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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–129–3]

Mexican Fruit Fly; Addition of Regulated Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by adding a portion of San Diego County, CA, to the existing regulated area and restricting the interstate movement of regulated articles from that area. This action is necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States.

DATES: This interim rule was effective March 4, 2003. We will consider all comments that we receive on or before May 9, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–129–3, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–129–3. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–129–3'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly (*Anastrepha ludens*) is a destructive pest of citrus and many other types of fruit. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas.

The Mexican fruit fly regulations, contained in 7 CFR 301.64 through 301.64–10 (referred to below as the regulations), were established to prevent the spread of the Mexican fruit fly to noninfested areas of the United States. The regulations impose restrictions on the interstate movement of regulated articles from the regulated areas.

In an interim rule effective on January 15, 2003, and published in the **Federal Register** on January 21, 2003 (68 FR 2679–2680, Docket No. 02–129–1), we amended the regulations by adding a portion of San Diego County, CA, as a regulated area. In this interim rule, we are designating an additional portion of San Diego County, CA, as a regulated area.

Section 301.64–3 provides that the Deputy Administrator for Plant Protection and Quarantine, Animal and Plant Health Inspection Service (APHIS), shall list as a regulated area each quarantined State, or each portion of a quarantined State, in which the Mexican fruit fly has been found by an inspector, in which the Deputy Administrator has reason to believe the Mexican fruit fly is present, or that the Deputy Administrator considers necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs.

Less than an entire quarantined State is designated as a regulated area only if the Deputy Administrator determines that the State has adopted and is enforcing a quarantine or regulation that imposes restrictions on the intrastate movement of the regulated articles that are substantially the same as those that are imposed with respect to the interstate movement of the articles and the designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

Recent trapping surveys by inspectors of California State and county agencies and by APHIS inspectors reveal that an additional portion of San Diego County, CA, is infested with the Mexican fruit fly.

Accordingly, to prevent the spread of the Mexican fruit fly to noninfested areas of the United States, we are amending the regulations in § 301.64–3 by adding that portion of San Diego County, CA, to the existing regulated area for the Mexican fruit fly. The addition is described in detail in the rule portion of this document. The Deputy Administrator has determined that it is not necessary to designate the entire State of California as a regulated area.

As noted previously, the regulations in § 301.64–3 refer to the listing of regulated areas within quarantined States. Quarantined States are listed in § 301.64(a). When we published an interim rule quarantining a portion of Los Angeles County, CA, because of Mexican fruit fly (*see* 67 FR 78127–78128, Docket No. 02–021–1, published December 23, 2002), we should have amended § 301.64(a) to designate California as a quarantined State, but did not. (Prior to that December 2002 interim rule, the only areas regulated for the Mexican fruit fly were portions of Texas.) Therefore, in this rule we are amending § 301.64(a) to designate California as a quarantined State for Mexican fruit fly.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the Mexican fruit fly from spreading to noninfested areas of the United States. Under these

circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the Mexican fruit fly regulations by designating an additional portion of San Diego County, CA, as a regulated area and restricting the interstate movement of regulated articles from that area. This action is necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

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

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The site-specific environmental assessment provides a basis for the conclusion that the implementation of integrated pest management to eradicate the Mexican fruit fly will not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this document). In addition, copies may be obtained from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, 7754, and 7760; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

§ 301.64 [Amended]

2. In § 301.64, paragraph (a) is amended by removing the words ''State of'' and adding the words ''States of California and'' in their place.

3. In § 301.64–3, paragraph (c) , under the heading ''California'', the entry for San Diego County is revised to read as follows:

§ 301.64–3 Regulated areas.

* * * * *

(c) * * *

California

* * * * *

San Diego County: That portion of San Diego County in the Valley Center area bounded by a line as follows: Beginning at the intersection of State Highway 76 and Rice Canyon Road; then north on Rice Canyon Road to Huntley Road; then northeast on Huntley Road to Alex Road; then northeast on Alex Road to Rainbow Crest Road; then north, northwest, and north on Rainbow Crest Road to Rainbow Heights Road; then north on Rainbow Heights Road to Arouba Road; then southeast on Arouba Road to Aruba Road; then northeast on Aruba Road to Pala Temecula Road; then north on Pala Temecula Road to the San Diego County boundary line; then east along the San Diego County boundary line to the Cleveland National Forest boundary line; then south, east, south, east, south, east, south, northeast, and southeast along the Cleveland National Forest boundary line to Nate Harrison Grade Road; then southwest, northwest, southeast, west, southeast, and southwest on Nate Harrison Grade Road to Mesa Drive North; then southeast, northeast, southwest, northeast, and southwest on Mesa Drive North to State Highway 76; then east on State Highway 76 to Valley Center Road; then south and west on Valley Center Road to North Lake Wohlford Road; then south on North Lake Wohlford Road to Woods Valley Road; then west on Woods Valley Road to Valley Center Road; then north on Valley Center Road to Mirar De Valle Road; then west on Mirar De Valle Road to Alps Way; then west on Alps Way to Cougar Pass Road; then northwest on Cougar Pass Road to Meadow Glen Way East; then west, north, west, and southwest on Meadow Glen Way East to Mountain Meadow Road; then north on Mountain Meadow Road to Glenmeade Way; then west and southwest on Glenmeade Way to Sage Hill Way; then west on Sage Hill Way to Meadow Glen Way West; then north, west, and

northwest on Meadow Glen Way West to Welk Highland Drive; then northwest on Welk Highland Drive to Welk View Drive; then west, north, southwest, north, southwest, and west on Welk View Drive to Champagne Boulevard; then north on Champagne Boulevard to Old Highway 395; then north on Old Highway 395 to Dulin Road; then northeast on Dulin Road to Shearer Crossing; then north on Shearer Crossing to Pankey Road; then north on Pankey Road to State Highway 76; then northeast on State Highway 76 to the point of beginning.

* * * * *

Done in Washington, DC, this 4th day of March 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–5594 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9043]

RIN 1545–AY26

Disallowance of Deductions and Credits for Failure To File Timely Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the disallowance of deductions and credits for nonresident alien individuals and foreign corporations (collectively, foreign taxpayers) that fail to file a timely U.S. income tax return. The regulations affect foreign taxpayers that fail to file a return by the appropriate deadlines.

DATES: *Effective Date:* These regulations are effective March 10, 2003.

Applicability Date: For dates of applicability, *see* §§ 1.874–1(b)(4) and 1.882–4(a)(3)(iv) of these regulations.

FOR FURTHER INFORMATION CONTACT: Nina E. Chowdhry, (202) 622–3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. On January 29, 2002, final and temporary regulations (TD 8981) relating to the disallowance of deductions and credits for foreign taxpayers that fail to file a timely U.S. income tax return under sections 874 and 882 of the Internal Revenue Code (Code) were published in the **Federal Register** (67 FR 4173). A notice of proposed rulemaking (REG–107100–00) cross-referencing the temporary regulations was also published in the **Federal Register** (67 FR 4217). No public hearing was requested or held. No written or electronic comments responding to the notice of proposed rulemaking were received. The proposed regulations are adopted by this Treasury decision, and the corresponding temporary regulations are removed.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Nina Chowdhry of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entries for ''Section 1.874–1T'' and ''Section 1.882–4T'' and adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.874–1 also issued under 26 U.S.C. 874. * * *

Section 1.882–4 also issued under 26 U.S.C. 882(c). * * *

Par. 2. Section 1.874–1, paragraphs (b)(2) through (b)(4) are revised to read as follows:

§ 1.874–1 Allowance of deductions and credits to nonresident alien individuals.

* * * * *

(b) * * *

(2) *Waiver.* The filing deadlines set forth in paragraph (b)(1) of this section may be waived if the nonresident alien individual establishes to the satisfaction of the Commissioner or his or her delegate that the individual, based on the facts and circumstances, acted reasonably and in good faith in failing to file a U.S. income tax return (including a protective return (as described in paragraph (b)(6) of this section)). For this purpose, a nonresident alien individual shall not be considered to have acted reasonably and in good faith if the individual knew that he or she was required to file the return and chose not to do so. In addition, a nonresident alien individual shall not be granted a waiver unless the individual cooperates in determining his or her U.S. income tax liability for the taxable year for which the return was not filed. The Commissioner or his or her delegate shall consider the following factors in determining whether the nonresident alien individual, based on the facts and circumstances, acted reasonably and in good faith in failing to file a U.S. income tax return—

(i) Whether the individual voluntarily identifies himself or herself to the Internal Revenue Service as having failed to file a U.S. income tax return before the Internal Revenue Service discovers the failure to file;

(ii) Whether the individual did not become aware of his or her ability to file a protective return (as described in paragraph (b)(6) of this section) by the deadline for filing the protective return;

(iii) Whether the individual had not previously filed a U.S. income tax return;

(iv) Whether the individual failed to file a U.S. income tax return because, after exercising reasonable diligence (taking into account his or her relevant experience and level of sophistication), the individual was unaware of the necessity for filing the return;

(v) Whether the individual failed to file a U.S. income tax return because of intervening events beyond the individual's control; and

(vi) Whether other mitigating or exacerbating factors existed.

(3) *Examples.* The following examples illustrate the provisions of paragraph (b). In all examples, A is a nonresident alien individual and uses the calendar year as A's taxable year. The examples are as follows:

Example 1. Nonresident alien individual discloses own failure to file. In Year 1, A became a limited partner with a passive investment in a U.S. limited partnership that was engaged in a U.S. trade or business. During Year 1 through Year 4, A incurred losses with respect to A's U.S. partnership interest. A's foreign tax advisor incorrectly concluded that because A was a limited partner and had only losses from A's partnership interest, A was not required to file a U.S. income tax return. A was aware neither of A's obligation to file a U.S. income tax return for those years nor of A's ability to file a protective return for those years. A had never filed a U.S. income tax return before. In Year 5, A began realizing a profit rather than a loss with respect to the partnership interest and, for this reason, engaged a U.S. tax advisor to handle A's responsibility to file U.S. income tax returns. In preparing A's U.S. income tax return for Year 5, A's U.S. tax advisor discovered that returns were not filed for Year 1 through Year 4. Therefore, with respect to those years for which applicable filing deadlines in paragraph (b)(1) of this section were not met, A would be barred by paragraph (a) of this section from claiming any deductions that otherwise would have given rise to net operating losses on returns for these years, and that would have been available as loss carryforwards in subsequent years. At A's direction, A's U.S. tax advisor promptly contacted the appropriate examining personnel and cooperated with the Internal Revenue Service in determining A's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 1 through Year 4 and by making A's books and records available to an Internal Revenue Service examiner. A has met the standard described in paragraph (b)(2) of this section for waiver of any applicable filing deadlines in paragraph (b)(1) of this section.

Example 2. Nonresident alien individual refuses to cooperate. Same facts as in Example 1, except that while A's U.S. tax advisor contacted the appropriate examining personnel and filed the appropriate income tax returns for Year 1 through Year 4, A refused all requests by the Internal Revenue Service to provide supporting information (for example, books and records) with respect to those returns. Because A did not cooperate in determining A's U.S. tax liability for the taxable years for which an income tax return was not timely filed, A is not granted a waiver as described in paragraph (b)(2) of this section of any applicable filing deadlines in paragraph (b)(1) of this section.

Example 3. Nonresident alien individual fails to file a protective return. Same facts as in Example 1, except that in Year 1 through Year 4, A also consulted a U.S. tax advisor, who advised A that it was uncertain whether U.S. income tax returns were necessary for those years and that A could protect A's right subsequently to claim the loss carryforwards by filing protective returns under paragraph (b)(6) of this section. A did not file U.S. income tax returns or protective returns for those years. A did not present evidence that intervening events beyond A's control prevented A from filing an income tax return, and there were no other mitigating factors. A has not met the standard described in paragraph (b)(2) of this section for waiver of any applicable filing deadlines in paragraph (b)(1) of this section.

Example 4. Nonresident alien with effectively connected income. In Year 1, A, a computer programmer, opened an office in the United States to market and sell a software program that A had developed outside the United States. A had minimal business or tax experience internationally, and no such experience in the United States. Through A's personal efforts, U.S. sales of the software produced income effectively connected with a U.S. trade or business. A, however, did not file U.S. income tax returns for Year 1 or Year 2. A was aware neither of A's obligation to file a U.S. income tax return for those years, nor of A's ability to file a protective return for those years. A had never filed a U.S. income tax return before. In November of Year 3, A engaged U.S. counsel in connection with licensing software to an unrelated U.S. company. U.S. counsel reviewed A's U.S. activities and advised A that A should have filed U.S. income tax returns for Year 1 and Year 2. A immediately engaged a U.S. tax advisor who, at A's direction, promptly contacted the appropriate examining personnel and cooperated with the Internal Revenue Service in determining A's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 1 and Year 2 and by making A's books and records available to an Internal Revenue Service examiner. A has met the standard described in paragraph (b)(2) of this section for waiver of any applicable filing deadlines in paragraph (b)(1) of this section.

