems to provide increased occupant protection in airplanes involved in impact-survivable accidents. Specifically, § 25.562 (b)(1) and (b)(2) provide that each seat type design approved for crew or passenger occupancy during takeoff and landing must successfully withstand—(1) a change in downward vertical velocity (ΔV) of not less than 35 feet per second, with the airplane's longitudinal axis canted downward 30 degrees with respect to the horizontal plane and with the wings level. Peak floor deceleration must occur in not more than 0.08 seconds after impact and must reach a minimum of 14g and (2) a change in forward longitudinal velocity (ΔV) of not less than 44 feet per second, with the airplane's longitudinal axis horizontal and yawed 10 degrees either right or left with the wings level. Peak floor deceleration must occur in not more than 0.09 seconds after impact and must reach a minimum of 16g. Where floor rails or floor fittings are used to attach the seating devices to the test fixture, the rails or fittings must be misaligned with respect to the adjacent set of rails or fittings by at least 10 degrees vertically with one rolled 10 degrees.

Section 25.562(c) requires an assessment of certain performance criteria during the dynamic tests described in § 25.562(b)(1) and (b)(2) to assess the potential for serious injury to an occupant. Among these criteria are—(1) the maximum strap tension for upper torso restraints of crewmembers; (2) the maximum compressive load measured between the pelvis and the lumbar column of the anthropomorphic dummy; (3) the positioning criteria for the upper torso restraint straps, where installed, and the lap safety belt; (4) the criterion for preventing serious head injury; and (5) the maximum compressive load in each femur of the test dummy. Additionally, the performance criteria require that the seat remain attached at all points of attachment and not yield under either of the dynamic load tests to the extent rapid evacuation of the airplane would be impeded.

Section 25.785(a), currently § 25.785(b), was revised and requires that each seat, berth, safety belt, harness, and adjacent part of the airplane at each station designated as occupiable during takeoff and landing be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the inertial forces specified in §§ 25.561 and 25.562.

Retrofit of Improved Seats in Air Carrier Transport Category Airplanes—Notice No. 88–8

In Notice No. 88–8, the FAA proposed to add a new paragraph to §§ 121.311 and 135.169 to prohibit after June 16, 1995, the operation of transport category airplanes under part 121 and part 135 that were type-certificated after January 1, 1958, unless all seats onboard the airplanes are equipped with seats that meet the applicable certification requirements in § 25.785 in effect on June 16, 1988. Even though the Act of 1987 addressed seats on all air carrier aircraft, the development of new crashworthiness standards for seats in normal and transport category rotorcraft had not been completed, and new seat standards for airplanes type certificated in the commuter category had not been proposed. Therefore, Notice No. 88–8 did not propose the retrofit of seats in those categories of aircraft.

The 1988 proposal was directed at all seats (passenger seats, including divans and sidefacing seats, flight attendant seats, flight crew seats, observer seats, and courier seats), safety belts, harnesses, and adjacent parts of transport category airplanes used in passenger- and cargo-carrying operations under part 121 and scheduled intrastate common carriage under part 135. Notice No. 88–8 did not propose to require an upgrade of the static strength standards for fixed items of mass (other than seats) and their support structures, and did not propose to require modifications to the floor structure.

The FAA received 70 comments to the NPRM during the comment period. Forty-five commenters agreed with the proposal, 14 opposed it, and 11 supported the intent of the proposal but did not agree with all the provisions. The substance of these comments will be discussed later in this document under the section titled New Proposal. The FAA received approximately 16 additional comments to the docket between the close of the NPRM comment period and December 1998.

Based on comments on Notice No. 88–8, the FAA decided that it needed additional information to determine the impact of that proposal on the aviation community. Even though considerable research and development in dynamic testing of seats had been done over the preceding years to support the adoption of the 16g standard in § 25.562, the process of certifying seats to be used in production to the 16g standards was still in its infancy. Furthermore, the dynamic testing requirements for 16g seats represented a monumental increase in sophistication and complexity over the simpler static testing used for 9g seats. Therefore, the aviation industry and the FAA had many issues to iron out in the preparation, execution, and evaluation of a 16g seat dynamic test program for seats to be manufactured in mass production. In 1990, the FAA developed an advisory circular (AC) to provide industry guidance on the dynamic test process (AC 25.562–1, Dynamic Evaluation of Seat Restraint Systems & Occupant Protection on Transport Airplanes, March 6, 1990; superceded by AC 25.562–1A, January 19, 1996). Additionally, the FAA worked with industry through the Society of Automotive Engineers SEAT Committee to develop a standard that would detail the requirements for dynamic testing of a 16g seat. That standard (Aerospace Standard 8049, Performance Standard for Seats in Civil Rotorcraft, Transport Aircraft and General Aviation Aircraft) was incorporated in Technical Standard Order (TSO)–C127 (Rotorcraft, Transport Airplane, and Normal and Utility Airplane Seating Systems) in 1992 and revised in 1998 (TSO–C127a) to include additional clarification.

The FAA's guidance and standards material evolved over several years as the industry transitioned from producing 9g seats to 16g seats that could meet FAA requirements. The FAA never lost sight of the goal of improving the crashworthiness of seats in transport category airplanes. However, industry needed time to work out the technical problems of meeting the 16g seat standard, and the FAA needed time to evaluate specific problems presented by industry and to develop proper guidance material for obtaining 16g seat certification.

The FAA held a public meeting on October 23 and 24, 1995, in Seattle, Washington, to gather information on 16g dynamic seats. The FAA presented

its views and listened to comments from the aviation industry at that meeting. The information gained during this public meeting led the FAA to reconsider the original proposed rule in Notice No. 88–8.

From the mid-to-late 1990s, although industry and the FAA continued to address significant 16g seat issues, enough progress had been made that 16g seats were being produced and certificated on a regular basis. Therefore, the FAA believed it was appropriate to move forward with its proposed rulemaking to improve seats on transport category airplanes. As a result, the FAA held a public meeting on December 8 and 9, 1998, to discuss its proposed revisions to the 1988 proposal and obtain more current information and views.

December 1998 Public Meeting

In the 1998 public meeting proposal, the FAA deleted its proposal to revise part 135 and proposed to add a new paragraph to § 121.311 that would prohibit the operation of any transport category airplane type-certificated after January 1, 1958, on which all passenger and flight attendant seats did not fully meet the requirements of § 25.562. The FAA also indicated it was considering an exception for airplanes operated in all-cargo operations. At that time, the proposed requirements would be effective four years after publication of a final rule, which would have been approximately January 2003.

The FAA also proposed an alternative in another paragraph in § 121.311 that would allow a transport category airplane type-certificated after January 1, 1958, to continue to be operated after four years after the publication of a final rule provided all passenger and flight attendant seats met the requirements of § 25.562 or were properly marked as 16g-compatible. The FAA stated that a seat could properly be marked as 16g-compatible if it was manufactured before the four-year compliance date and underwent a supplemental certification. Under the 1998 proposal, an applicant for a 16g-compatible seat would be required to show that the seat or seat type would withstand the dynamic loads set forth in § 25.562(a) and (b) without structural separation of the seat's primary structure. The applicant also would need to demonstrate that the occupant dummy would remain in the seat during the test and not be entrapped by the test article. In addition, the FAA indicated it would not require the retrofit of seats of aircraft operated under part 135.

Much of the discussion at the public meeting addressed the meaning of 16g-compatible and the process for establishing compatibility. Industry expressed concern about the FAA's ability to handle increased certification projects and the seat manufacturers' ability to produce enough seats in four years to meet the other requirements of the proposal. Furthermore, industry criticized the FAA data used to support the safety benefits of the proposal as outdated and argued that the number of potential lives saved would not warrant the costs associated with the proposal. In addition, comments presented at the public meeting addressed the expense associated with previously adopted regulations addressing accident prevention. Other industry representatives also recommended that regulatory requirements involving significant costs should focus on accident prevention rather than aircraft crashworthiness. Finally, some industry representatives urged that the FAA permit air carriers to replace seats based on business needs.

In addition to comments offered at the public meeting, the FAA reopened the docket for comments through January 8, 1999. The FAA received approximately 40 additional comments by the close of this comment period. The commenters generally opposed certain aspects of the proposal. The substances of these comments are discussed in this SNPRM under the section titled New Proposal.

New Proposal

Based on the comments received in response to Notice No. 88–8 and the 1995 and 1998 public meetings, as well as new survivable accident data and cost-benefit analysis developed following the 1998 public meeting, the FAA has determined that it is appropriate to issue an SNPRM.

The FAA is proposing a two-tiered time table—one that would require newly-manufactured airplanes to be equipped with the improved seats first, and allow more time for the remainder of the fleet to be retrofitted with those seats. In order to ensure that newly-manufactured airplanes—those that will be in the fleet the longest—have the improved seats first, the FAA proposes to prohibit the operation in passenger-carrying service of any transport category airplane manufactured after four years from the effective date of the final rule unless all passenger and flight attendant seats on that airplane meet the requirements of § 25.562. At the outer limit, after 14 years from the effective date of the final rule, no transport category airplane could be operated in passenger-carrying service unless all passenger and flight attendant seats on that airplane meet the requirements of § 25.562. In addition, in order to accelerate the retrofit of the fleet, the FAA is proposing that, after four years from the effective date of the rule, whenever an operator of a transport category airplane replaces an existing passenger or flight attendant seat with a different type of seat, the operator must equip the airplane with seats that meet the requirements of § 25.562 before the airplane could be operated in passenger-carrying service.

For existing airplanes, this SNPRM would give part 121 operators discretion in replacing the existing seats on any airplane with 16g seats for a period of 14 years after the effective date of the final rule. An operator would be required to replace all passenger seats and all flight attendant seats on an airplane only when the operator chooses to replace any passenger seat or flight attendant seat on that airplane. Therefore, an operator could elect to make no seat replacements for up to 14 years. However, after 14 years all passenger seats and all flight attendant seats on all transport category airplanes operated under part 121 must meet the 16g standard as defined in § 25.562. The SNPRM would not apply to the removal and reinstallation of the same seat or an identical seat in the same airplane for the purpose of seat maintenance or cabin interior maintenance. Also, under this SNPRM, the replacement of seat cushions and seat dress covers is not considered seat replacement and upgrading to the 16g standard will not be required. For the purpose of this SNPRM, seat replacement means the removal of an existing seat and the re-installation of a seat other than the one removed or other than an seat identical to the one removed. This allows a spare or new seat to replace a damaged seat provided the part numbers are the same. The intent of this SNPRM is to allow the replacement of a damaged seat without requiring the operator to upgrade the entire airplane with 16g seats.

This proposal was developed after carefully considering the viewpoints presented at the 1998 public meeting. The FAA believes this SNPRM will provide the best solution for upgrading the entire fleet of part 121 transport category airplanes with safer seats in a reasonable timeframe. A wide range of options was considered for seat replacement on existing aircraft that ranged from voluntary replacement to mandatory replacement under several different timeframes of compliance. Evaluations included giving credit for certain era seats believed to be compliant with some parts of § 25.562. The degree to which the replacement seats would have to comply with

§ 25.562 was also evaluated. The issue of ''16g-compatible'' seats presented at the 1998 public meeting has been remedied in this SNPRM by ensuring one level of safety that requires full compliance with § 25.562. The proposals in this SNPRM also would eliminate the need for recertification of existing seats already installed on airplanes to show they were 16g compatible. Some options would have required seats in existing aircraft to be replaced per a fixed accelerated schedule; however, the FAA believes that replacement of the seats based on current business practices will effectively update the existing fleet and allow the airlines flexibility in achieving this goal.

The FAA has chosen a final compliance timeframe that is quite liberal in allowing airlines to exercise their own discretion in seat replacement and yet ensures that the transport fleet will be upgraded to the 16g standard.

This SNPRM reduces the overall cost compared to other proposed rule options since operators are not locked into accelerated seat replacement schedules for their existing aircraft. However, this SNPRM ensures that when the operators elect to replace their seats, the new seats will be ''full'' 16g (*i.e.*, must meet all requirements of § 25.562) and one level of safety for seats will be developed throughout the fleet. This SNPRM also was chosen because it would mandate that the newly manufactured airplanes, or those airplanes that will be in the fleet the longest, will be required to meet full 16g seat certification the soonest.

Compliance Schedule

Notice No. 88–8 proposed that all transport category airplanes must meet the requirements proposed by June 16, 1995, which gave operators 7 years to comply. The 1998 public meeting proposed that all transport category airplanes meet the newly proposed requirements four years after publication of the final rule.

The following compliance table summarizes what this SNPRM proposes:

Timeframe affected aircraft	4 years after effective date of final rule	14 years after effective date of final rule
Existing Airplanes (airplanes manufactured before 4 years after effective date of final rule).	Compliance to 25.562 is required for the airplane when its seats are replaced.	Compliance to 25.562 is required for all airplanes.
Newly Manufactured Airplanes (airplanes manufactured after 4 years after effective date of final rule).	Compliance to 25.562 required	Compliance to 25.562 required.

Numerous commenters to Notice No. 88–8 indicated that the 7-year time period for compliance as proposed was too long and would unnecessarily reduce safety, and they recommended a compliance period anywhere from 2 to 5 years after publication of the final rule. Certain airplane manufacturers, seat manufacturers, and air carriers stated that the 7-year compliance date in Notice No. 88–8 was too soon. Service experience has shown that the life of an airplane passenger seat is greater than the service life used as the basis for the proposal. Several commenters indicated that the typical replacement age of seats is between 10 and 21 years, with an average seat life being 14 years. Furthermore, two commenters to the 1998 public meeting proposal indicated that the average age of their retired airplanes is 23 and 42 years, and one commenter indicated that it has no airplanes older than 25 years.

Some commenters to Notice No. 88–8 suggested that there should be two compliance periods: one for newly manufactured airplanes and one for existing airplanes. The commenters indicated that newly manufactured airplanes should have 16g seats installed by a specific time and that air carriers should accomplish retrofit during the first complete refurbishment of the cabin or seats. The commenters also suggested that retrofit should not be required when seats are removed and replaced during normal maintenance cycles. Other commenters supported the current voluntary program for installing 16g seats. However, several commenters did not support the retrofit of 16g seats. These commenters indicated that most transport category airplanes will have 16g seats by 2001 to 2005, there are no certification standards for 16g seats, and it is unfair to retrofit an airplane to a standard that was not in effect when the airplane was certificated, bought, or leased.

After considering the numerous comments and taking into account seat manufacturing and replacement practices, the FAA has determined that a four-year compliance period is sufficient to ensure seat manufacturers will be able to provide 16g seats for these airplanes. Furthermore, the FAA has established two compliance schedules: one for newly manufactured airplanes and one for existing airplanes. For newly manufactured airplanes, this proposal is consistent with the proposal discussed at the 1998 public meeting. This SNPRM would ensure that 16g seats are installed on the newest airplanes, which will be in the fleet the longest amount of time.

16g Seats

Notice No. 88–8 applied to all seats occupiable during takeoff and landing. Those seats included passenger, flight attendant, flightcrew, observer, and courier seats. The 1998 public meeting proposal applied only to all passenger and flight attendant seats. Similarly, the FAA notes that this SNPRM applies only to passenger and flight attendant seats; flight deck, observer, and courier seats are not included. Numerous commenters, including passengers, supported the requirement for 16g seats and indicated that passengers would be willing to pay for increased ticket prices attributable to the cost of the retrofit.

Two commenters to Notice No. 88–8 indicated that the proposal should apply to flight deck seats. However, numerous other commenters did not support improved flight deck seats contending that flight deck seats are unique to each airplane model, are not track mounted, and typically last the life of the airplane. Furthermore, these commenters indicated that they are not aware of any statistics relating to fatalities or serious injuries where flight deck seats were involved and that all the test data referenced in Notice No. 88–8 applied only to passenger seats.