Example 5. IRS discovers nonresident alien's failure to file. In Year 1, A, a computer programmer, opened an office in the United States to market and sell a software program that A had developed outside the United States. Through A's personal efforts, U.S. sales of the software produced income effectively connected with a U.S. trade or business. A had extensive experience conducting similar business activities in other countries, including making the appropriate tax filings. A, however, was aware neither of A's obligation to file a U.S. income tax return for those years, nor of A's ability to file a protective return for those years. A had never filed a U.S. income tax return before. Despite A's extensive experience conducting similar business activities in other countries, A made no effort to seek advice in connection with A's U.S. tax obligations. A failed to file either U.S. income tax returns or protective returns for Year 1 and Year 2. In November of Year 3, an Internal Revenue Service examiner asked A for an explanation of A's failure to file U.S. income tax returns. A immediately engaged a U.S. tax advisor, and cooperated with the Internal Revenue Service in determining A's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 1 and Year 2 and by making A's books and records available to the examiner. A did not present evidence that intervening events beyond A's control prevented A from filing a return, and there were no other mitigating factors. A has not met the standard described in paragraph (b)(2) of this section for waiver of any applicable filing deadlines in paragraph (b)(1) of this section.

Example 6. Nonresident alien with prior filing history. A began a U.S. trade or business in Year 1 as a sole proprietorship. A's tax advisor filed the appropriate U.S. income tax returns for Year 1 through Year 6, reporting income effectively connected with A's U.S. trade or business. In Year 7, A replaced this tax advisor with a tax advisor unfamiliar with U.S. tax law. A did not file a U.S. income tax return for any year from Year 7 through Year 10, although A had effectively connected income for those years. A was aware of A's ability to file a protective return for those years. In Year 11, an Internal Revenue Service examiner contacted A and asked for an explanation of A's failure to file income tax returns after Year 6. A immediately engaged a U.S. tax advisor and cooperated with the Internal Revenue Service in determining A's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 7 through Year 10 and by making A's books and records available to the examiner. A did not present evidence that intervening events beyond A's control prevented A from filing a return, and there were no other mitigating factors. A has not met the standard described in paragraph (b)(2) of this section for waiver of any applicable filing deadlines in paragraph (b)(1) of this section.

(4) *Effective date.* Paragraphs (b)(2) and (3) of this section are applicable to open years for which a request for a waiver is filed on or after January 29, 2002.

* * * * *

§ 1.874–1T [Removed]

Par. 3. Section 1.874–1T is removed.

Par. 4. Section 1.882–4, paragraphs (a)(3)(ii) through (a)(3)(iv) are revised to read as follows:

§ 1.882–4 Allowance of deductions and credits to foreign corporations.

(a) * * *

(3) * * *

(ii) The filing deadlines set forth in paragraph (a)(3)(i) of this section may be waived if the foreign corporation establishes to the satisfaction of the Commissioner or his or her delegate that the corporation, based on the facts and circumstances, acted reasonably and in good faith in failing to file a U.S. income tax return (including a protective return (as described in paragraph (a)(3)(vi) of this section)). For this purpose, a foreign corporation shall not be considered to have acted reasonably and in good faith

if it knew that it was required to file the return and chose not to do so. In addition, a foreign corporation shall not be granted a waiver unless it cooperates in the process of determining its income tax liability for the taxable year for which the return was not filed. The Commissioner or his or her delegate shall consider the following factors in determining whether the foreign corporation, based on the facts and circumstances, acted reasonably and in good faith in failing to file a U.S. income tax return—

(A) Whether the corporation voluntarily identifies itself to the Internal Revenue Service as having failed to file a U.S. income tax return before the Internal Revenue Service discovers the failure to file;

(B) Whether the corporation did not become aware of its ability to file a protective return (as described in paragraph (a)(3)(vi) of this section) by the deadline for filing a protective return;

(C) Whether the corporation had not previously filed a U.S. income tax return;

(D) Whether the corporation failed to file a U.S. income tax return because, after exercising reasonable diligence (taking into account its relevant experience and level of sophistication), the corporation was unaware of the necessity for filing the return;

(E) Whether the corporation failed to file a U.S. income tax return because of intervening events beyond its control; and

(F) Whether other mitigating or exacerbating factors existed.

(iii) The following examples illustrate the provisions of this section. In all examples, FC is a foreign corporation and uses the calendar year as its taxable year. The examples are as follows:

Example 1. Foreign corporation discloses own failure to file. In Year 1, FC became a limited partner with a passive investment in a U.S. limited partnership that was engaged in a U.S. trade or business. During Year 1 through Year 4, FC incurred losses with respect to its U.S. partnership interest. FC's foreign tax director incorrectly concluded that because it was a limited partner and had only losses from its partnership interest, FC was not required to file a U.S. income tax return. FC's management was aware neither of FC's obligation to file a U.S. income tax return for those years, nor of its ability to file a protective return for those years. FC had never filed a U.S. income tax return before. In Year 5, FC began realizing a profit rather than a loss with respect to its partnership interest and, for this reason, engaged a U.S. tax advisor to handle its responsibility to file U.S. income tax returns. In preparing FC's income tax return for Year 5, FC's U.S. tax advisor discovered that returns were not filed for Year 1 through Year 4. Therefore, with respect to those years for which applicable filing deadlines in paragraph (a)(3)(i) of this section were not met, FC would be barred by paragraph (a)(2) of this section from claiming any deductions that otherwise would have given rise to net operating losses on returns for those years, and that would have been available as loss carryforwards in subsequent years. At FC's direction, its U.S. tax advisor promptly contacted the appropriate examining personnel and cooperated with the Internal Revenue Service in determining FC's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 1 through Year 4 and by making FC's books and records available to an Internal Revenue Service examiner. FC has met the standard described in paragraph (a)(3)(ii) of this section for waiver of any applicable filing deadlines in paragraph (a)(3)(i) of this section.

Example 2. Foreign corporation refuses to cooperate. Same facts as in *Example 1,* except that while FC's U.S. tax advisor contacted the appropriate examining personnel and filed the appropriate income tax returns for Year 1 through Year 4, FC refused all requests by the Internal Revenue Service to provide supporting information (for example, books and records) with respect to those returns. Because FC did not cooperate in determining its U.S. tax liability for the taxable years for which an income tax return was not timely filed, FC is not granted a waiver as described in paragraph (a)(3)(ii) of this section of any applicable filing deadlines in paragraph (a)(3)(i) of this section.

Example 3. Foreign corporation fails to file a protective return. Same facts as in *Example 1,* except that in Year 1 through Year 4, FC's tax director also consulted a U.S. tax advisor, who advised FC's tax director that it was uncertain whether U.S. income tax returns were necessary for those years and that FC could protect its right subsequently to claim the loss carryforwards by filing protective returns under paragraph (a)(3)(vi) of this section. FC did not file U.S. income tax returns or protective returns for those years. FC did not present evidence that intervening events beyond FC's control prevented it from filing an income tax return, and there were no other mitigating factors. FC has not met the standard described in paragraph (a)(3)(ii) of this section for waiver of any applicable filing deadlines in paragraph (a)(3)(i) of this section.

Example 4. Foreign corporation with effectively connected income. In Year 1, FC, a technology company, opened an office in the United States to market and sell a software program that FC had developed outside the United States. FC had minimal business or tax experience internationally, and no such experience in the United States. Through FC's direct efforts, U.S. sales of the software produced income effectively connected with a U.S. trade or business. FC, however, did not file U.S. income tax returns for Year 1 or Year 2. FC's management was aware neither of FC's obligation to file a U.S. income tax return for those years, nor of its ability to file a protective return for those years. FC had never filed a U.S. income tax return before. In January of Year 4, FC engaged U.S. counsel in connection with licensing software to an unrelated U.S. company. U.S. counsel reviewed FC's U.S. activities and advised FC that it should have filed U.S. income tax returns for Year 1 and Year 2. FC immediately engaged a U.S. tax advisor who, at FC's direction, promptly contacted the appropriate examining personnel and cooperated with the Internal Revenue Service in determining FC's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 1 and Year 2 and by making FC's books and records available to an Internal Revenue Service examiner. FC has met the standard described in paragraph (a)(3)(ii) of this section for waiver of any applicable filing deadlines in paragraph (a)(3)(i) of this section.

Example 5. IRS discovers foreign corporation's failure to file. In Year 1, FC, a technology company, opened an office in the United States to market and sell a software program that FC had developed outside the United States. Through FC's direct efforts, U.S. sales of the software produced income effectively connected with a U.S. trade or business. FC had extensive experience conducting similar business activities in other countries, including making the appropriate tax filings. However, FC's management was aware neither of FC's obligation to file a U.S. income tax return for those years, nor of its ability to file a protective return for those years. FC had never filed a U.S. income tax return before. Despite FC's extensive experience conducting similar business activities in other countries, it made no effort to seek advice in connection with its U.S. tax obligations. FC failed to file either U.S. income tax returns or protective returns for Year 1 and Year 2. In January of Year 4, an Internal Revenue Service examiner asked FC for an explanation of FC's failure to file U.S. income tax returns. FC immediately engaged a U.S. tax advisor, and cooperated with the Internal Revenue Service in determining FC's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 1 and Year 2 and by making FC's books and records available to the examiner. FC did not present evidence that intervening events beyond its control prevented it from filing a return, and there were no other mitigating factors. FC has not met the standard described in paragraph (a)(3)(ii) of this section for waiver of any applicable filing deadlines in paragraph (a)(3)(i) of this section.

Example 6. Foreign corporation with prior filing history. FC began a U.S. trade or business in Year 1. FC's tax advisor filed the appropriate U.S. income tax returns for Year 1 through Year 6, reporting income effectively connected with FC's U.S. trade or business. In Year 7, FC replaced its tax advisor with a tax advisor unfamiliar with U.S. tax law. FC did not file a U.S. income tax return for any year from Year 7 through Year 10, although it had effectively connected income for those years. FC's management was aware of FC's ability to file a protective return for those years. In Year 11, an Internal Revenue Service examiner contacted FC and asked its chief financial

officer for an explanation of FC's failure to file U.S. income tax returns after Year 6. FC immediately engaged a U.S. tax advisor and cooperated with the Internal Revenue Service in determining FC's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 7 through Year 10 and by making FC's books and records available to the examiner. FC did not present evidence that intervening events beyond its control prevented it from filing a return, and there were no other mitigating factors. FC has not met the standard described in paragraph (a)(3)(ii) of this section for waiver of any applicable filing deadlines in paragraph (a)(3)(i) of this section.

(iv) Paragraphs (a)(3)(ii) and (iii) of this section are applicable to open years for which a request for a waiver is filed on or after January 29, 2002.

* * * * *

§ 1.882–4T [Removed]

Par. 5. Section 1.882–4T is removed.

Approved: January 17, 2003.

David A. Mader,

Assistant Deputy Commissioner.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–5461 Filed 3–07–03; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD–FRL–7456–9]

RIN–2060–AE11

Approval and Promulgation of Implementation Plans; Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final action revises the applicable implementation plans concerning the PSD program mandated by part C of title I of the Clean Air Act (CAA or Act). These revisions incorporate newly promulgated paragraphs of the Federal PSD rule into the federal implementation plan portion of a State's implementation plan where the State does not have an approved PSD State Implementation Plan (SIP) in place. Specifically, the revisions incorporate new applicability provisions in the Federal PSD rules for baseline emissions determination, actual-to-projected-actual methodology, plantwide applicability limitations (PAL's), clean units, and pollution control projects (PCP's). The changes are intended to ensure comprehensive and consistent implementation of the Federal PSD program by State, local, and tribal agencies where EPA has determined that they have the responsibility to implement the Federal PSD program.

EFFECTIVE DATE: This final rule is effective on March 3, 2003.

ADDRESSES: *Docket.* Docket No. A–90–37 is located at the EPA Docket Center, EPA West, U.S. EPA (6102T), 1301 Constitution Avenue, NW, Room B–102, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Hutchinson, Information Transfer and Program Integration Division (C339–03), U.S. EPA Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5795, facsimile number (919) 541–5509, electronic mail email) address: hutchinson.lynn@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this final action include sources in all industry groups. The majority of sources potentially affected are expected to be in the following groups.

Industry group	SIC [a]	NAICS [b]
Electric Services	491	221111, 221112, 221113, 221119, 221121, 221122.
Petroleum Refining	291	32411.
Chemical Processes	281	325181, 32512, 325131, 325182, 211112, 325998, 331311, 325188.
Natural Gas Transport	492	48621, 22121.
Pulp and Paper Mills	261	32211, 322121, 322122, 32213
Paper Mills	262	322121, 322122.
Automobile Manufacturing	371	336111, 336112, 336712, 336211, 336992, 336322, 336312, 33633, 33634, 33635, 336399, 336212, 336213.
Pharmaceuticals	283	325411, 325412, 325413, 325414.

[a] Standard Industrial Classification
[b] North American Industry Classification System.

Entities potentially affected by this final action also include State, local, and tribal governments that are delegated authority to implement these regulations.

The EPA has established an official public docket for this action under Docket No. A–90–37. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, EPA West, Room B–102, 1301 Constitution Avenue, NW, Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at: *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review

Under section 307(b) of the CAA, judicial review of the final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit May 9, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to the rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

Outline

The information presented in this preamble is organized as follows:

I. Today's Final Action
A. Background
B. Revisions to Part 52
C. Effective Date for Today's Final Action
II. Statutory and Executive Order Reviews
A. Executive Order 12866–Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
D. Unfunded Mandates Reform Act of 1995
E. Executive Order 13132–Federalism
F. Executive Order 13175–Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045–Protection of Children from Environmental Health Risks and Safety Risks
H. Executive Order 13211–Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act of 1995
J. Congressional Review Act

I. Today's Final Action

A. Background

The 1970 Clean Air Act at section 110 required States to submit plans to provide for the implementation and maintenance of the national ambient air quality standards (NAAQS). While the 1970 CAA established requirements for protecting the NAAQS through SIP's, it did not address prevention of significant deterioration of air quality. On May 31, 1972 (37 FR 10842), the Administrator published initial approvals and disapprovals of SIP's submitted pursuant to section 110 of the CAA. On November 9, 1972 (37 FR 23836), all SIP's were disapproved insofar as they failed to provide for significant deterioration of air quality. This action was taken in response to a preliminary injunction issued by the District Court for the District of Columbia, which also required the Administrator to promulgate regulations as to any State plan that either permits the significant deterioration of air quality in any portion of any State, or fails to take the measures necessary to prevent significant deterioration.

On July 16, 1973 (38 FR 18986), we [1] proposed several alternative plans for prevention of significant deterioration. On December 5, 1974 (39 FR 42510), we promulgated the Federal PSD program, 40 CFR 52.21. These regulations established a Federal program under section 101(b)(1) of the 1970 Clean Air Act (CAA) to conduct preconstruction review of specified source categories where State agencies fail to provide for prevention of significant deterioration of air quality. This final action also disapproved all State plans as lacking procedures or regulations for preventing significant deterioration of air quality and incorporated the Federal PSD regulations by reference into all State plans. Specifically, it incorporated the provisions of § 52.21 by reference into the SIP's in subparts B through DDD of part 52. (See 39 FR 42514 concerning § 52.21(a), plan disapproval.)

On June 19, 1978 (43 FR 26388), we amended our PSD regulations to implement the new requirements of the Clean Air Act Amendments of 1977 (Pub. L. 95–95). These regulations built on the previous ones, but provided a more comprehensive program pursuant to part C (sections 160–165) of title I, which was added in the 1977 CAA Amendments. The 1977 CAA Amendments also added the statutory requirement that the PSD program be implemented through SIP's submitted pursuant to CAA section 110. Our final rules in 1978 also amended § 52.21 to incorporate all of the new requirements of CAA sections 160–165 into the Federal PSD program. This final rule contained the same language concerning plan disapprovals that is contained in § 52.21(a)(1) as promulgated on December 31, 2002.

Section 52.21(a) *Plan disapproval.* The provisions of this section are applicable to any State implementation plan which has been disapproved with respect to prevention of significant deterioration of air quality in any portion of any State where the existing air quality is better than the national ambient air quality standards. Specific disapprovals are listed where applicable in subparts B through DDD of this part. The provisions of this section have been incorporated by reference into the applicable implementation plans for various States, as provided in subparts B through DDD of this part. Where this section is so incorporated, the provisions shall also be applicable to all lands owned by the Federal government and Indian reservations located in such State. No disapproval with respect to a State's failure to prevent significant deterioration of air quality shall invalidate or otherwise affect the obligation of States, emission sources, or other persons with respect to all portions of these plans approved or promulgated under this part (46 FR 26403).

The 1978 final rule also incorporated section 52.21 by reference into the SIP's for 54 programs (50 States, Puerto Rico, Virgin Islands, American Samoa, and Guam) as follows:

(a) The requirements of sections 160 through 165 of the Clean Air Act are not met, since the plan does not include approvable procedures for preventing the significant deterioration of air quality.

(b) The provisions of section 52.21 (b) through (v) are hereby incorporated and made part of the applicable State plan for the State of _____ (see 43 FR 26410).

On August 7, 1980 (43 FR 52676), we amended our PSD regulations in response to the decision by the U.S. Court of Appeals for the D.C. Circuit in *Alabama Power Company* v. *Costle,* 636 F.2d 323 (D.C.Cir. 1979). In addition to revising the PSD rules to respond to the court, this final rule disapproved a number of SIP's for PSD purposes and incorporated § 52.21 by reference into the implementation plans for those States. It also contained the same language concerning plan disapprovals that is contained in the newly promulgated provisions at § 52.21(a)(1), as well as the same language concerning incorporation by reference in the relevant State-specific subparts of part 52 (see 45 FR 52741).

B. Revisions to Part 52

We proposed revisions to the nonattainment new source review (NSR) and PSD rules in a notice published in the **Federal Register** on July 23, 1996 (61 FR 38250). That **Federal Register** notice proposed a number of changes to our existing major NSR and PSD requirements. (Please refer to the outline of that proposed rulemaking for a list of changes that were proposed to our existing regulations.) Following the 1996 proposal, we held two public hearings and more than 50 stakeholder meetings. Environmental groups, industry, and State, local, and Federal agency representatives participated in these many discussions on all aspects of the proposed rules. On July 24, 1998, we published a notice of availability (NOA)

[1] In this preamble the term ''we'' refers to EPA and the term ''you'' refers to major stationary sources of air pollution and their owners and operators. All other entities are referred to by their respective names (for example, reviewing authorities).

at 63 FR 39857 to solicit further comment on three specific aspects of the proposed revisions: Determining baseline emissions, actual-to-future-actual methodology (later renamed as the actual-to-projected-actual test), and PAL's. More than 400 letters from the public were received concerning the proposal and the NOA and can be found in Docket A–90–37. On December 31, 2002 (67 FR 80186), we published notice of final action on several of the changes that were proposed in 1996 and noticed in 1998: Baseline emissions determinations, the actual-to-projected-actual methodology, actual PAL's, clean Units, and PCP's.

Today, we are taking final action on one of the aspects of the 1996 proposal that was not included in our December 31 final regulations and which is necessary to ensure implementation of those final rules. Specifically, we are finalizing our proposal that PSD applicability changes would also be included in the part 52 regulations governing Federal permitting programs in those jurisdictions that lack a SIP-approved PSD program. In our 1996 proposal (61 FR 38252), we listed five proposed changes to NSR applicability: (1) Clean units, (2) baseline emissions, (3) PCP's, (4) PAL's, and (5) the actual-to-future-actual test (renamed as the actual-to-projected-actual test). In that proposal, we specifically noted that we were proposing these changes for the part 52 Federal PSD program as well.

The EPA also proposes to include these applicability approaches in the part 52 regulations governing Federal permitting programs (61 FR 38253).

The part 52 regulations governing Federal permitting programs include the Federal PSD rule at 40 CFR 52.21, as well as the various sections of subparts C through DDD of part 52 that incorporate the Federal permitting program by reference for those jurisdictions where EPA has promulgated a federal implementation plan (FIP) because there is no SIP-approved PSD program in those jurisdictions. (See, for example, § 52.632, which incorporates § 52.21 by reference into the State plan for the State of Hawaii.) Although we received a limited number of comments regarding whether States with approved PSD programs in their SIPs should be required to adopt the five applicability provisions, we received no comments on whether the five applicability provisions should be adopted in those jurisdictions where EPA has promulgated a FIP because there is no SIP-approved PSD program in those jurisdictions. This lack of comment is not surprising since we did not propose to change our longstanding procedures concerning incorporation by reference of § 52.21 as a FIP for those jurisdictions where there is no SIP-approved PSD permitting program. Public comments concerning specific changes to the provisions in § 52.21 subpart A were addressed in our December 31, 2002 **Federal Register** notice and accompanying Technical Support Document. The opportunity for judicial review of specific changes to subpart A has also been provided as part of that rulemaking. (See 67 FR 80244.)

As of December 31, 2002, a number of State and local agencies did not have approved PSD programs in their SIPs. Instead, as described above, EPA promulgated the Federal PSD program in those jurisdictions through regulatory provisions in 40 CFR part 52, subparts C through DDD. In most of those jurisdictions, the State or local agency administers the federal PSD program pursuant to a delegation of authority under § 52.21 (u). When finalizing the new applicability provisions that we proposed in 1996, however, the relevant parts of § 52.21 were extended from § 52.21(b) through (w) to § 52.21(a)(2) and (b) through (bb). Therefore, today's final regulations incorporate by reference the new § 52.21(a)(2) and (b) through (bb) into the applicable implementation plan for those jurisdictions that currently do not have approved PSD programs. With this final action, we are not approving or disapproving the PSD programs for any State, local, or Tribal agencies. Instead, we are updating the FIP's, using the same language that we have used at each major revision to the PSD rules, to reflect the fact that all of the relevant provisions of the new § 52.21 now apply.

No tribal government currently has an approved tribal implementation plan (TIP) under the CAA to implement the PSD program. The Federal Government is currently the PSD reviewing authority in Indian Country. Pursuant to § 52.21(a)(1), the provisions of § 52.21 are applicable to all lands owned by the Federal Government and Indian Reservations located in each State. Therefore, we are incorporating the Federal PSD Program contained in § 52.21 by reference into implementation plans where the requirements of CAA 160–165 are not met for federally designated Indian lands. By this final action, we are not changing the authority for implementing and enforcing the Federal PSD permitting program for any sources located in Indian Country. This incorporation by reference only applies to those sections of subparts B through DDD of part 52 that currently incorporate the Federal PSD program for Indian lands.

C. Effective Date for Today's Final Action

Today's final regulations are effective on March 3, 2003. This is consistent with the March 3, 2003 effective date for the changes to the Federal PSD program in § 52.21 that were promulgated on December 31, 2002. (See 67 FR 80240.)

II. Statutory and Executive Order Reviews

A. Executive Order12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a significant regulatory action and therefore it was not submitted to OMB for review.

B. Paperwork Reduction Act

The information collection requirements for the revisions to the major NSR rules at §§ 51.165, 51.166, and 52.21 (67 FR 80243) will be contained in two different information collection requests (ICR's).

The OMB has approved the information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0003 (ICR 1230.10). The EPA prepared an ICR document (ICR No. 1230.10) extending the approval of the

ICR for the promulgated NSR regulations on March 30, 2001. On October 29, 2001, OMB approved EPA's request for extension for 3 years until October 31, 2004. The OMB number for this approval is 2060–0003.

In addition to the existing ICR, the information collection requirements in the final rules on December 31, 2002 (67 FR 80243), have been submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An ICR document has been prepared by EPA (ICR No. 2074.01), and a copy may be obtained from Susan Auby, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001, by e-mail at *auby.susan@epa.gov,* or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr.* The information requirements included in ICR No. 2074.01 are not effective until OMB approves them.

The information that ICR No. 2074.01 covers is required for the submittal of complete permit applications for the construction or modification of all major new stationary sources of pollutants in attainment and nonattainment areas, as well as for applicable minor stationary sources of pollutants. This information collection is necessary for the proper performance of EPA's functions, has practical utility, and is not unnecessarily duplicative of information we otherwise can reasonably access. We have reduced, to the extent practicable and appropriate, the burden on persons providing the information to or for EPA.

According to ICR No. 2074.01, as a result of the rule changes on December 31, 2002, the total 3-year burden change of the revised collection is estimated at about 219,741 hours at a total cost of $7.7 million. The annual burden change to industry is about 64,287 hours at a cost of $2.2 million. The annual burden change to reviewing agencies is about 8,960 hours at a cost of $331,520. The total annual respondent change is 73,247 hours for a total respondent change in cost of $2.6 million. These cost changes are based upon 62 PSD and 123 NSR nonutility sources (185 total); and 85 PSD and 169 NSR (254 total) sources, including utilities. For the number of respondent reviewing authorities, the analysis uses the 112 reviewing authorities count used by other permitting ICR's for the one-time tasks (for example, SIP revisions) and the appropriate source count for individual permit-related items (for example, attending pre-application meetings with the source). There is only one Federal source listed in the ICR.

Based on the burden assessed in ICR No. 2074.01, we estimate there is no burden for today's final rule. The result of today's final rules is to incorporate provisions that were promulgated on December 31, 2002 (67 FR 80186) into the SIP's and no additional burden on reviewing authorities or regulated entities is incurred as a result of today's final rules.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of responding to the information collection; adjust existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. We will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfy the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) Any small business employing fewer than 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, we have concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities'' (5 U.S.C. 603 and 604). Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect, on all of the small entities subject to the rule.

A Regulatory Flexibility Act Screening Analysis, developed as part of a 1994 draft Regulatory Impact Analysis (RIA) and incorporated into the September 1995 ICR renewal analysis, showed that the changes to the NSR program due to the 1990 CAA Amendments would not have an adverse impact on small entities. This analysis encompassed the entire universe of applicable major sources that were likely to also be small businesses (approximately 50 ''small business'' major sources). Because the administrative burden of the NSR program is the primary source of the NSR program's regulatory costs, the analysis estimated a negligible ''cost to sales'' (regulatory cost divided by the business category mean revenue) ratio for this source group. Currently, and as reported in the current ICR, there is no economic basis for a different conclusion.

We believe these rule changes will reduce the regulatory burden associated with the major NSR program for all sources, including all small businesses, by improving the operational flexibility of owners and operators, improving the clarity of requirements, and providing alternatives that sources may take advantage of to further improve their operational flexibility. As a result, the program changes provided in the final rule are not expected to result in any

increases in expenditure by any small entity.

We have therefore concluded that today's final rule will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective or least burdensome alternative if the Administrator publishes with the final rule an explanation as to why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan.