The FAA is unable to conclude that upgrading the survivability aspect of flight deck seats would result in a significant, overall improvement in safety. In fact, there is evidence to the contrary. The FAA determined that the flight deck seat structure differs significantly from the structure of passenger seats. The flight deck floor structure is heavier and far more rigid than the floor structure in much of the passenger compartment. As part of the evaluation of comments on flight deck seats, the FAA reviewed post-1983 transport category airplane accident data. One of the accidents reviewed confirmed the differences between airframe structural performance and failure modes of flight deck seats and

passenger seats. In that accident, the floor structure surrounding the pilot's seat separated from the airplane with the seat intact. Neither the pilot seat nor its floor attachments had failed. Throughout the remainder of the cabin, however, passenger seats consistently exhibited typical floor attachment and leg failures, which are the failure modes this regulatory action seeks to mitigate. For the reasons stated above, the FAA concludes that there is insufficient basis to consider flight deck seats in the retrofit requirement.

Four commenters contended that because flight attendants perform critical functions in the post-accident time frame, flight attendant seats should be included in the proposal. However, other commenters did not believe flight attendant seats should be included because they are unique to the specific airplane model and are not track mounted. These commenters further stated that the proposal in Notice No. 88–8 is based on data collected for passenger-seat weights, prices, replacement times, and passenger fatalities. These commenters suggest a separate analysis be conducted for flight attendant seats.

After reviewing the comments, the FAA finds that flight attendants have critical life-saving duties to perform following an emergency landing and has determined that flight attendant seats will be included in this SNPRM. The FAA notes that flight attendants must assist passengers with emergency egress through emergency exits to safety outside the airplane. Therefore, flight attendant seats are located in the passenger compartment. Therefore, it is imperative that flight attendant seats provide impact protection comparable to passenger seats to ensure flight attendants will not be incapacitated by an emergency landing and will be available to assist in emergency evacuations.

Several commenters indicated that the airplane structures might not be compatible with the 16g load requirement and noted that structural modifications may be required to take advantage of 16g seats. One commenter stated that not all of the floors of all in-service transport category airplanes are compatible with the 16g dynamic load standards. Several commenters indicated that the FAA should address airplanes with weak tracks. A commenter stated that even though a seat may stay attached to a representative track during dynamic testing, other components of the system (the floors, beams, and fuselage) may fail; therefore, the load imposed on the seat tracks during dynamic testing should not exceed the ultimate allowable floor strength.

The 16g dynamic standard (14 CFR 25.562) that became effective in 1988 was developed to be compatible with the floor strength of existing aircraft. The current static requirements for seats (14 CFR 25.561) include a 9g forward load, originally adopted in 1956, and were the basis for evaluating seat to floor strength issues when § 25.562 was added. The 16g standard was added knowing that seat design had progressed to the point that the energy from a 16g impact could be attenuated in the seat structure without exceeding prevalent seat track and floor strengths. This SNPRM addresses only the replacement of seats and does not require the modification of the floor structure of existing airplanes or of airplanes manufactured under existing type certificates. It was stated in the NPRM that transport category airplane structure remains substantially intact and provides a livable volume for occupants throughout a survivable impact accident. To take advantage of existing floor strength without requiring significant structural modifications or weight increases, the FAA selected the static load factors adopted in Amendment No. 25–64. Additionally, the FAA had an objective to ensure that seats complying with improved crashworthiness standards could be effectively used in existing and newly manufactured airplanes. This will be achieved if the seats are designed properly. The FAA also points out that an airplane with light duty tracks also would have low track loads created by multiple seat legs as opposed to an airplane in which heavy duty tracks are used to compensate for fewer seat legs.

Five commenters to Notice No. 88–8 indicated that the FAA underestimated the additional weight of the improved seats. The commenters noted that the weight increase could be double what the FAA indicated in Notice No. 88–8. The commenters added that the FAA based its weight estimate on new materials that are not proven. One commenter indicated that there are no specific cases where the new 16g seats were lighter in weight than the seats they replaced. A participant at the 1998 public meeting indicated that a 16g seat weighs approximately 10 pounds more than a 9g seat; another commenter indicated an increase of 3 kilograms per seat; and a third commenter indicated an increase of 400 pounds per airplane.

As the FAA stated in Notice No. 88–8, although reduced weight is not guaranteed, it is still likely. The FAA also points out that it did not imply there were improved seats weighing less than seats currently used in air transportation. The FAA notes that it consistently used a 0.6-pound weight increase estimate for analysis purposes in Notice No. 88–8 and Amendment 25–64. Furthermore, based on current information from seat manufacturers, the FAA maintains there is not a significant increase in weight between a 9g passenger seat and a 16g passenger seat. Therefore, the FAA used a 0-pound increase for passenger seats and a 0.5-pound weight increase for flight attendant seats in the current cost analysis in this SNPRM. The FAA maintains that the current trend of installing additional equipment on seats for passenger convenience and entertainment, primarily causes seat weight increases. Devices like telephones and video screens are common additions to seats that, along with their supporting structure, increase seat weight. The FAA maintains that if any increases in weight between a 9g seat without extra features and a 16g seat without extra features exist, they are small and the resultant increase in safety is justified. In addition, if the airlines find that seat weight increases from added devices pose a significant operational cost, they have the option of removing or modifying the non-required equipment currently installed on the seat.

16g-Compatible Seats

In its 1998 public meeting proposal, the FAA proposed an alternative that would allow the use of seats that are properly marked as ''16g-compatible.'' The FAA stated that a seat could be marked as 16g-compatible if it is manufactured before the four-year compliance date and the Administrator has determined the seat type to be capable of carrying the resultant dynamic loads required in § 25.562 (a) and (b) without structural separation of primary attachments.

As previously noted, the FAA did not adopt its 1998 proposal regarding 16g-compatible seats. The commenters from the 1998 public meeting indicated that the FAA underestimated the number of seat model certifications needed. The commenters further noted that the FAA did not consider the costs associated with the complete 16g-compatible seat verification process. The FAA agrees with the commenters and has abandoned the proposal for certification of seats as 16g-compatible because it would be impractical. Therefore, this SNPRM does not contain the 1998 public meeting 16g-compatible alternative. As noted at the public meeting and in the comments, the process for establishing seats as 16g-

compatible could prove to be too burdensome for the operators and the FAA.

Requirements of § 25.562

Amendment No. 25–64 added section 25.562 that defines emergency landing dynamic conditions with which transport category airplane seats and restraint systems must comply. The conditions include two dynamic tests of the seat and restraint system; one is a simulated combined vertical/longitudinal crash condition reaching at least 14g's and the other test is a simulated longitudinal crash condition reaching at least 16g's. The seats must demonstrate the capability of providing protection of their occupants when exposed to the loads of these tests. That protection includes insuring the seat system remains attached to the airplane as intended and that none of several occupant protection criteria are exceeded. Those occupant protection criteria significantly improve the likelihood that the occupant survives the impact and does not suffer an injury to a degree that would make evacuation from the airplane unlikely. Finally the criteria under § 25.562 insure that the seat does not deform during the crash conditions to an extent that would impede rapid evacuation from the airplane.

Notice No. 88–8 required all seats to meet the applicable standards in § 25.785. The 1998 public meeting proposal required seats to meet the requirements in § 25.562. The FAA notes that § 25.785 references the requirements in § 25.562, which addresses crashworthiness standards. However, the FAA points out that the requirements in § 25.785 address more than crashworthiness standards and those requirements are not included in this proposed rulemaking. Therefore, this proposal has been revised to reference § 25.562 instead of § 25.785.

Commenters noted that the FAA should provide uniform and standardized guidance procedures for the dynamic testing required under § 25.562. One commenter to Notice No. 88–8 indicated that neither the FAA nor members of the Society of Automotive Engineers (SAE) committee had been able to define a workable statement of deformation limits. That commenter also stated that the floor warping definition in § 25.562(b)(2) does not adequately define a warped floor plane. The commenters further noted that the FAA should define the maximum seat encroachment allowed.