The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. There is no burden for State, local, and tribal agencies in order for this rule to be included in the SIP, as this final action directly incorporates the changes into the SIP. Moreover, these revisions will ultimately provide greater operational flexibility to sources permitted by the States, which will in turn reduce the overall burden of the program on State and local authorities by reducing the number of required permit modifications. In addition, we believe the rule changes will actually reduce the regulatory burden associated with the major NSR program by improving the operational flexibility of owners and operators, improving the clarity of requirements, and providing alternatives that sources may take advantage of to further improve their operational flexibility. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the same reasons stated above, we have determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's rule is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132—Federalism

Executive Order 13132, entitled ''federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. We do not expect this final rule to result in expenditures by the States. Today's final rules only apply in States that have been delegated the authority to implement the Federal PSD rules. Therefore, reviewing authorities will not incur a burden to revise their SIP's. Moreover, these revisions provide greater operational flexibility to sources permitted by the States, which will in turn reduce the overall burden of the program on State and local authorities by reducing the number of required permit modifications. Thus, Executive Order 13132 does not apply to this rule. Nevertheless, in the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, we specifically solicited comment on the proposed rule from State and local officials.

F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' We believe that this final rule does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

The EPA began considering potential revisions to the NSR rules in the early 1990's and proposed changes in 1996. The purpose of today's final rule is to add greater flexibility to the existing major NSR regulations. These changes will benefit both reviewing authorities and the regulated community by providing increased certainty as to when the requirements apply, and by providing alternative ways to comply with the requirements. Taken as a whole, today's final rule should result in no added burden or compliance costs and should not substantially change the level of environmental performance achieved under the previous rules.

No tribal government currently has an approved tribal implementation plan (TIP) under the CAA to implement the NSR program. The Federal government is currently the NSR reviewing authority in Indian country, thus tribal governments should not experience added burden, nor should their laws be affected with respect to implementation of this rule. Additionally, although major stationary sources affected by today's final rule could be located in or near Indian country and/or be owned or operated by tribal governments, such sources would not incur additional costs or compliance burdens as a result of this rule. Instead, the only effect on such sources should be the benefit of the added certainty and flexibility provided by the rule.

We recognize the importance of including tribal consultation as part of the rulemaking process. Although we did not include specific consultation with tribal officials as part of our outreach process on this final rule, which was developed largely prior to issuance of Executive Order 13175 and which does not have tribal implications under Executive Order 13175, we will continue to consult with tribes on future rulemakings to assess and address tribal

implications, and will work with tribes interested in seeking TIP approval to implement the NSR program to ensure consistency of tribal plans with this rule.

G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children because we believe that this package as a whole will result in equal or better environmental protection than currently provided by the existing regulations, and do so in a more streamlined and effective manner.

H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Today's rule improves the ability of sources to undertake pollution prevention or energy efficiency projects, switch to less polluting fuels or raw materials, maintain the reliability of production facilities, and effectively utilize and improve existing capacity. The rule also includes a number of provisions to streamline administrative and permitting processes so that facilities can quickly accommodate changes in supply and demand. The regulations provide several alternatives that are specifically designed to reduce administrative burden for sources that use pollution prevention or energy efficient projects.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. This final rule does not create new requirements but, rather, revises an existing permitting program by providing a series of program options that affected facilities may choose to adopt. These options will reduce the regulatory burden associated with the major NSR program by improving the operational flexibility of owners and operators, improving the clarity of requirements, and providing alternatives that sources may take advantage of to further improve their operational flexibility. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

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. The EPA submitted 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). Therefore, this rule will be effective on March 3, 2003.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practices and procedures, Air pollution control, Best available control technology, Baseline emissions, Carbon monoxide, Clean units, Federal implementation Plans, Hydrocarbons, Intergovernmental relations, Lowest achievable emission rate, Lead, Major modifications, Nitrogen oxides, Ozone, Particular matter, Plantwide applicability limitations, Pollution control projects, State implementation plans, Sulfur oxides.

Dated: February 28, 2003.

Christine Todd Whitman,

Administrator.

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

PART 52—[AMENDED]

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

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

Subpart C—[Amended]

2. Section 52.96 is amended by revising paragraph (b) to read as follows.

§ 52.96 Significant deterioration of air quality.

* * * * *

(b) The requirements of sections 160 through 165 of the Clean Air Act are not met for Indian reservations since the plan does not include approvable procedures for preventing the significant deterioration of air quality on Indian reservations and, therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable reservation in the State of Alaska.

Subpart D—[Amended]

3. Section 52.144 is amended by revising paragraph (b) to read as follows.

§ 52.144 Significant deterioration of air quality.

* * * * *

(b) Regulation for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Arizona for that portion applicable to the Pima County Health Department and the Maricopa County Department of Health Services and sources locating on Indian lands.

Subpart E—[Amended]

4. Section 52.181 is amended by revising paragraph (b) to read as follows.

§ 52.181 Significant deterioration of air quality.

* * * * *

(b) The requirements of sections 160 through 165 of the Clean Air Act are not met for federally designated Indian lands. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the applicable implementation plan and are applicable to sources located on land under the control of Indian governing bodies.

Subpart F—[Amended]

5. Section 52.270 is amended by revising paragraphs (a)(3), (b)(1) introductory text, (b)(2) introductory text, (b)(3) introductory text, and (b)(4) introductory text to read as follows.

§ 52.270 Significant deterioration of air quality.

(a) * * *

(3) The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of California.

(b) * * *

(1) The PSD rules for Sacramento County Air Pollution Control District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21(a)(2) and (b) through (bb) are therefore incorporated and made a part of the State plan for California for the Sacramento County Air Pollution Control District for:

* * * * *

(2) The PSD rules for North Coast Unified Air Quality Management District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21(a)(2) and (b) through (bb) are therefore incorporated and made a part of the State plan for California for the North Coast Unified Air Quality Management District for:

* * * * *

(3) The PSD rules for Mendocino County Air Pollution Control District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21(a)(2) and (b) through (bb) are therefore incorporated and made a part of the State plan for California for the Mendocino County Air Pollution Control District for:

* * * * *

(4) The PSD rules for Northern Sonoma County Air Pollution Control District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21(a)(2) and (b) through (bb) are therefore incorporated and made a part of the State plan for California for the Northern Sonoma County Air Pollution Control District for:

* * * * *

Subpart G—[Amended]

6. Section 52.343 is amended by revising paragraph (b) to read as follows.

§ 52.343 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Colorado for the sources identified in paragraph (a) of this section as not meeting the requirements of sections 160–165 of the Clean Air Act.

* * * * *

Subpart H—[Amended]

7. Section 52.382 is amended by revising paragraph (b) to read as follows.

* * * * *

(b) The increments for nitrogen dioxide and related requirements promulgated on October 17, 1988 (53 FR 40671), and amended on December 31, 2002 (67 FR 80186) to 40 CFR 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable State implementation plan for the State of Connecticut.

Subpart J—[Amended]

8. Section 52.499 is amended by revising paragraph (b) to read as follows.

§ 52.499 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the District of Columbia.

Subpart K—[Amended]

9. Section 52.530 is amended by revising paragraph (d) introductory text to read as follows.

§ 52.530 Significant deterioration of air quality.

* * * * *

(d) The requirements of sections 160 through 165 of the Clean Air Act are not met since the Florida plan, as submitted, does not apply to certain sources. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the Florida plan for:

* * * * *

Subpart M—[Amended]

10. Section 52.632 is amended by revising paragraph (b) to read as follows.

§ 52.632 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Hawaii.

Subpart N—[Amended]

11. Section 52.683 is amended by revising paragraphs (b) and (c) to read as follows.

§ 52.683 Significant deterioration of air quality.

* * * * *

(b) The requirements of sections 160 through 165 of the Clean Air Act are not met for Indian reservations since the plan does not include approvable procedures for preventing significant deterioration of air quality on Indian reservations. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable plan for Indian reservations in the State of Idaho.

(c) The requirements of section 165 of the Clean Air Act are not met for sources subject to prevention of significant deterioration requirements prior to August 22, 1986, the effective date of EPA's approval of the rules cited in paragraph (a) of this section. Therefore, the provisions of § 52.21(a)(2), (b), (c), (d), and (h) through (bb) are hereby incorporated and made part of the applicable plan for sources subject to § 52.21 prior to August 22, 1986.

Subpart O—[Amended]

12. Section 52.738 is amended by revising paragraph (b) to read as follows.

§ 52.738 Significant deterioration of air quality.

* * * * *

(b) *Regulations for preventing significant deterioration of air quality.* The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Illinois.

* * * * *

Subpart P—[Amended]

13. Section 52.793 is amended by revising paragraph (b) to read as follows.

§ 52.793 Significant deterioration of air quality.

* * * * *

(b) *Regulations for preventing significant deterioration of air quality.* The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable state plan for the State of Indiana.

* * * * *

Subpart Q—[Amended]

14. Section 52.833 is amended by revising paragraph (b) to read as follows.

§ 52.833 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Iowa for sources wishing to locate on Indian lands; sources constructed under permits issued by EPA; and certain sources as identified in Iowa's April 22, 1987, letter.

Subpart T—[Amended]

15. Section 52.986 is amended by revising paragraph (b) to read as follows.

§ 52.986 Significant deterioration of air quality.

* * * * *

(b) The requirements of sections 160 through 165 of the Clean Air Act are not met for federally designated Indian lands since the plan (specifically LAC: 33:III:509.A.1) excludes all federally recognized Indian lands from the provisions of this regulation. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the applicable implementation plan, and are applicable to sources located on land under the control of Indian governing bodies.

Subpart W—[Amended]

16. Section 52.1165 is amended by revising paragraph (b) to read as follows.

§ 52.1165 Significant deterioration of air quality.

* * * * *

(b) Regulation for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Massachusetts.

Subpart X—[Amended]

17. Section 52.1180 is amended by revising paragraph (b) to read as follows.

§ 52.1180 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Michigan.

* * * * *

Subpart Y—[Amended]

18. Section 52.1234 is amended by revising paragraph (b) to read as follows.

§ 52.1234 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Minnesota.

* * * * *

Subpart BB—[Amended]

19. Section 52.1382 is amended by revising paragraph (b) to read as follows.

§ 52.1382 Prevention of significant deterioration of air quality.

* * * * *

(b) Regulation for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the Montana State implementation plan and are applicable to proposed major stationary sources or major modifications to be located on Indian Reservations.

* * * * *

Subpart CC—[Amended]

20. Section 52.1436 is amended by revising the introductory text to read as follows.

§ 52.1436 Significant deterioration of air quality.

The requirements of sections 160 through 165 of the Clean Air Act are met except as noted below. The EPA is retaining § 52.21(a)(2) and (b) through (bb) as part of the Nebraska SIP for the following types of sources:

* * * * *

Subpart DD—[Amended]

21. Section 52.1485 is amended by revising paragraph (b) to read as follows.

§ 52.1485 Significant deterioration of air quality.

* * * * *

(b) Regulation for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are incorporated and made a part of the applicable State plan for the State of Nevada except for that portion applicable to the Clark County Health District.

* * * * *

Subpart FF—[Amended]

22. Section 52.1603 is amended by revising paragraph (b) to read as follows.

§ 52.1603 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of New Jersey.

Subpart GG—[Amended]

23. Section 52.1634 is amended by revising paragraph (b) to read as follows.

§ 52.1634 Significant deterioration of air quality.

* * * * *

(b) The requirements of sections 160 through 165 of the Clean Air Act are not met for federally designated Indian lands. Therefore, the provisions of § 52.21 (a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the applicable implementation plan, and are applicable to sources located on land under the control of Indian governing bodies.

* * * * *

Subpart HH—[Amended]

24. Section 52.1689 is amended by revising paragraph (b) to read as follows.

§ 52.1689 Significant deterioration of air quality.

* * * * *

(b) *Regulations for preventing significant deterioration of air quality.* The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable state plan for the State of New York.

Subpart JJ—[Amended]

25. Section 52.1829 is amended by revising paragraph (b) to read as follows.

§ 52.1829 Prevention of significant deterioration of air quality.

* * * * *

(b) Regulation for preventing of significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the North Dakota State implementation plan and are applicable to proposed major stationary sources or major modifications to be located on Indian Reservations.

Subpart LL—[Amended]

26. Section 52.1929 is amended by revising paragraph (a) introductory text to read as follows.

§ 52.1929 Significant deterioration of air quality.

(a) Regulation for preventing significant deterioration of air quality. The Oklahoma plan, as submitted, does not apply to certain sources in the State. Therefore the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference, made part of the Oklahoma State implementation plan and are applicable to the following major stationary sources or major modifications:

* * * * *

Subpart MM—[Amended]

27. Section 52.1987 is amended by revising paragraph (c) to read as follows.

§ 52.1987 Significant deterioration of air quality.

* * * * *

(c) The requirements of sections 160 through 165 of the Clean Air Act are not met for Indian reservations since the plan does not include approvable procedures for preventing the significant deterioration of air quality on Indian reservations and, therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made part of the applicable plan for Indian reservations in the State of Oregon.

Subpart QQ—[Amended]

28. Section 52.2178 is amended by revising paragraph (b) to read as follows.

§ 52.2178 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of South Dakota.

* * * * *

Subpart RR—[Amended]

29. Section 52.2233 is amended by revising paragraph (b) introductory text to read as follows.

§ 52.2233 Significant deterioration of air quality.

* * * * *

(b) The requirements of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made part of the applicable SIP for the State of Tennessee for the following purposes:

* * * * *

Subpart SS—[Amended]

30. Section 52.2303 is amended by revising paragraphs (c) and (d) to read as follows.

§ 52.2303 Significant deterioration of air quality.

* * * * *

(c) The requirements of section 160 through 165 of the Clean Air Act are not met for federally designated Indian lands. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby adopted and made a part of the applicable implementation plan and are applicable to sources located on land under the control of Indian governing bodies.

(d) The requirements of section 160 through 165 of the Clean Air Act are not met for new major sources or major modifications to existing stationary sources for which applicability determinations would be affected by dockside emissions of vessels. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby adopted and made a part of the applicable implementation plan and are applicable to such sources.

Subpart TT—[Amended]

31. Section 52.2346 is amended by revising paragraph (b) to read as follows.

§ 52.2346 Significant deterioration of air quality.

* * * * *

(b) *Regulation for prevention of significant deterioration of air quality.* The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the Utah State implementation plan and are applicable to proposed major stationary sources or major modifications to be located on Indian Reservations.

* * * * *

Subpart WW—[Amended]

32. Section 52.2497 is amended by revising paragraph (b) to read as follows.

§ 52.2497 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Washington.

* * * * *

Subpart YY—[Amended]

33. Section 52.2581 is amended by revising paragraph (e) to read as follows.

§ 52.2581 Significant deterioration of air quality.

* * * * *

(e) Regulations for the prevention of the significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Wisconsin for sources wishing to locate in Indian country; and sources constructed under permits issued by EPA.

Subpart ZZ—[Amended]

34. Section 52.2630 is amended by revising paragraph (b) introductory text to read as follows.

§ 52.2630 Prevention of significant deterioration of air quality.

* * * * *

(b) Regulation for preventing significant deterioration of air quality. The Wyoming plan, as submitted does not apply to certain sources in the State. Therefore, the provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated by reference and made a part of the State implementation plan

for the State of Wyoming and are applicable to the following proposed major stationary sources or major modifications:

* * * * *

Subpart AAA—[Amended]

35. Section 52.2676 is amended by revising paragraph (b) to read as follows.

§ 52.2676 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Guam.

Subpart BBB—[Amended]

36. Section 52.2729 is amended by revising paragraph (b) to read as follows.

§ 52.2729 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the State of Puerto Rico.

Subpart CCC—[Amended]

37. Section 52.2779 is amended by revising paragraph (b) to read as follows.

§ 52.2779 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for the Virgin Islands.

Subpart DDD—[Amended]

38. Section 52.2827 is amended by revising paragraph (b) to read as follows.

§ 52.2827 Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21(a)(2) and (b) through (bb) are hereby incorporated and made a part of the applicable State plan for American Samoa.

[FR Doc. 03–5470 Filed 3–7–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[FRL–7464–2]

RIN 2040–AC82

Modification of National Pollutant Discharge Elimination System (NPDES) Permit Deadline for Storm Water Discharges for Oil and Gas Construction Activity That Disturbs One to Five Acres of Land

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action postpones until March 10, 2005, the requirement to obtain National Pollutant Discharge Elimination System (NPDES) storm water permit for oil and gas construction activity that disturbs one to five acres of land. On December 8, 1999 (64 FR 68722), the U.S. Environmental Protection Agency (EPA) published a final rule expanding the then-existing NPDES permitting program to require permit coverage by March 10, 2003 for, among other things, construction sites that disturb one to five acres. As part of that rulemaking, EPA assumed that few, if any, oil and gas exploration, production, processing, or treatment operations or transmission facilities would be affected by the rule. Since rule promulgation, EPA has become aware that close to 30,000 oil and gas sites per year may be affected by the December 8, 1999, storm water regulations.

The two-year postponement of the deadline from March 10, 2003, to March 10, 2005, will allow time for EPA to analyze and better evaluate: the impact of the permit requirements on the oil and gas industry; the appropriate best management practices for preventing contamination of storm water runoff resulting from construction associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities; and the scope and effect of 33 U.S.C. 1342 (l)(2) and other storm water provisions of the Clean Water Act.

DATES: This final regulation is effective on March 10, 2003. For the purposes of judicial review, this final rule is promulgated as of March 10, 2003 as provided in 40 CFR 23.2.

ADDRESSES: The administrative record is available for inspection and copying at the Water Docket, located at the EPA Docket Center in the basement of the EPA West Building, Room B–102, at 1301 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wendy Bell, Office of Wastewater Management, Office of Water, Environmental Protection Agency, at (202) 564–0746 or e-mail: *bell.wendy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Regulated Entities.

Entities Potentially Regulated by This Action Include:

Category	Examples of regulated entities
Industry	Oil and gas producers constructing drilling sites disturbing one to five acres of land; construction site operators associated with oil and gas construction projects disturbing one to five acres of land; and operators of transmission facilities as defined herein.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility or company is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 122.26(b)(15). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of this Document and Other Related Information ?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW–2002–0068. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related

to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.B.1. Once in the system, select ''search,'' then key in the appropriate docket identification number.

C. When Does This Rule Take Effect?

Because this rule provides temporary relief from permitting requirements for certain dischargers, this rule is not subject to the general requirement for a thirty-day waiting period after publication before a final rule takes effect. 5 U.S.C. 553(d)(1). Moreover, pursuant to 5 U.S.C. 553(d)(3), EPA has good cause to make this rule effective immediately. The March 10, 2003, deadline this action extends is less than thirty days after the publication of this rule. Making this action effective as soon as it's published will help reduce any confusion by those affected by the rule regarding the necessity for obtaining permit coverage. EPA is aware of no reason why those directly affected by this rule would need, or want, a waiting period before this action becomes effective. Therefore, a thirty-day waiting period is unnecessary and would be contrary to the public interest.

II. Background

On December 30, 2002, EPA proposed a two-year postponement of the permit requirement for oil and gas construction activity disturbing one to five acres from March 10, 2003, to March 10, 2005, in order to allow time for EPA to analyze and better evaluate (1) The impact of the permit requirements on the oil and gas industry, (2) the appropriate best management practices for preventing contamination of storm water runoff resulting from construction associated with oil and gas exploration, production, processing, or treatment operations or transmission facilities, and (3) the scope and effect of 33 U.S.C. 1342 (l)(2) and other storm water provisions of the Clean Water Act. In that proposal, EPA explained the background of the NPDES construction permit requirements, and why EPA believes it is appropriate to provide a two-year postponement of permit requirements for construction of oil and gas exploration and production facilities disturbing one to five acres. When describing construction activity that disturbs ''one to five acres,'' or in discussing ''small'' construction activity in this preamble, EPA is referring to activities covered by 40 CFR 122.26(b)(15).

III. Response to Comments

EPA received numerous comments on both the proposal to postpone permit requirements for small oil and gas construction and the proposed construction general permit (CGP). The proposed CGP is available in the official public docket referenced in the Notice of Availability for Comment for the Proposed CGP at 67 FR 78116 (December 20, 2002). Comments on specific aspects of the CGP will be addressed in the fact sheet that will accompany the final permit. EPA's responses to all the comments received on the proposed rule are available in the Response to Comment document that is part of the docket for this final rule. EPA's responses to many of the principal issues raised on the proposed rule are discussed below.

Difference Between Oil and Gas and Other Construction

A number of commenters opposed the two-year postponement, asserting that there is no reason to treat construction at oil and gas sites differently than other types of construction. EPA agrees that sediment from all sources is a concern but believes that the oil and gas industry has raised significant questions about the differences between the nature of construction at oil and gas sites and other types of construction. One such difference is the very short time window in which construction at oil and gas sites usually occurs. Most of the studies that EPA relied on to show the need for regulating small construction activity looked at residential or commercial construction. It is important for EPA to determine whether construction at oil and gas sites is sufficiently different from these other types of construction to warrant different regulatory treatment. EPA has decided to postpone permitting requirements for small construction at oil and gas sites for two years so that there is adequate time for all the affected parties to provide information and help us determine how to best ensure that such construction does not cause sediment and erosion problems and that these sites are not subject to inappropriate requirements. Also, as reflected in the proposal, EPA plans to use this time to assess the scope of 33 U.S.C. 1342(l)(2) and other storm water provisions of the Clean Water Act with regard to storm water discharges caused by this industry.

Environmental Impact

EPA received conflicting comments on the environmental impact of oil and gas activity. Some commenters claimed that there was no evidence of negative environmental impacts associated with oil and gas activities. Other commenters asserted that oil and gas projects frequently involved logging, grading, and road building, and that these activities were conducted without erosion and sediment controls and were therefore the source of large amounts of sediment deposition. As discussed above, EPA believes the two-year postponement will provide time to evaluate these opposing assertions.

Several commenters asserted that their State currently requires erosion and sediment (E&S) controls and for oil and gas operators therefore an NPDES permit is unnecessary. Other commenters indicated that oil and gas construction activity in their area occurred without any E&S controls. EPA is aware that some States have good E&S programs in place, and that other States do not. During the two-year postponement, EPA will evaluate State E&S controls related to oil and gas construction activity in comparison to requirements that would be imposed through an NPDES permit.

Economic Impact

A number of commenters asserted that EPA did not perform an economic analysis on the Phase II rule's effect on oil and gas, the national economy, and small businesses. EPA published an

extensive economic analysis that is described in the Phase II rule. EPA did not specifically address oil and gas because the information we considered at that time suggested that most oil and gas sites would disturb less than one acre. EPA's decision to postpone the construction permit requirements for small oil and gas sites is partially based on the information that we became aware of since publication of the Phase II rule. EPA needs the additional time to thoroughly consider the impact of the construction requirements on the oil and gas industry.

Commenters also stated that EPA did not do the proper evaluation of energy-related production activities in accordance with Executive Order 13211. Executive Order 13211 was issued on May 22, 2001 which was well after promulgation of the Phase II rule. However, in the spirit of this Executive Order, during the two year postponement, EPA will analyze the question of whether the imposition of storm water permitting requirements on construction of oil and gas facilities of one to five acres would result in a significant energy impact.

Common Plan

Commenters asked that EPA clarify how the ''common plan of development'' applies at oil and gas sites, so they would know the extent of applicability of the two-year permit postponement. Where construction activity is part of a larger common plan of development or sale that will disturb five acres or more, the two year postponement provided for in this final rule does not apply. The primary concern raised by commenters was that when a field is first developed, the producer does not know when, where, and how many wells will be drilled.

EPA acknowledged this broader issue of what constitutes a ''common plan'' in the ''Frequently Asked Questions'' section of the proposed fact sheet for the proposed CGP. EPA stated that ''If you have a long range master plan of development where some portions of the master plan are a conceptual rather than a specific plan of future development and the future construction activities would, if they occur at all, happen over an extended time period, you may consider the 'conceptional' phases of development to be separate 'common plans' provided the 'conceptual phase' has not been funded and periods of construction for the physically interconnected phases will not overlap.'' *Fact Sheet for the Issuance of a NPDES Permit.* (This proposed fact sheet is available in the official public docket referenced in the Notice of Availability for Comment for the proposed CGP at 67 FR 78116 (Dec. 20, 2002).) The proposed fact sheet goes on to describe a possible example in the context of the oil and gas industry. EPA plans to further clarify this issue when it takes final action on the proposed CGP.

Exemption

Many commenters reiterated their belief that Congress intended CWA 402(l)(2) to exempt all types of activities, including construction, associated with oil and gas exploration, production, processing, treatment, or transmission. EPA recognizes that this issue is, and has been, of concern to many in the oil and gas industry. *See, Appalachian Energy Group, et al.* v. *EPA,* 33 F.3d 319 (4th Cir. 1994). Today's action is limited to postponing permit requirements for certain oil and gas construction activities and, in this limited context, should not conflict with these commenters' position. Again, as reflected in the proposal, EPA plans to use the two-year extension to assess the scope of 33 U.S.C. 1342(l)(2) with regard to storm water discharges caused by this industry.

Differences between construction disturbing five or more acres (''large'' construction. *See* 40 CFR 122.26(b)(14)(x).) and construction disturbing one to five acres (''small'' construction. *See* 40 CFR 122.26(b)(15).)

Several commenters believe that the two-year postponement should apply to large construction as well as smaller sites. Large construction has been regulated as an industrial activity under CWA section 402(p)(2) since the promulgation of the Phase I storm water rule. EPA did not propose to take any action with respect to large construction activity and did not seek comment on this issue. The Agency declines to respond to these comments, as they are outside the scope of the action proposed.

Transmission facilities

EPA received many questions about our definition of ''transmission facilities.'' EPA has looked at the information submitted by the oil and gas industry to help understand what types of pipelines should be considered ''transmission facilities.'' For the purposes of today's action, the term ''oil and gas exploration, production, processing, and treatment operations or transmission facilities'' includes gathering lines, flowlines, feeder lines, and transmission lines. The construction of water lines, electrical utilities lines, etc. as part of the oil and gas exploration, production, processing, treatment, and transmission of oil and gas are also included. Transmission lines are typically major pipelines (*e.g.*, interstate and intrastate pipelines) that transport crude oil and natural gas over long distances and are large-diameter pipes operating at relatively high pressure. Many of these pipelines traverse long distances and disturb over five acres (and as such, are covered by EPA's permitting requirements for large construction activity). Pipelines that transport refined petroleum product and chemicals from refineries and chemical plants are not included in the terms described in today's rule as potentially eligible for the two year postponement.

One commenter requested that EPA clarify in its final rule that its definition of transmission be consistent with terms used by the U.S. Department of Transportation (DOT) at 49 CFR part 192 (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards). Commenters also asked about other types of pipelines (i.e., distribution lines). Distribution lines are those pipelines that deliver natural gas to homes, businesses, etc. and operate at relatively low pressures. EPA does not consider distribution lines to be transmission lines, and as such, these lines are not included in the terms described in today's rule as potentially eligible for the two year postponement. While EPA is not codifying DOT definitions, the Agency does consider the DOT's definitions to be consistent with EPA's interpretation of ''transmission'' in this rulemaking.