A commenter to the 1998 public meeting stated that no seat manufacturers had achieved satisfactory results for front row head injury criteria (HIC). Another commenter to Notice No. 88–8 requested that Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208) be used for HIC measurements and limited to a 36 millisecond duration. The commenter also opposed testing for HIC during a double row test with floor deformation of the forward seat. Furthermore, the commenter stated that HIC limits should not be applicable to bulkheads, partitions, and dividers used in currently certificated airplanes. Commenters to the 1998 public meeting indicated that to comply with the front-row HIC requirements they would have to sacrifice seat pitch (the distance along the airplane's longitudinal axis from a point on one seat to the identical point on the next seat) in the back rows, remove the first row of seats, add y-belts (a lap belt that uses two load paths and anchor points for each half of the belt) or airbags, or make bulkhead modifications. The commenters indicated that removing a row of seats is the only way to comply with HIC if they do not want to sacrifice seat pitch.

The FAA points out that the new crashworthiness standards are in effect and seats are certificated to those performance standards. The criteria for the improved crashworthiness standards have been verified through research testing by the FAA and static and dynamic testing by seat manufactures to demonstrate compliance with the provisions of Amendment 25–64. The FAA agrees that appropriate guidance is necessary to make the certification process easier for all concerned. That guidance is provided in Advisory Circular 25.562–1A, Dynamic Evaluation of Seat Restraint Systems and Occupant Protection on Transport Airplanes, revised on January 1, 1996; SAE Aerospace Standard 8049, issued in July 1990; and Technical Standard Order (TSO) C127a, Rotorcraft, Transport Airplane, and Normal and Utility Airplane Seating Systems, revised on August 21, 1998.

Applicability

Notice No. 88–8 proposed changes to all transport category airplanes operated under part 121 and part 135. The FAA's 1998 public meeting proposal applied to transport category airplanes operated under part 121. Similarly, this SNPRM would not affect airplanes currently operated under part 135. Numerous commenters to Notice No. 88–8 opposed the inclusion of part 135 on-demand operators. However, several commenters indicated that the proposal should apply to on-demand operators because of the increasing number of such operations.

At the time Notice No. 88–8 was published, a significant number of transport category airplanes were operated under part 135. Accordingly, Notice No. 88–8 proposed that seats on transport category airplanes operated under part 135 in air carrier operations or scheduled intrastate common carriage meet the same standards as seats on transport category airplanes operated under part 121. In 1995 the FAA issued Amendment Nos. 119, 121–251, and 135–58, Commuter Operations and General Certification and Operations Requirements; Final Rule (60 FR 65832; December 20, 1995) (the commuter rule). The commuter rule requires all operators conducting scheduled passenger-carrying operations in airplanes that have passenger seating configurations of 10 through 30 seats (excluding crewmember seats) and in turbojet airplanes regardless of seating configuration that formerly conducted operations under part 135, to conduct operations under part 121. As a consequence of the commuter rule, the operation of some nontransport category airplanes now comes under the purview of part 121 as do some transport category airplanes that used to be operated under part 135. Only nonscheduled, on-demand operations remain in part 135.

Several commenters questioned the need to require improved passenger seats on all-cargo airplanes and airplanes with convertible or combination configurations. The FAA notes that this SNPRM does not apply to airplanes used in all-cargo operations because these airplanes do not carry passengers for compensation or hire. However, transport category airplanes type certificated after January 1, 1958, that have convertible or combination configurations would be required to meet the same seat standards required for all-passenger carrying transport category airplanes operated under part 121 because those airplanes carry passengers.

The FAA also notes that an improved seat need not be provided for the carriage of a person listed in § 121.583. Therefore, this proposal also amends § 121.583(a) to add § 121.311(j) and (k) to the list of sections excluded from compliance.

In Notice No. 88–8, the FAA requested comments on whether improved seats should be required in rotorcraft. Two helicopter manufacturers noted that the retrofit of 16g seats in rotorcraft would necessitate airframe modifications that would increase the weight and decrease the

payload and productivity of the aircraft. The FAA agrees with the commenter that the necessary airframe modifications for existing rotorcraft are not feasible. It has never been the intent of a rulemaking to improve the crashworthiness of seats on any type of aircraft to require modifications below the seat-to-floor interface, and therefore airframe modifications would not be included. A fundamental concept when developing regulations for improved seat crashworthiness (eg. § 25.562) has been to match the proposed increases in seat strength to the existing aircraft floor strengths to preclude the need for additional reinforcement of the airframe. Since the NPRM, the FAA has developed improved crashworthiness standards for rotorcraft type certificated after November 13, 1998. Amendment Nos. 27–25 and 29–29 (54 FR 47318; November 13, 1998) incorporate these standards in 14 CFR parts 27 and 29. However, the FAA points out that they were not in effect when Notice No. 88–8 was published on May 17, 1988; therefore, this SNPRM does not include rotorcraft.

Torso Restraint

An association noted that Notice No. 88–8 did not address lap belt restraint capability in forward facing seats and is concerned because the head and upper body is unrestrained.

The FAA points out that the intent of Notice No. 88–8 and this SNPRM is to require the installation of improved seats to provide increased passenger and flight attendant safety resulting from fewer seat failures. The intent is not to require restraints for the upper torso. While the comment may have merit, the focus of Notice No. 88–8 and this SNPRM is on improved seats.

Reference Material

A Benefit Analysis for Aircraft 16g Dynamic Seats (Report DOT/FAA/AR–00/13/April 2000) predicted the benefits for accidents studied from 1984 to 1998 if 16g seats had been installed in the airplanes. This document is available to the public through the National Technical Information Service, Springfield, Virginia 22161. It can also be accessed through the FAA's William J. Hughes Technical Center Full Text Technical Reports Internet site at *http://www.fire.tc.faa.gov/reports/report2.stm* in Adobe Acrobat Portable Document Format (PDF).

Related Activity

The FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) to provide advice and recommendations on harmonizing with the JAA and Transport Canada requirements for passenger seats. (63 FR 46272, August 31, 1998). The FAA stated that the objective was to harmonize test article selection and other methods of compliance with § 25.562, including pass/fail criteria and test methodology.

ARAC assigned the task to the existing Seat Testing Harmonization Working Group. If adopted by the FAA, the ARAC recommendations regarding a simplification of the test article selection process and pass/fail criteria should provide a much shorter test plan approval cycle and reduce the number of tests required.

On April 6, 2000, the Wendel H. Ford Aviation Investment and Reform Act (HR 1000) was enacted into law. Section 757 of Public Law 106–81 contains information directing the Administrator (FAA) to take specific measures aimed at streamlining the seats and restraint systems certification process and 16g dynamic testing requirements.

In August 2000, the FAA formed a joint government/industry team that consisted of FAA, JAA, airlines, seat manufacturers, airframe manufacturers, and the Association of Flight Attendants. This Charter Team looked at the various initiatives that were already underway that, if implemented, would streamline or otherwise improve the seat and restraint system certification process. The Charter Team identified issues in the current seat certification process that, if effectively resolved, may reduce the time and cost of seat certification programs by as much as 50 percent. With that goal in mind, the Charter Team agreed to a plan of action that focuses on four areas in seat certification: policy related to seat certification, the Technical Standard Orders (TSO) for seats (i.e., TSO C39b and TSO C127a), utilization of local authorities (both domestic and foreign) in seat certification, and alternative methods for seat certification. The specific tasks within each of these areas have been determined and are being worked by both industry and FAA members of the Charter Team.

The first part of the plan requires a review of existing policy on seat certification by both industry and the FAA. The review will identify policy that is not clear, inappropriately applied, or is inconsistent or conflicts with other policy. Industry will identify to the FAA key seat certification issues that have proven problematic and relevant policy, if it exists, will be reviewed. Additionally, both industry and the FAA can identify areas where development of new policy could simplify seat compliance. In each case, the goal is to clarify or interpret current policy or develop new policy to address the specific issue.