IV. Today's Action

In today's action, EPA is postponing until March 10, 2005, the permit authorization deadline for National Pollutant Discharge Elimination System (NPDES) storm water permits for oil and gas construction activity that disturbs one to five acres of land and sites disturbing less than one acre that are part of a larger common plan of development or sale that disturbs one to five acres. Since January 2002, EPA has become aware that close to 30,000 oil and gas sites may be affected by the Phase II storm water regulations. In the spirit of Executive Order 13211, which directs EPA to consider the impact of its actions on energy-related production activities, the Agency believes it is important to review this new information in light of the Phase II rule to determine the impact on the oil and gas industry. During the two-year postponement of this deadline, EPA plans to gather information about the area of land disturbed during construction of oil and gas exploration and production facilities.

In evaluating the impact of this action, the Agency will work with States, industry, and other entities to gather and evaluate data on the development and use of appropriate best management practices for the oil and gas industry. As part of today's action, EPA is seeking additional information on size, location and other site characteristics to better evaluate compliance costs, as well as technical and cost data to evaluate best management practices appropriate to controlling storm water runoff from oil and gas starts. EPA will also evaluate the applicability of the exemption at 33 U.S.C. 1342(l)(2) to construction activity at oil and gas exploration, production, processing, or treatment operations or transmission facilities. EPA will use the additional data and analyses produced during the two-year period to determine the appropriate NPDES requirements, if any, for small construction of oil and gas exploration and production facilities.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* It merely postpones implementation of an existing rule deadline.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business based on SBA size standards; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. It merely postpones the permit authorization deadline for oil and gas construction activities that disturb one to five acres.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

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

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This rule does not impose any costs. It merely postpones the permit authorization deadline for oil and gas construction activities that disturb one to five acres. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule is not subject to

the requirements of section 203 of UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. It merely postpones the permit authorization deadline for oil and gas construction activities that disturb one to five acres. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have Tribal implications. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. It merely postpones the permit authorization deadline for oil and gas construction activities that disturb one to five acres. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. The only effect of this rule is to delay the permit authorization requirement for affected small oil and gas operations by two years. As noted above, EPA will use the two-year delay to analyze the broader question of whether the imposition of storm water permitting requirements on construction of oil and gas facilities disturbing one to five acres would result in a significant energy impact, and will factor the results of this analysis into its final determination regarding appropriate requirements for such facilities.

I. National Technology Transfer And Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

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). This rule will be effective March 10, 2003.

List of Subjects in 40 CFR Part 122

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

Dated: March 5, 2003.

Christine Todd Whitman,

Administrator.

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

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Revise § 122.26(e)(8) to read as follows:

§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).

* * * * *

(e) * * *

(8) For any storm water discharge associated with small construction activity identified in paragraph (b)(15)(i) of this section, see § 122.21(c)(1). Discharges from these sources, other than discharges associated with small construction activity at oil and gas exploration, production, processing, and treatment operations or transmission facilities, require permit authorization by March 10, 2003, unless designated for coverage before then. Discharges associated with small construction activity at such oil and gas sites require permit authorization by March 10, 2005.

* * * * *

[FR Doc. 03–5708 Filed 3–7–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0348; FRL–7292–6]

Aluminum tris (O-ethylphosphonate); Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the fungicide aluminum tris (O-ethylphosphonate) (fosetyl-Al) in or on onion, green. The Interregional Research Project #4 (IR-4), Center for Minor Crop Management, Rutgers, The State University of New Jersey, 681 U. S. Highway #1 South, North Brunswick, NJ 08902–3390 requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

DATES: This regulation is effective March 10, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0348, must be received on or before May 9, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. Potentially affected entities may include, but are not limited to:

- Crop production (NAIC code 111)
- Animal production (NAIC code 112)
- Food manufacturing (NAIC code 311)
- Pesticide manufacturing (NAIC code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in OPP–2002–0348. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0348. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of January 2, 2003 (68 FR 103) (FRL–7282–5), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (PP 2E6366) by IR-4, Center for Minor Crop Management, Rutgers, The State University of New Jersey, 681 U. S. Highway #1 South, North Brunswick, NJ 08902–3390. That notice included a summary of the petition prepared by Bayer CropScience, the registrant.

The petition requested that 40 CFR 180.415 be amended by establishing a tolerance for residues of the fungicide fosetyl-Al, aluminum tris (O-ethylphosphonate), in or on onion, green at 10 parts per million (ppm). There were no comments received in response to the notice of filing.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a tolerance for residues of fosetyl-Al on onion, green at 10 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data on fosetyl-Al and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fosetyl-Al are discussed in the **Federal Register** of August 18, 2000 (65 FR 50431) (FRL–6599–4) as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies reviewed. Please refer to this document should you desire detailed toxicological information on fosetyl-Al.

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factors (SF) is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for fosetyl-Al used for human risk assessment is discussed in Unit III. B. of the final rule on fosetyl-Al tolerances published in the **Federal Register** on August 29, 2002 (67 FR 55339) (FRL–7195–1).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.415) for the residues of fosetyl-Al, in or on a variety of raw agricultural commodities. Residues of fosetyl-Al are currently regulated under 40 CFR 180.415(a) in bushberry subgroup, and juneberry, lingonberry, and salal, at 40 ppm; caneberries, fresh ginseng root, pineapple, pineapple fodder and forage at 0.1 ppm; onions (dry bulb) at 0.5 ppm, macadamia nuts at 0.2 ppm; cranberry at 0.5 ppm; fruit, citrus, group at 5.0 ppm; pea, succulent at 0.3 ppm; tomatoes and bananas at 3.0 ppm; pome fruit at 10 ppm; cucurbit vegetables group at 15 ppm; avocados at 25 ppm; hops, dried at 45 ppm; brassica (cole) leafy vegetables group at 60 ppm; strawberries at 75 ppm; turnip, roots at 15 ppm; turnip, tops at 40 ppm; and leafy vegetables (except brassica vegetables) group at 100 ppm. Time-limited tolerances associated with a section 18 request for the residues of fosetyl-Al have been granted in/on peas, succulent at 1.0 ppm under 40 CFR 180.415(b) which expired September 31, 2000. Additionally, tolerances are established in 40 CFR 180.415(c) for residues of fosetyl-Al in/on asparagus at 0.1 ppm and grapes at 10 ppm in conjunction with regional registrations. Risk assessments were conducted by EPA to assess dietary exposures from fosetyl-Al in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. No appropriate endpoint attributable to a single exposure (dose) of fosetyl-Al was identified from the oral toxicity studies including developmental toxicity studies in rats and rabbits. Therefore, fosetyl-Al is not expected to pose an acute risk.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The Tier 1 (assuming tolerance level residues and 100% crops treated for all commodities) chronic dietary exposure assessment was conducted for all supported fosetyl-Al food uses. Chronic dietary exposure estimates were provided for the general U.S. population and various population subgroups.

iii. *Cancer.* The Agency concludes that pesticidal use of fosetyl-Al is unlikely to pose a carcinogenic hazard to humans. Therefore, a cancer dietary exposure analysis for fosetyl-Al was not performed.

2. *Dietary exposure from drinking water.* Fosetyl-Al is not expected to reach ground water or surface water under most conditions.

Based on screening models, FQPA Index Reservoir Screening Tool (FIRST) and Screening Concentrations in Ground Water (SCI-GROW), the estimated environmental concentrations (EECs) of fosetyl-Al for acute exposures are estimated to be 0.0086 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic exposures are estimated to be 0.00003 ppb for surface water and 0.006 ppb for ground water.

3. *From non-dietary exposure*. Fosetyl-Al is currently registered for use on the following residential non-dietary sites: Lawn, turf, and ornamental plants under the brand names CHIPO® Aliette WDG and Aliette® HG. CHIPO® Aliette WDG is sold to professional applicators only, which includes lawn care operators (LCO). Because all residential uses of CHIPO® Aliette WDG are applied by the LCO, a residential applicator exposure assessment for this product was not performed. Short- and intermediate-term dermal, inhalation, and oral exposures to fosetyl-Al may occur from residential handling/postapplication activities.

For a detailed discussion of fosetyl-Al risk assessment, see Unit III. C. 3. of the final rule on fosetyl-Al tolerances published in the **Federal Register** on August 29, 2002 (67 FR 55339).

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether fosetyl-Al has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fosetyl-Al does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fosetyl-Al has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. The developmental and reproductive toxicity data did not indicate increased quantitative or qualitative susceptibility of rats or rabbits to *in utero* and/or postnatal exposure.

3. *Conclusion*. There is a complete toxicity data base for fosetyl-Al and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be reduced to 1X. The FQPA factor was reduced because the toxicology data base is complete; the developmental and reproductive toxicity data did not indicate increased quantitative or qualitative susceptibility of rats or rabbits to *in utero* and/or postnatal exposure; a developmental neurotoxicity study is not required by the Agency; and the exposure assessment, which assumes the theoretical maximum residue contribution will not underestimate the potential dietary (food and water) and non-dietary exposures for infants and children resulting from the use of fosetyl-Al.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates drinking water level of concerns (DWLOC) which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by EPA are used to calculate DWLOCs: 2 liter (L)/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. The acute aggregate risk assessment takes into account exposure estimates from dietary consumption of fosetyl-Al (food and drinking water). However, no appropriate endpoint attributable to a single dose (exposure) was identified in oral toxicity studies for fosetyl-Al. Therefore, fosetyl-Al is not expected to pose an acute risk.

2. *Chronic risk*. The chronic aggregate risk assessment takes into account average exposure estimates from food, drinking water, and residential uses. However, based on the use pattern, no chronic residential exposures are expected. Therefore, the chronic aggregate risk assessment will consider exposure from food and drinking water only. Chronic risk estimates resulting from aggregate exposure to fosetyl-Al in food and water are below Agency's LOC.

Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fosetyl-Al from food will utilize 4% of the cPAD for the U.S.

population, 5% of the cPAD for infants and 8% of the cPAD for children 1–6 years old, subpopulation at greatest exposure. Based the use pattern, chronic residential exposure to residues of fosetyl-Al is not expected. In addition, there is potential for chronic dietary exposure to fosetyl-Al in drinking water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in Table 1 of this unit:

TABLE 1.—DWLOCS FOR CHRONIC (NON-CANCER) EXPOSURE TO FOSETYL-AL

Population Subgroup[1]	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)[2]	Ground Water EEC (ppb)[2]	Chronic DWLOC (ppb)[3]
U.S. Population	2.5	4	0.00003	0.006	84,000
Children (1–6 years old)	2.5	8	0.00003	0.006	23,000
All infants (< 1 year old)	2.5	5	0.00003	0.006	24,000
Female (13–50 years old)	2.5	3	0.00003	0.006	73,000

1 Within each of these subgroups, the subpopulation with the highest food exposurehaving an adequately representative number of samples was selected. Default body weights are: General U. S. population, 70 kg; females (13 plus years old), 60 kg; and, All Infants/Children, 10 kg.
2 Estimate for the highest use rate was chosen.
3 DWLOC (μg/L) = [Maximum water exposure (mg/kg/day) X body wt (kg) divided by (10^{-3} mg/μg) X water consumed daily (L/day)]. μg/L = parts per billion. Default daily drinking rates are 2 L/day for Adults and 1 L/day for Infants/Children.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

The short-term aggregate risk assessment estimates risks likely to result from 1 to 30 day exposure to fosetyl-Al residues from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the short-term assessment, while average values are used for food and drinking water exposure (i.e. chronic exposures).

A short-term risk assessment is required for adults because there is a residential handler inhalation exposure scenario. In addition, a short-term risk assessment is required for infants and children because there is a residential post-application oral exposure scenario. As no short- or intermediate-term dermal endpoint was established, there is no dermal component to these aggregate risk assessments.

Fosetyl-Al is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for fosetyl-Al.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 3,300 for adults, 570 for children ages 1–6 years old, and 650 for all infants < 1 year old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of fosetyl-Al in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface water and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in Table 2 of this unit:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO FOSETYL-AL

Population Subgroup	Aggregate MOE (Food + Residential)[1]	Aggregate Level of Concern (LOC)[2]	Surface Water EEC (ppb)[3]	Ground Water EEC (ppb)[3]	Short-Term DWLOC (ppb)[4]
Adults	3,300	100	0.00003	0.006	102,000
Children (1–6 years old)	570	100	0.00003	0.006	25,000
All infants (<1 year old)	650	100	0.00003	0.006	25,000

1 Aggregate MOE = [NOAEL (300 mg/kg/day) ÷ (Avg Food Exposure + Residential Exposure)]
2 The LOC is 100, based on interspecies and intraspecies safety factors totaling 100.
3 The crop producing the highest level was used.
4 DWLOC(μg/L) = [Maximum water exposure (mg/kg/day) x body weight (kg) ÷ water consumption (L) x 10^{-3} mg/μg]
For adults, a 70 kg body weight was used, for children, 10 kg.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term risk assessment was not performed since adult residential handler scenarios are not expected to occur for longer than a short-term timeframe (more than 30 days of continuous exposure) and intermediate-term exposure is not likely to occur for infants and children (residential post-application oral exposure scenario) because fosetyl-Al has a very short half-life (less than 3 hours in aerobic soil).

5. *Aggregate cancer risk for U.S. population*. The Agency concludes that pesticidal uses of fosetyl-Al are not likely to pose a carcinogenic hazard to humans. Therefore, an aggregate cancer risk assessment was not performed.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fosetyl-Al residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate analytical method is available for enforcement of the proposed tolerances in/on onion, green. The method is Method I in PAM II, which uses diazomethane as the

methylating agent and quantitation of fosetyl-Al by GC/FPD. The method may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, Environmental Protection Agency, 701 Mapes Road, Fort George G. Mead, MD 20755–5350; telephone number: (410) 305–20905; e-mail address: *griffith.francis@epa.gov*.

B. International Residue Limits

There is no established or proposed maximum residue limit (MRL) or tolerance for fosetyl-Al in or on onion, green for Canada, Mexico, or Codex.

V. Conclusion

Therefore, the tolerance is established for residues of fosetyl-Al, aluminum tris (O-ethylphosphonate), in or on onion, green at 10 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP–2002–0348 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 9, 2003.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603–0061.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2002–0348, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Statuatory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any

unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: February 28, 2003.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.415 is amended by alphabetically adding an entry for ''Onion, green'' to the table in paragraph (a) to read as follows:

§ 180.415 Aluminum tris (O-ethylphosphonate); tolerance for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation Date
* * * * *		
Onion, green	10.0	None
* * * * *		

* * * * *

[FR Doc. 03–5616 Filed 3–7–03; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–431; MM Docket No. 01–254; RM–10264; RM–10375; RM–10376]

Radio Broadcasting Services; Atoka, Haileyville and Clayton, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document dismisses a petition for rule making filed at the request of Maurice Salsa (''Salsa'') proposing the allotment of FM Channel 290A at Atoka, Oklahoma, as that community's second local FM transmission service (RM–10264). *See* 66 FR 52733, October 17, 2001. In response to a counterproposal filed on behalf of Keystone Broadcasting, this

document allots Channel 290A to Haileyville, Oklahoma, as that community's first local aural transmission service (RM–10375). Additionally, this document dismisses an interrelated petition for rule making filed by Linda Crawford (''Crawford'') requesting the allotment of FM Channel 289A to Clayton, Oklahoma, as that community's first local aural transmission service (RM–10376). Salsa and Crawford withdrew their interests at Atoka and Clayton, Oklahoma, respectively, in this proceeding and were dismissed. Coordinates used for Channel 290A at Haileyville, Oklahoma, are 34–56–29 NL and 95–34–20 WL, representing a site restriction 9.7 kilometers (6.0 miles) north of the community. With this action, this docketed proceeding is terminated.

DATES: Effective April 4, 2003. A filing window for Channel 290A at Haileyville, Oklahoma, will not be opened at this time. Instead, the issue of opening the allotment for auction will be addressed by the Commission in a subsequent Order.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–254, adopted February 12, 2003, and released February 18, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Haileyville, Channel 290A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–5337 Filed 3–7–03; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 68, No. 46
Monday, March 10, 2003

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 340

[Docket No. 03–031–1]

Field Testing of Plants Engineered To Produce Pharmaceutical and Industrial Compounds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Request for comments.

SUMMARY: The Animal and Plant Health Inspection Service is providing information to the public on technical aspects of its biotechnology regulatory program as it relates to permit conditions for field testing plants that have been genetically engineered. The Agency is also seeking public comment on ways to improve specific aspects of its program. The specific topics on which we are seeking comment include permit confinement measures, procedures to verify compliance, and ways to enhance the transparency of the permitting system.

DATES: We will consider all comments that we receive on or before May 9, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–031–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–031–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–031–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register,** and related information, including the names of organizations and individuals who have commented on APHIS dockets, is available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Bech, Acting Director, Regulatory Policy Division, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–7324.

SUPPLEMENTARY INFORMATION:

I. Background

The Coordinated Framework for Regulation of Biotechnology, issued by the Office of Science and Technology Policy in 1986 (51 FR 23302), describes the authorities the Federal Government uses to ensure that the development, testing, and use of the products of biotechnology occur in a manner that is safe for plant and animal health, human health, and the environment. The statutes include those administered by the Animal and Plant Health Inspection Service (APHIS), the Food and Drug Administration (FDA), and the Environmental Protection Agency.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture may prohibit or restrict the importation, entry, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or the dissemination of a plant pest into the United States. The Secretary's authority under the Plant Protection Act has been delegated to the Administrator of APHIS.

Under that authority, APHIS administers regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests.'' Part 340 (referred to below as the regulations) governs the introduction (importation, interstate movement, or release into the environment) of any organism or product altered or produced through genetic engineering that is a plant pest or that there is reason to believe is a plant pest, or any product which contains such an organism, or any organism that is unclassified and/or whose classification is unknown. The regulations refer to such organisms as ''regulated articles.''

With certain limited exceptions, the importation or interstate movement of any regulated article is prohibited unless that movement is authorized by a permit issued by APHIS. Similarly, the release into the environment of any regulated article is likewise prohibited unless the release is authorized by a permit or, for specific classes of regulated articles, the Administrator has been notified of the release in accordance with § 340.3 of the regulations, which provides for the use, under certain circumstances, of a streamlined permitting procedure called notification.

Field test permits include detailed descriptions of the conditions under which the permit is issued. These conditions address movement of the regulated articles to the field test site, conduct of the field test, and then any movement of the regulated articles to facilities where the compounds of interest are extracted. Section 340.8 of the regulations provides specific container requirements for the movement of regulated articles. Other conditions are designed to confine the regulated articles to the test site during the test and ensure that they do not persist in the environment beyond the conclusion of the field test. APHIS will continue to require, on a case-by-case basis, that applicants submit additional protocols for review and approval when such protocols are deemed to be pertinent to the applicant's compliance with the regulations. Permit conditions also cover the period after harvest when the test site is monitored for any volunteer plants (plants originating from seeds of the crop planted the previous season). APHIS officers inspect field test sites, audit records, and review field data reports to verify compliance.

The APHIS Biotechnology Permitting Program is a flexible system that allows the Agency to tailor permit conditions to address new information, technical innovations, and experience gained from compliance monitoring, as well as feedback from the public. This flexibility enables the Agency to address new advances in science that affect current and future uses of the technology with genetically engineered plants.

In the past, most field testing has been done with plants engineered to achieve agronomic improvements, such as resistance to diseases and pests or tolerance to specific herbicides. Recently, however, a small number of field tests have been authorized for plants engineered to produce compounds that are intended for pharmaceutical uses. APHIS authorized over 1,000 field tests during 2002, of which fewer than 20 were for field tests of plants engineered to produce pharmaceutical compounds. In 2002, approximately 130 acres of pharmaceutical producing plants were planted in experimental field tests at 34 sites. Most of these test sites were less than 5 acres. It is anticipated, however, that the number of requests for permits for field tests, and the scale of production, will increase significantly over the next few years.

Very few permits have been issued to date for plants in which the modification was made for the expressed intent of producing an industrial compound. However, as with plants engineered to produce pharmaceutical compounds, we anticipate an increase in requests for field tests of these types of plants. ''Industrial'' plants include those genetically engineered plants that are not intended for use as food or feed, but rather are intended to produce compounds that will be extracted for industrial uses. The range of potential uses of such substances includes, for example, applications in detergent manufacturing, paper production, mineral recovery, or in purely experimental research.

II. Changes in the Permit Conditions for 2003

APHIS is modifying its permit conditions and administrative procedures from those APHIS used in 2002. An example of a complete permit, with all conditions, can be viewed on the Internet at *http://www.aphis.usda.gov/ppq/biotech/pdf/sample__permit.pdf.* Some of the changes are related to scientific issues to achieve confinement, whereas other changes are related to ways APHIS administers the program. For all of the conditions described below, APHIS will consider variances proposed by applicants if they are appropriate for the specific case.

1. APHIS will institute the following changes in conditions for all plant species engineered to produce pharmaceutical and/or industrial compounds field tested under permit.

A. APHIS will increase the size of the perimeter fallow zone (not in production) around the field test site from 25 to 50 feet. This measure is designed to ensure that test plants are not inadvertently commingled with plants to be used for food or feed. APHIS currently prohibits the use of the field test site and its perimeter fallow zone to be used to produce food or feed crops during the tests. APHIS is increasing the size of the perimeter fallow zone around the test site to allow farm machinery to move around the site and yet still prevent physical mixing of the regulated plants with surrounding plants that may be used for food or feed.

B. APHIS will restrict the production of food and feed crops at the field test site and perimeter fallow zone in the following season in cases where there is a potential for volunteer plants to be inadvertently harvested with the following crop.

C. APHIS will require that planters and harvesters be dedicated to use in the permitted test site(s) for the duration of the tests. In addition, while tractors and tillage attachments, such as disks, plows, harrows, and subsoilers, do not have to be dedicated, they must be cleaned in accordance with protocols approved by APHIS (*see* item II.1.E below). To ensure the regulated articles are not inadvertently removed from the site, APHIS authorization will be required before the machinery is used elsewhere.

D. APHIS will require the use of dedicated facilities for the storage of equipment and regulated articles for the duration of the field test. Facilities must be cleaned according to APHIS-approved protocols prior to general use of the facilities.

E. APHIS will require cleaning procedures to be submitted and approved to minimize the risk of seed movement by field operations or equipment (movement of seed on tires of tractors, etc.) from the authorized test site.

F. APHIS will require procedures to be submitted and approved for seed cleaning and drying in order to confine the plant material and minimize the risk of seed loss or spillage.

G. APHIS will require the permittee to implement an approved training program to ensure that personnel are prepared to successfully implement and comply with permit conditions.

2. APHIS will institute the following changes in field test permit conditions for pharmaceutical corn.

A. APHIS will require that there will be no corn grown within 1 mile (5,280 feet) of the field test site throughout the duration of any field test which involves open-pollinated corn. This establishes a physical isolation distance that is eightfold greater than the isolation distance required for the production of foundation seed (660 feet). When pollen flow is controlled by placing bags around the corn tassels, there will be no other corn within 2,640 feet of the field test site, and the pharmaceutical corn must be planted no less than 28 days before or 28 days after any corn growing in a zone extending from 2,640 to 5,280 feet from the field test site, ensuring there is no overlap in anthesis.

B. With the establishment of isolation distances of 1 mile for open-pollinated corn and one-half mile for controlled pollination corn field tests, APHIS will not allow the use of border rows to reduce these isolation distances. APHIS believes that other methods are available and do not pose the difficulties inherent in using border rows. For example, by eliminating the use of border rows/buffer strips, there will be a reduction in the amount of plant material that must be disposed of after the field test is terminated (border rows are handled the same as the regulated article, as their proximity to the plots make them possible pollen recipients). This should reduce the possibility of inadvertent mixing of regulated articles with nonregulated plant material.

III. Compliance

In order to ensure compliance with the regulations, as well as all permit conditions, APHIS will increase the number of field site inspections during the upcoming growing season to correspond with critical times relevant to the confinement measures. Examples might include inspection at the pre-planting stage to evaluate the site location; at the planting stage to verify site coordinates and adequate cleaning of planting equipment; at midseason to verify reproduction isolation protocols and distances; at harvest to verify cleaning of equipment and appropriate storage; at post-harvest to verify cleanup at the field site; and for the following growing season, inspections will be timed to ensure that regulated articles

do not persist in the environment. For example, a field test may have five inspections during the growing season and two additional inspections post-harvest; however APHIS may inspect more frequently in some cases.

The permittee must, as always, maintain records of activities related to meeting the permitting conditions. APHIS will increase the auditing of the permittee's records to verify that required permit conditions were accomplished. APHIS will continue to require permittees to regularly inspect sites and maintain accurate records that will be available for APHIS auditing. The permittee will be required to record all efforts undertaken to meet the confinement protocols and other permit conditions. Some of this information will be related to agronomic information (*i.e.*, detasselling, pollination time of test crop, pollination time of surrounding crops, etc.). Frequent APHIS audits will enable the Agency to identify any discrepancies and mitigate any potential adverse effects.

IV. Information to the Public—Transparency

Transparency of the regulatory system and information about its effectiveness are essential ingredients for informed dialogue with the public. APHIS believes that effective communication and dialogue with interested parties and the public are necessary to enable continued refinement of its regulatory system and help instill confidence in the safety of field testing.

APHIS recognizes the need to provide relevant and timely information to the public on all aspects of the regulations, including information on APHIS authorizations for field testing. APHIS is responding to the increased public interest in the types of genetically engineered plants that are being developed for potential use in medical, veterinary, food processing, and other applications in addition to the more traditional uses in plant variety development for growers.

For example, APHIS provides information on its website on field tests the Agency has authorized and also those pending authorization. In light of increased public interest in the types of confinement standards APHIS uses for field tests of plants engineered to produce pharmaceutical compounds, the Agency posted a letter to potential permit applicants regarding such standards on its website (*http://www.aphis.usda.gov/ppq/biotech/pdf/pharma_2000.pdf*).

In addition, FDA, in collaboration with APHIS's Biotechnology Regulatory Services and Center for Veterinary Biologics, recently published draft guidance for scientific questions and information to be considered during development of a protein pharmaceutical in a genetically engineered crop (*see* 67 FR 57828, published September 12, 2002). The document outlines manufacturing and pre-clinical considerations for such products in addition to the stringent procedures for drug and biologic approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*). In the coming months, the agencies will respond to comments received regarding the notice.