The second part of the plan focuses on the TSO program for seats. Tasks within the plan have been set to ensure that the TSO remains a valid approval basis for seats and is recognized as such. Tasks are also in place to provide clarification and standardization on the extent that the TSO approval or activities associated with obtaining that approval can be utilized to demonstrate compliance with the airworthiness requirements of part 25 of the Federal Aviation Regulations. In addition, the TSOs will be developed to maximize the amount of data that can be obtained during the TSO process that can also be used to meet airworthiness requirements.

The third part of the plan involves use of local authorities to maximize use of foreign and domestic regional approvals to improve the seat certification process. The plan calls for development of agreements between seat suppliers and the regulatory offices (e.g., aircraft certification offices in the U.S.) overseeing the suppliers. The agreement provides a roadmap for all stakeholders to understand responsibilities and relationships in the certification process and defines a process for resolving problems when they occur. Great benefit will be gained by mapping out this process which provides opportunities to identify potential problems early in the program and to avoid similar problems in subsequent programs. The plan also addresses inconsistencies between how domestic seat approvals and foreign seat approvals are made. The goal is to ensure that methods to facilitate seat approvals are equivalent without compromising safety standards.

The fourth and final part of the Charter Team plan looks at alternative methods from more traditional ways of approving seats for use in aircraft. This area has concentrated on the use of analytical modeling in seat certification as well as systems that simulate a portion of the dynamic testing process (''component testers'') without the necessity of a complete test. A specific task is to issue guidance for the use of computer simulation in lieu of full scale testing. Other tasks include guidance on the use of specific component testers to address occupant injury criteria in lieu of full scale testing.

The four elements of the Charter Team plan are being worked concurrently with continuous review by industry and the FAA for progress towards implementation and to refine the plan as mutually agreed upon.

The FAA requests comment on the plan as outlined above as well as other suggestions for making the approval of seats more efficient while maintaining required safety standards.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Economic Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to first make a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this act requires agencies to consider international standards, and use them where appropriate as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs and benefits and other effects of proposed and final rules. An assessment must be prepared only for rules that impose a Federal mandate on State, local or tribal governments, or on the private sector, likely to result in a total expenditure of $100 million or more in any one year (adjusted for inflation.)

In conducting these analyses, the FAA has determined this rule: (1) Has benefits that do justify its costs, (2) is a significant regulatory action; (3) would not have a significant impact on a substantial number of small entities; (4) would have neutral impact on international trade; and (5) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. The FAA has placed these analyses in the docket and summarized them below.

The economic evaluation of this proposed rulemaking is based primarily on a November 2000 study titled ''Improved Seats in Transport Category Airplanes: Analysis of Options,'' prepared by the FAA's Office of System Safety (ASY).) The report is hereinafter referred to as the ASY 16g-seat options study, or in short, the ''ASY 16g-seat study.'' The study evaluated costs and benefits for the period 2000–2020 (although the final rule probably would not be implemented until 2002, the benefit/cost relationship would essentially be the same). A modified option 5 of that analysis is the basis of the new requirements proposed in this SNPRM. The SNPRM incorporates a 14-year deadline date beyond which all airplanes must be in compliance; as a result, the cost/benefit data in this analysis differ somewhat from option 5 in the study cited. The study has been placed in FAA's docket file associated with this rulemaking. Besides incorporating a 14-year deadline date for compliance, the subject evaluation differs from the ASY 16g-seat study in that it uses $3 million for a fatality averted (vs. $2.7 million).

Regulatory Evaluation

This section explains and summarizes the relevant data used in this analysis and describes the methodology used to calculate benefits and costs. Total estimated dollar benefits and costs are presented in the Benefit/Cost Summary at the end of the section.

To estimate the potential benefits and costs of this new proposal, it was first necessary to divide seat installations into three broad ''compliance'' categories: (1) ''Full 16g'' seat installations are compliant with 14 CFR 25.562 (a), (b), and (c). (2) ''Partial 16g'' seat installations are compliant with some of 14 CFR 25.562 (a), (b), and (c) but have not been tested to meet all occupant injury criteria. (3) ''9g'' seat installations refer to older vintages of seats that meet 9g structural requirements only.

In addition, the projected population of seats was divided into five different groups depending on the date of aircraft manufacture and the projected date of seat replacement. Replacement seats are assumed to be distributed according to the estimated proportion of full 16g-, partial 16g-, and 9g-seat certification programs. For example, if 10% of seat certification programs are for 9g-seats, it is assumed approximately 10% of seats installed or replaced will be 9g-seats.

The analysis projected the distribution of seats in the absence of regulatory action. The distribution was based on the following assumptions:

1. Part 121 airplanes are retired after 42 years of service.
2. Seat replacement uniformly distributed with mean seat life of 14 years.
3. Fleet/seat growth based on *FAA Aerospace Forecast.*
4. Relationship of full 16g- to partial 16g-seats stays the same.

The distribution of seat types is as follows:

- Group I: Airplanes manufactured before 1992 having seats installed before 1992. While 16g-seats were being installed before this date, the majority of these seats are 9g.
- Group II: Airplanes manufactured before 1992 having replacement seats installed after 1991. Some (unknown) proportion of seats in this group may have partial 16g performance although no airplane model in this group is 16g-certificated. Note that the sum of Group I and Group II declines over time as these airplanes/seats are retired from passenger service.
- Group III: Airplanes manufactured after 1991. Some (unknown) proportion of seats in this group may have partial 16g performance.
- Group IV: Airplanes manufactured after 1992 and compliant with some parts of 14 CFR 25.562 (certificated partial 16g capability).
- Group V: Airplanes manufactured after 1992 and fully compliant with 14 CFR 25.562 (e.g. certification basis includes Amendment 25–64, or full 16g testing was performed voluntarily). If this proposal were in effect, Group V seats would be projected to increase from approximately 23,000 at year end 1999 to 1.8 million in 2020 (versus approx. 560,000 in 2020 under the ''baseline'' assumption).

Two critical questions are: (1) What is the performance of Group II/III seat installations relative to full 16g and partial 16g installations? (2) How will the composition of Group II/III installations change over time? Will operators continue to upgrade these seats in the absence of rulemaking?

Projected (2000–2020) fatality and serious injury rates are equal to the fatality and injury rates for U.S. 14 CFR part 121 (scheduled and nonscheduled) operations for the period 1984–1998, which is the time period used in Report DOT/FAA/AR–00/13/April 2000, ''A Benefit Analysis for Aircraft 16g Dynamic Seats'' (which has also been placed in the docket and is hereinafter

termed the ''DOT/FAA report''). Although the report evaluated worldwide accidents to determine the degree to which 16g-seats would reduce casualties in a typical accident (note that a typical U.S. accident is not significantly different from a typical non-U.S. accident in terms of accident outcomes), it is important to emphasize that the benefits in this regulatory evaluation are based on the U.S. part 121 accident rate.

The Benefits Section explains the method used to estimate benefits, constructs baseline estimates of the population of affected airplanes, projects the distribution of part 121 seat types for the period 2000–2020 (assuming no future regulatory action), and forecasts future fatality and serious injury rates. The Cost Section explains the methods used to estimate costs and constructs baseline cost estimates for passenger and flight attendant (hereinafter, ''FA'') seats.

A. Benefits Model

Estimates of the safety benefits of 16g-seats are based on a study of 25 impact-related accidents involving airplanes operating under 14 CFR part 121 (or equivalent) during the period 1984–1998. The DOT/FAA report projects that the baseline fatality and serious injury rates for the period 2000–2020 will be 0.2868 and 0.0436 per million enplanements, respectively. (See also Section II of the ASY 16g-seat study.)

Based on engineering assessments of the possible effects of full 16g-seats, Monte Carlo simulations were used to assess a high, median, and low value for the total achievable (net) reduction in fatalities and serious injuries for each accident/scenario. Risk reduction benefits for the U.S. part 121 fleet, then, were estimated in three ways:

First, the DOT/FAA report estimated the number of averted U.S. casualties by assuming that the ratio of U.S./World casualties averted is proportional to the ratio of U.S./World accidents (see Table II.4 in the ASY 16g-seat study). Second, it estimated the number of U.S. casualties averted strictly based on the part 121 accidents studied (Table II.5 in the ASY study). Third, it extrapolated the U.S.-specific data, to U.S. part 121 ground-impact accidents that were not studied.

Baseline risk estimates are computed as follows:

• *Construct an estimate of the future number of domestic enplanements.* Estimates of the number of future enplanements were derived from the FAA Aerospace Forecasts, Fiscal Years 1999–2010; enplanements are projected to increase from 676.9 million in 2000 to 1,450.3 million in 2020. Enplanement totals are then combined with fatality/serious-injury rates and seat distribution to assess risk reduction potential per seat type (see below).

• *Construct a baseline estimate of the distribution of seat types.* This analysis divides the projected population of seats into different groups (see the discussion below) depending on the date of aircraft manufacture and the projected date of seat replacement. The distribution of enplanements across seat groups is assumed to be proportional to the number of seats in each group. Replacement seats are assumed to be distributed according to the estimated proportion of full 16g-, partial 16g-, and 9g-seat certification programs. For example, if 10% of seat certification programs are for 9g-seats, it is assumed approximately 10% of seats installed or replaced will be 9g-seats.

• *Forecast fatality and serious injury rates.* This analysis postulates that the projected rates of fatalities and serious injuries per enplanement during the forecast period are equal to the rates observed during the period 1984 to 1998 (U.S. 14 CFR part 121 fleet only). Key assumptions: (1) The rate is assumed to reflect a 9g baseline, (2) no improvements in historical fatality or injury rates are expected to occur during the forecast period, and (3) the risk reduction potential of 16g-seats is not expected to improve (e.g., due to the introduction of additional cabin safety measures). *Example:* Three-hundred-and-twenty-nine (329) serious injuries were recorded during 14 CFR part 121 operations during the study period 1984 to 1998 (see Table II.3 of the ASY 16g-seat study). In the same period, part 121 operators accumulated 7,540.9 million enplanements. Therefore, the historical (and projected) rate of serious injuries is $329 \div 7{,}540.9 = 0.0436$ per million enplanements.

• *Estimate the reduction in fatalities and serious injuries during the study period (1984–1998). Example:* Based on the DOT/FAA report (part 121 benefits based on worldwide fleet accident characteristics), the fleetwide use of full 16g-seats would have averted 68 fatalities and 79 serious injuries (net) during the study period.

• *Estimate the percentage reduction in fatalities and serious injuries during the study period.* The number of fatalities averted due to 16g-seats divided by the total number of fatalities during the study period yields an estimate of the percentage reduction in fatalities that would be achieved by requiring 16g-seats. Similarly, the number of serious injuries averted due to 16g-seats divided by the total number of serious injuries yields an estimate of the percentage reduction in injuries that would be achieved by requiring 16g-seats. *Example:* There were a total of 329 injuries during the study period (U.S. 14 CFR part 121). According to the DOT/FAA report, 79 serious injuries could have been averted had 16g-seats been installed in the part 121 fleet. Therefore, a 16g-seat requirement could have averted $79/329 = 24\%$ of serious injuries during the study period.

• *Determine adjustment factors for each seat group.* The degree to which a new seat reduces fatality and injury risks is a function of the vintage of seat it is replacing. As noted elsewhere in this study, however, the DOT/FAA report did not estimate the relative performance of full and partial 16g-seats. Aircraft Certification Service engineers provided subjective estimates of the performance of seats in Groups I–V (see discussion below). *Example:* A Group V seat (full compliance with 14 CFR 25.562) has an effectiveness rating of 1.0. Therefore, this type of seat is expected to reduce serious injuries by $1.0 \times 24\% = 24\%$ relative to a 9g-seat. A Group II seat (i.e., does not meet occupant injury criteria) has an effectiveness rating of 0.1, or 10% of the effectiveness of a full 16g-seat. Therefore, Group II seats are expected to reduce serious injuries by $.1 \times 24\% = 2.4\%$ relative to a 9g-seat.

• *Forecast baseline fatality and serious injury rates.* Baseline estimates of the numbers of fatalities and serious injuries for the forecast period are obtained by combining: (1) The baseline (9g) fatality and serious injury rates; (2) the baseline distribution of seat types and enplanements; (3) the risk reduction potential of 16g-seats; and (4) the adjustment factors.

• *Forecast the effect of each option on the distribution of seats.* Potential benefits, then, reflect the degree to which any option alters the future distribution of seat types (relative to the projected baseline distribution). That is, the more the distribution shifts to full 16g- and partial 16g-seats, the lower the expected future rates of fatalities and serious injuries.

The steps outlined above are used to derive baseline estimates of fatalities and serious injuries. The baseline estimates, then, are compared to fatality/serious-injury estimates based on the expected distribution of seats following full implementation of the rule.

Passenger seat benefits—Over the 2000–2020 period of analysis, the proposed requirements would avert 112.1 fatalities and 130.2 serious injuries. Using $3.0 million as the

monetary equivalent of a statistical fatality averted and $0.5 million per serious injury averted, this is equivalent to a benefit of $401.4 million undiscounted, or $131.9 million discounted.

Flight attendant seat benefits—Over the 2000–2020 period, the proposed requirements would avert 2.3 FA fatalities and 2.7 FA serious injuries; this equates to $8.2 million undiscounted, or $2.7 million discounted. However, as delineated below, the FAA believes the direct quantified benefits of averted FA casualties could lead to significant additional benefits in terms of averted passenger casualties (*i.e.,* the value of trained FAs in assisting passengers in emergency egress situations).

B. Determination of Costs

The analysis presented at the 1998 public meeting considered a proposal that would have required full 16g compliance for newly manufactured airplanes and complete retrofit with 16g compatible seats for in-service airplanes (see Table ES–1 in ASY 16g-seat study). Seat replacement costs associated with that proposal would have exceeded significantly those of this SNPRM as a result of incremental costs to recertify seats already installed on aircraft, which would have been required under ''16g-compatibility.'' In addition, the current proposal includes more accurate (in this case, lower) estimates of seat certification costs. The regulatory evaluation for the original 1988 NPRM identified seat weight, seat replacement, and seat certification as the largest sources of incremental costs.

The FAA has chosen a final compliance timeframe in this SNPRM that allows airlines to exercise their own discretion in seat replacement up to 14 years after the rule is enacted, but then ensures that the transport fleet will be upgraded to the 16g-standard. New information provided by seat manufacturers indicates that, at least with respect to passenger seats, the weight and costs of 16g-seats are the same as 9g-seats; in fact, current 16g-seats are in some cases lighter than older seats. In addition, the options considered in this analysis emphasize ''discretionary replacement.'' That is, requiring compliance for in-service aircraft only when operators choose to replace seats (rather than stipulating a short-term mandatory retrofit period). The data show that only about 7.5% of seats would require premature replacement at the end of the 14-year ''discretionary'' period. This results in approximately a two percent increase in costs over that estimated without the 14-year deadline. The FAA requests specific comments on the compliance timeframe proposed for seat replacement. Substantive comments should be accompanied by cost estimates, to the extent possible.

The following discussion outlines the process used to determine baseline passenger and FA seat costs.

The current number of seat certification programs and the current distribution of seat certification programs (9g, partial 16g, full 16g) both based on FAA data, were extrapolated forward using the same rate of growth as the number of seat replacements and installations. That is, the number of seat certification programs in the future is assumed to be a constant fraction of the number of seats projected to be installed/replaced. Information on the average cost of a certification program was obtained from industry sources; these costs were projected into the future under each alternative option and compared to the baseline (*i.e.* voluntary industry action) to determine incremental certification costs.

Passenger seat costs. Industry data indicates an average incremental 16g-seat certification cost of $300,000, which may be amortized over several aircraft types with the same installations; on average, one certification would be applicable to approximately 1,200 seats. The proposed requirement entails no incremental seat replacement costs, since the cost of a new upgraded seat and its installation is the same as for a non-upgraded seat. Current data show that approximately 44% of current programs are for full 16g-, 55% are for partial 16g-, and one percent of programs are for 9g-seats.

Over the 2000–2020 period of analysis, total costs attributable to upgrading passenger seats equal $232.9 million undiscounted, or $105.4 million discounted.

Flight attendant seat costs. The same process used to estimate incremental passenger seat certification costs was used to estimate incremental FA seat certification costs.

Current and projected number of certification programs. The current number of FA seat certification programs was estimated from industry sources and extrapolated using the process described above. As before, the ratio of certification programs to seats installed/replaced is assumed to be roughly constant during the 2000–2020 forecast period. Following the assumption used in the 1998 regulatory evaluation, the number of FA seats are assumed to equal two percent of passenger seats; that is, one FA seat per 40–50 passenger seats.

Current and projected distribution of FA seat certification programs. The current distribution of FA seat certification programs was determined from data obtained from industry: (1) Full 16g, approximately 33%; (2) partial 16g, approximately 42%; (3) 9g, approximately 25%. Again, in the absence of additional rulemaking, this distribution is assumed to be constant during the forecast period.

Full 16g-certification program costs for FA seats are approximately $250,000 per program. The average replacement cost is $5,400 per seat and $85 for installation. This analysis assumes that FA seats are rarely replaced, since they usually last the life of the airframe. Additional fuel costs associated with increased weight equals approximately $13 per seat per year.

Over the 2000–2020 period of analysis, total costs attributable to upgrading FA seats equal $285.7 million undiscounted, or $139.3 million discounted.

Upcoming FAA Certification-Streamlining Efforts

As outlined in the Related Activity section of this SNPRM, the FAA is initiating changes to the airplane seat certification process that are expected to result in reductions in required testing for both passenger and FA seats. These streamlining efforts may eliminate some dynamic seat tests and make other tests simpler to perform. For example, in-service changes or variation in design that currently require a full-scale test may instead be substantiated through a component level test(s). Such tests are currently being developed and evaluated to address both lumbar and head injury criteria (HIC), which may have relevance for FA seat programs in particular. In either of these cases, the scope of the test program would be reduced as would the associated costs.

Part of the overall objective of the streamlining program is to capitalize on the work and expertise of the seat manufacturers, and prevent duplicate review by the FAA or airframe manufacturer(s). The current process often results in Technical Standard Order (TSO) qualification and installation qualification requiring separate, rather than complementary, effort. This administrative cost is significant and, if reduced or eliminated, would reduce the overall certification burden. Note that in addition to reducing specific certification (*e.g.* testing) costs, streamlining would reduce the time required to gain seat approval, which

often is cited as a major component of certification costs.

The aforementioned benefits expected to accrue from the streamlining initiatives would be more heavily weighted to passenger seat programs than to FA seat programs, since the latter tend to have fewer tests per program. However, all the reductions in certification procedures specified would also benefit FA seat programs and would have a substantive effect on reducing costs of those programs as well. Once streamlining is implemented, the FAA believes a significant reduction in tests for both FA seats and passenger seats would be achieved. Although a definitive estimate of the cost savings that a reduction in testing translates to is not yet determinable, the FAA believes it could potentially result in a considerable reduction in nonrecurring certification program costs.

The FAA requests specific comments on how we might streamline certification costs. Substantive comments should be accompanied by cost estimates to the extent possible.

Benefit/Cost Summary

As previously stated, the FAA estimates that this proposed rule to require upgraded passenger and FA seats for both new and in-service airplanes would statistically avert approximately 114 fatalities and 133 serious injuries during a 20-year period following the effective date of the rule. At $3.0 million per statistical fatality averted and $0.5 million per statistical serious injury averted, the estimated benefits equal $409.6 million, or $134.6 million at present value (year 2000 dollars). The total associated costs are approximately $518.6 million, or $244.7 million at present value. These costs are based on current certification programs and testing methods. Implementation of the streamlining procedures previously noted would no doubt reduce the estimated costs.

Of the $518.6 million in undiscounted total costs for the proposed rule, $285.7 million, or 55%, are attributed to upgrading FA seats. Compared to passenger seats, FA seats have relatively high certification costs, as well as significant variable costs to replace. The high replacement costs of FA seats occurs because the proposed rule would require these seats to be upgraded at the same time as passenger seats, whereas FA seats normally last the life-time of the airplane. However, the higher costs are offset by increased per-seat benefits since the seats prevent injury to the FA and therefore permit them to perform safety functions and help save the lives of passengers (see further discussion below on the benefits attributable to FAs).

The proposed rule allows passenger seats to be upgraded at a normal replacement time up to 14 years after the publication of the rule. Due to technological improvements, there is essentially no difference in weight or cost between a 9g- and 16g-passenger seat. The only additional cost of upgrading passenger seats in the normal replacement period is the higher expense of a 16g-certification program. Unlike the passenger seat upgrade, the entire cost of upgrading FA seats is attributed to the rule. The cost of replacing FA seats includes seat certification, procurement, installation, and increased fuel burn because of the higher operating weight.

Because slightly more than half of the estimated cost of this proposal is attributed to upgrading FA seats, the FAA considered an alternative that would have required upgrading only passenger seats at the normal replacement time. The FAA rejected that alternative, as it would have resulted in FA seats being less safe than passenger seats. FAs have the critical responsibility to perform life-saving duties in precisely the kind of impact-accident wherein 16g-seats enhance the survivability of passengers.

The FAA estimated the additional number of passenger-averted-fatalities (i.e., those attributable to the actions of FA's who survived impact as a result of improved 16g-seats) required to increase the value of benefits sufficient to equal costs. In the data presented above, the undiscounted costs exceed benefits by $109 million. As noted in the benefits section, the proposed requirements would avert 2.3 FA fatalities and 2.7 FA serious injuries, resulting in five additional functioning FAs. If those five FAs assist 36 passengers, thus averting 36 potential fatalities (or, seven per FA), the estimated benefits would equal the costs (i.e., $109 million divided by $3 million (value of averted fatality) = approximately 36 averted fatalities).

The evidence supports the FAA position that the actions of five additional functioning FAs can avert at least an additional 36 fatalities in one or more survivable accidents. A majority (perhaps 60–70 percent) of the 25 total accidents evaluated were survivable in that the initial impact did not kill or severely incapacitate all occupants onboard the aircraft. In 11 of the survivable accidents, FAs were instrumental in assisting passengers and/or shouting instructions to passengers during the emergency evacuation(s). After excluding three accidents in which the accident reports only generalized the FA's actions, the FAA evaluated eight accidents to determine how many additional passengers were saved from fatal or serious injury by the actions of able-bodied FAs. One accident in particular clearly illustrates the FAs crucial role(s). In that accident, nearly three quarters of the passengers survived the initial impact, but most were seriously injured. As noted on pg. A–179 of the DOT/FAA report: ''The prompt and successful evacuation of 63 persons out of the passenger cabin during increasing smoke and extensive fire was directly due to the behavior of the cabin crew, in spite of their injuries. The two active cabin attendants played a significant and unquestionable role in preventing the panic and organizing the movement of passengers to the exits.'' In fact, in the eight sample accidents, 13 FAs were responsible for the safe egress of approximately 140 passengers, or about 11 passengers per FA.

The DOT/FAA report provides additional evidence of the implicit value of FAs, but from the opposite perspective, i.e., passenger-survival outcomes in accidents wherein FAs were incapacitated. In the report, there were three U.S. survivable accidents in which six FAs died or were seriously injured from impact; and, in these accidents, 44 passengers died primarily from fire or smoke inhalation. The FAA cannot state with certainty how many of these passengers could have been saved by the FAs had the latter survived initial impact(s); however, in the light of the survival outcomes described above (with able-bodied FAs) the FAA believes most of the cited 44 passenger fatalities could have been averted. And, with the incorporation of current fire protection standards into new-production airplanes (increasing time-margins for safe egress), surviving able-bodied FAs could save even more lives in future accidents.

Based on the accident circumstances just described, the FAA strongly believes the projected five additional FAs would save at least an additional 36 passengers (*i.e.*, seven per FA) in future accidents over the next 20 years. Consequently, the costs of retrofitting the FA seats are justified. The FAA maintains this is a reasonable contention, given the conservative methodology applied-*i.e.* including only those survivable accidents in which FA's actions and/or their ''capability-states'' were clearly described or determined.

The FAA is aware of some studies demonstrating the value of cabin crew during emergency evacuations and

request comments with documented evidence regarding the value of FAs in airplane evacuations.

In conclusion, since the 16g-seat-derived benefits of averted passenger and FA casualties combined with the additional passenger lives saved by able-bodied FAs exceed the total seat-replacement costs, the FAA deems this SNPRM to be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

There are approximately 100 part 121 operators in the potential pool of small entities. The FAA performed a detailed analysis of the economic impacts on 33 of these operators who clearly: (1) Had less than 1,500 employees (the size threshold for classification as a small entity); (2) were not subsidiaries of larger organizations; and, (3) reported operating revenue to the Department of Transportation. The FAA believes these 33 are representative of the affected small firms.

The FAA's methodology in assessing economic impact for small entities for this proposed rule is as follows. Recent data indicates that airplane seats are replaced about every 14 years. The FAA assumed that the current fleet inventory of passenger seats (and now, by virtue of this proposal, flight attendant seats also) would, on average, need replacement in seven years (for cost analysis purposes, operators on average would need to retrofit halfway into the 14-year replacement cycle; this is obviously a conservative assumption). These retrofit costs were then annualized using the sinking-fund methodology whereby an annual amount is set aside each year for the relevant number of years (in this case, seven years) accumulating to the required capital expenditure. The FAA then compared each firm's required annual seat replacement cost to the firm's annual operating revenue. The calculated annual-cost(s)-as-a-percent-of-annual-operating-revenue(s) ranged from lows of less than one-tenth of one percent (in 14 of the firms) to a maximum of only 1.1 percent (in one firm). Based on the described expense/revenue relationships, the FAA believes that the proposed rule would ''not have a significant economic impact on a substantial number of small entities.'' The FAA invites comments on the estimated small entity impact from interested and affected parties.

International Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States. The net effect of this SNPRM is to raise the cost and value of exported and imported compliant transport category airplanes. The FAA believes the costs are offset by the value and thus the rule has a neutral impact on international trade.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this proposed rule does not contain a significant intergovernmental mandate.

Regulations Affecting Interstate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in title 14 of the CFR in manner affecting interstate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions as he or she considers appropriate. Because this proposed rule would apply to transport category airplanes and their subsequent operation, it could, if adopted, affect interstate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently in interstate operations in Alaska.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this notice of proposed rulemaking would not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In

accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the proposed rulemaking has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this proposed rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Safety, Transportation.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 121 of Title 14, Code of Federal Regulations (14 CFR part 121) as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

2. Amend § 121.311 by adding paragraphs (j) and (k) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

* * * * *

(j) On and after [insert date four years after effective date of final rule], no person may operate a transport category airplane type certificated after January 1, 1958, in passenger-carrying operations under this part unless—

(1) For airplanes manufactured on and after [insert date four years after the effective date of final rule], all passenger and all flight attendant seats on the airplane meet the requirements of § 25.562 of this chapter in effect on June 16, 1988.

(2) For airplanes manufactured before [insert date four years after the effective date of final rule], all passenger seats and all flight attendant seats on the airplane meet the requirements of § 25.562 of this chapter in effect on June 16, 1988, after any passenger seat or any flight attendant seat on that airplane is replaced.

(k) On and after [insert date 14 years after the effective date of final rule], no person may operate a transport category airplane type certificated after January 1, 1958, in passenger-carrying operations under this part unless all passenger and all flight attendant seats on the airplane meet the requirements of § 25.562 of this chapter in effect on June 16, 1988.

Issued in Washington, DC, on September 26, 2002.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. 02–25051 Filed 10–3–02; 8:45 am]

BILLING CODE 4910–13–P

Federal Register

Friday,
October 4, 2002

Part III

Department of Education

Experimental and Innovative Training; Notice

DEPARTMENT OF EDUCATION

Experimental and Innovative Training

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for the Office of Special Education and Rehabilitative Services proposes a priority under the Experimental and Innovative Training program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2003 and later years. We take this action to focus on training in an identified area of national need. We intend the priority to develop and disseminate rehabilitation training curriculum modules designed to increase student contact with individuals with disabilities that may be incorporated into rehabilitation training programs. The purpose of the curriculum modules is to enhance students' understanding of disability culture and counselor skills that support the empowerment of vocational rehabilitation (VR) customers with disabilities.

DATES: We must receive your comments on or before November 4, 2002.

ADDRESSES: Address all comments about this proposed priority to Edward Smith, U.S. Department of Education, 400 Maryland Ave, SW., Switzer Building, room 3325, Washington, DC 20202–2649. If you prefer to send your comments through the Internet, use the following address: *Edward.Smith@ed.gov*.

You must include the term ''Experimental and Innovative Training'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Edward Smith. Telephone: (202) 205–8926 or via Internet: *Edward.Smith@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–8133.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed priority. We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 3414, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

The Experimental and Innovative Training program provides financial assistance—

(1) To develop new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of those new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; and

(2) To develop new and improved methods of training rehabilitation personnel so that there may be a more effective delivery of rehabilitation services by State and other rehabilitation agencies.

We propose this priority to increase the knowledge and skills of rehabilitation personnel in disability culture and customer empowerment. This proposed priority would support the development of rehabilitation training curriculum modules that provide students with the opportunity to interact with individuals with disabilities in a non-hierarchical (student counselor to consumer) relationship. This will help to foster an increase in the students' knowledge of and skills regarding the unique social and cultural experiences of individuals with disabilities and of the behaviors that enhance empowerment from the perspective of individuals with disabilities.

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority: Proposed Priority: Curriculum Modules: Experiential Activities to Enhance Rehabilitation Empowerment

Background: Over the history of the Rehabilitation Act of 1973, as amended, groups of individuals with disabilities have expressed concern through public hearings regarding the expertise of counselors of the public VR system to understand the experience of individuals with disabilities and to provide assistance to those individuals to develop the skills of empowerment. The concept of empowerment is defined in a number of ways in the professional literature. For the purposes of this priority, empowerment is defined as individuals having the information, education, training, confidence, and high expectations needed to make effective employment and life-related decisions.

One method of increasing the VR counselor's understanding of individuals with disabilities is to provide opportunities for individuals preparing for careers in rehabilitation to interact with people with disabilities in a variety of settings. A review of rehabilitation counseling training

programs funded by the Rehabilitation Services Administration (RSA) indicates that few programs provide curriculum modules that enable students to interact with individuals with disabilities in settings that do not involve a counseling relationship.

Priority: This priority supports projects that provide experiential activities that increase the amount of personal contact and experience of VR students with individuals with disabilities in non-counseling settings. This priority is intended to support the design, piloting, evaluation, and dissemination of course modules to be incorporated into rehabilitation training program curricula that enhance student understanding of the culture of individuals with disabilities and of the behaviors that enhance empowerment from the perspective of individuals with disabilities.

Projects funded under this priority must incorporate experiential activities in which students interact directly with persons with disabilities in situations other than traditional and hierarchical student counselor to consumer relationships.

Projects must include an evaluation of the impact of the course module or modules and a dissemination plan to be carried out in the last year of the project period.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Applicable Program Regulations: 34 CFR parts 385 and 387.

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(Catalog of Federal Domestic Assistance Number 84.263 Experimental and Innovative Training)

Program Authority: 29 U.S.C. 772.

Dated: October 1, 2002.

Robert H. Pasternack,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 02–25326 Filed 10–3–02; 8:45 am]

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To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes. (Oct. 1, 2002; 116 Stat. 1469)

H.R. 4687/P.L. 107–231

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H.R. 5157/P.L. 107–232

To amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes. (Oct. 1, 2002; 116 Stat. 1478)

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To amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering. (Oct. 1, 2002; 116 Stat. 1480)

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