This **Federal Register** notice is a step in our program to increase awareness and establish effective dialogue about APHIS' regulatory program and the permit system. APHIS anticipates providing further opportunities for public involvement in coming months as the Agency continues to evaluate its regulatory program.

V. Issues for Comment

1. As explained above, APHIS is taking steps to increase transparency of its regulatory approach to plants engineered to produce pharmaceutical and industrial compounds. APHIS seeks comment on additional measures that the Agency can take or employ to increase transparency and to enhance the flow of information to interested parties and the public.

2. APHIS seeks comment on alternative procedures, and the scientific data or technical rationale on which they are based, for ensuring adequate confinement for field tests.

3. APHIS seeks comment on appropriate training standards, the use of third party auditors, standard-setting organizations, or other quality control mechanisms to monitor and ensure compliance. In addition, commenters are asked to provide information on other measures or approaches that APHIS might use to verify compliance.

VI. Conclusion

We welcome all comments on the scope and approach of the actions outlined above and encourage the submission of ideas on any associated topics or other suggestions. APHIS will consider all comments and recommendations in developing additional guidance.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements associated with the application of the procedures described in this notice were submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0216 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 03–031–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 03–031–1 and send your comments within 60 days of publication of this notice.

The changes in permit conditions described in this notice will result in additional recordkeeping and reporting.

We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 7.4444 hours per response.

Respondents: Universities and pharmaceutical companies.

Estimated annual number of respondents: 12.

Estimated annual number of responses per respondent: 9.

Estimated annual number of responses: 108.

Estimated total annual burden on respondents: 804 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

Authority: 7 U.S.C. 166, 1622n, 7756, and 7761–7772; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 4th day of March 2003.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–5427 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV03–932–1 PR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Olive Committee (committee) for the 2003 and subsequent fiscal years from $10.09 to $13.89 per ton of olives handled. The committee locally administers the marketing order regulating the handling of olives grown in California. Authorization to assess olive handlers enables the committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began January 1 and ends December 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by April 9, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can viewed at: *http//www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Program Assistant, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable olives beginning on January 1, 2003, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would increase the assessment rate established for the committee for the 2003 and subsequent fiscal years from $10.09 per ton to $13.89 per ton of olives.

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

For the 2002 and subsequent fiscal years, the committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The committee met on December 11, 2002, and unanimously recommended fiscal year 2003 expenditures of $1,230,590 and an assessment rate of $13.89 per ton of olives. In comparison, last year's budgeted expenditures were $1,428,585. The assessment rate of $13.89 is $3.80 higher than the $10.09 rate currently in effect.

Expenditures recommended by the committee for the 2003 fiscal year include $633,500 for marketing development, $347,090 for administration, and $250,000 for research. Budgeted expenses for these items in 2002 were $811,935 for marketing development, $339,650 for administration, and $250,000 for research.

The assessment rate recommended by the committee was derived by considering anticipated expenses, actual olive tonnage received by handlers, and additional pertinent factors. The California Agricultural Statistics Service (CASS) reported olive receipts for the 2002–03 crop year at 89,006 tons, which compares to 123,439 for the 2001–02 crop year. The reduction in the crop size for the 2002–03 crop year, due in large part to the alternate-bearing

characteristics of olives, has made it necessary for the committee to recommend an increase in the assessment rate from the current $10.09 per assessable ton to $13.89 per assessable ton, an increase of $3.80 per ton. Income derived from handler assessments, interest, and utilization of reserve funds will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 932.40).

The assessable tonnage for the 2003 fiscal year is expected to be less than the receipts of 89,006 tons reported by CASS, because some olives may be diverted by handlers to uses that are exempt from marketing order requirements. The quantity of olives that is expected to be diverted cannot be published in this document. The olive industry consists of only three handlers, two of which are much larger than the third, and the confidentially of this handler information must be maintained to protect the proprietary business positions of each of the handlers.

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

Although this assessment rate would be in effect for an indefinite period, the committee would continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The committee's 2003 budget and those for subsequent fiscal years would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 1,200 producers of olives in the production area and 3 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based upon information from the committee, the majority of olive producers may be classified as small entities. One of the handlers may be classified as a small entity, but the majority of the handlers may be classified as large entities.

This rule would increase the assessment rate established for the committee and collected from handlers for the 2003 and subsequent fiscal years from $10.09 per ton to $13.89 per ton of olives. The committee unanimously recommended 2003 expenditures of $1,230,590 and an assessment rate of $13.89 per ton. The proposed assessment rate of $13.89 per ton is $3.80 per ton higher than the 2002 rate. The quantity of olive receipts for the 2002–03 crop year was reported by CASS to be 89,006 tons, but the actual assessable tonnage for the 2003 fiscal year is expected to be lower. This is because some of the receipts are expected to be diverted by handlers to exempt outlets on which assessments are not paid. The amount of assessable tonnage cannot be reported in this document. The amount of the exempt tonnage must be kept confidential so the business position of each of the three olive handlers is not revealed. The $13.89 per ton assessment rate should be adequate to meet this year's expenses when combined with funds from the authorized reserve and interest income. Funds in the reserve will be kept within the maximum permitted by the order of about one fiscal period's expenses (§ 932.40).

Expenditures recommended by the committee for the 2003 fiscal year include $633,500 for marketing development, $347,090 for administration, and $250,000 for research. Budgeted expenses for these items in 2002 were $811,935 for marketing development, $339,650 for administration, and $250,000 for research.

Last year's olive receipts totaled 123,439 tons compared to this year's tonnage of 89,006. Although the committee decreased 2003 expenses, the significant decrease in olive production makes the higher assessment rate necessary.

The research expenditures will fund studies to develop chemical and scientific defenses to counteract a threat from the olive fruit fly in the California production area. Market development expenditures are lower because the committee's marketing program for 2003 is limited to consumer and nutritionist activities. The committee reviewed and unanimously recommended 2003 expenditures of $1,230,590, which reflects decreases in the research, market development, and administrative budgets.

Prior to arriving at this budget, the committee considered information from various sources, such as the committee's Executive Subcommittee and the Market Development Subcommittee. Alternate spending levels were discussed by these groups, based upon the relative value of various research and marketing projects to the olive industry and the anticipated olive production. The assessment rate of $13.89 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives, and additional pertinent factors.

A review of historical and preliminary information pertaining to the upcoming fiscal year indicates that the grower price for the 2002–03 crop year is estimated to be approximately $672 per ton for canning fruit and $306 per ton for limited-use size fruit. Approximately 85 percent of a ton of olives are canning fruit sizes and 10 percent are limited-use sizes, leaving the balance as unusable cull fruit. Total grower revenue on 89,006 tons would then be $53,563,811 given the percentage of canning and limited-use sizes and current grower prices for those sizes. Therefore, if the assessment rate is increased from $10.09 to $13.89, the estimated assessment revenue is expected to be approximately 2.3 percent of grower revenue.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout the California

olive industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the December 11, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2003 fiscal year began on January 1, 2003, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable olives handled during such fiscal year; (2) the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is proposed to be amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2003, an assessment rate of $13.89 per ton is established for California olives.

Dated: March 4, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–5561 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–08–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Arriel 1 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to supersede an existing airworthiness directive (AD), applicable to Turbomeca Arriel 1 A, 1 A1, 1 A2, 1 B, 1 C, 1 C1, 1 C2, 1 D, and 1 D1 turboshaft engines. That AD currently requires repetitive checks for engine rubbing noise during gas generator rundown following engine shutdown, and for free rotation of the gas generator by rotating the compressor manually after the last flight of the day. In addition, the AD 95–11–01 requires installation of modification TU 202 or TU 197 as terminating action to the repetitive checks. This proposal would add additional engine models to the applicability section, would eliminate the installation of modification TU 197 as a terminating action to the repetitive checks, would require additional inspections for engines that have modification TU 197 installed, and would require the replacement of modifications TU 76 and TU 197 with modification TU 202, as a terminating action to the repetitive checks and inspections. This proposal is prompted by a report of an in-flight engine shutdown on an engine that had modification TU 197 installed, and the need to update the modification standard on certain engine models. The actions specified by the proposed AD are intended to prevent engine failure due to rubbing of the 2nd stage turbine disk on the 2nd stage turbine nozzle guide vanes, which could result in complete engine failure and damage to the helicopter.

DATES: Comments must be received by May 9, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 94–ANE–08–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from 40220 Tarnos, France; telephone (33) 05 59 64 40 00, fax (33) 05 59 64 60 80. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Antonio Cancelliere, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7751; fax (781) 238–7199.

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. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped

postcard on which the following statement is made: ''Comments to Docket Number 94–ANE–08–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 94–ANE–08–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On May 15, 1995, the FAA issued airworthiness directive (AD) 95–11–01, Amendment 39–9235 (60 FR 27023, May 22, 1995), applicable to Turbomeca Arriel 1 series turboshaft engines, to require repetitive checks for engine rubbing noise during gas generator rundown following engine shutdown, and for free rotation of the gas generator by rotating the compressor manually at a daily interval until installation of improved 2nd stage turbine nozzle guide vanes. That action was prompted by comments submitted by operators of the affected engines in response to a previous AD and the availability of improved design 2nd stage turbine nozzle guide vanes. That condition, if not corrected, could result in engine failure due to rubbing of the 2nd stage turbine disk on the 2nd stage turbine nozzle guide vanes, which could result in complete engine failure and damage to the helicopter.

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Turbomeca Arriel 1 B, 1 C, 1 C1, 1 C2, 1 D, and 1 D1 turboshaft engines.

Since AD 95–11–01 was issued, the DGAC advises that it has received a report of an in-flight engine shutdown on an engine that had improved 2nd stage turbine nozzle guide vanes, modification TU 197, installed. In this particular event, a crack initiated in a machined slot located between the vanes on the inner ring. The crack propagated and resulted in separation of the inner ring. This failure mode is different than that experienced on engines that have premodification TU 197 2nd stage turbine nozzle guide vanes installed. Installation of modification TU 197 is identified as a terminating action to the repetitive checks for the current AD. As a result of this event, the proposed AD requires additional borescope inspections for engines that have modification TU 197 installed.

The DGAC has also determined that modification TU 76 should be replaced with modification TU 202 on Arriel 1 B, 1 D, and 1 D1 engines. The manufacturer has informed the FAA that modification TU 202 may have already been installed on all Arriel 1 B, 1 D, and 1 D1 engines installed on helicopters of U.S. registry. However, for completeness, the proposed AD requires the removal of modification TU 76 or TU 197 and replacement with modification TU 202 before further flight after the effective date of this AD, to cover any potential engines that may not have been modified already.

The proposed AD will also require replacement of the 2nd stage nozzle guide vanes, having modification TU 197, with modification TU 202 on all Arriel 1 A, 1 A1, 1 A2, 1 C, 1 C1, 1 C2, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 engines at next engine shop visit after the effective date of the proposed AD, but no later than December 31, 2006. Installation of modification TU 202 constitutes terminating action to the repetitive checks and inspections.

The Arriel 1 E2, 1 K, 1 K1, 1 S, and 1 S1 engine models have also been added to the applicability section of the proposed AD since they are susceptible to the same problem.

Manufacturer's Service Information

Turbomeca has issued the following Arriel 1 service bulletins (SBs) and alert service bulletins (ASBs):

- SB No. 292 72 0181, Update 3, dated September 15, 1995, that describes procedures for checking for unusual noise during gas generator rundown on engine shutdown and after the last flight of the day.
- ASB No. A292 72 0212, Update 5, dated August 8, 2001, that describes procedures for post Module TU 197 initial and repetitive borescope inspections of the nozzle guide vanes for cracks.
- ASB No. A292 72 0150, Update 6, dated September 4, 2000, that describes procedures for replacing modifications TU 76 and TU 197 with modification TU 202.

The DGAC has classified ASB No. A292 72 0212, Update 5, dated August 8, 2001, as mandatory and issued AD DGAC 98–311 (A) R1, dated October 7, 1998, in order to assure the airworthiness of these Turbomeca engines in France.

Differences Between the Manufacturer's Service Information and This Proposed AD

Turbomeca SB No. 292 72 0181 allows 50 flight hours between checks for unusual noise during gas generator rundown on Arriel 1 A, 1 A1, and 1 A2 engines with modification TU 76; and 1 C, 1 C1, 1 C2, 1 K, 1 K1, and 1 S engines before modification to TU 197 or TU 202. This proposed AD would require that the checks be performed during engine shutdown after the last flight of the day or after a 5 second ventilation.

Bilateral Agreement Information

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

Proposed Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other Turbomeca Arriel 1 A, 1 A1, 1 A2, 1 B, 1 C, 1 C1, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 turboshaft engines of the same type design that are installed on helicopters registered in U.S., the proposed AD would supersede AD 95–11–01 to:

- Add additional engine models to the applicability section, and
- Eliminate the installation of modification TU 197 as a terminating action to the repetitive checks, and
- Require additional inspections for engines that have modification TU 197 installed, and
- Require the replacement of modifications TU 76 and TU 197 with modification TU 202 on Arriel 1 B, 1 D, and 1 D1 engines before further flight, and
- Replacement of TU 197 with modification TU 202 as a terminating action to the repetitive checks and inspections.

Economic Analysis

There are approximately 487 engines of the affected design in the worldwide fleet. The FAA estimates that 47 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per engine to do the proposed inspections, including removal and installation of the gas generator module, and that the average labor rate is $60 per work hour. Required parts would cost approximately $18,600 per engine. Based on these figures, the cost per

inspection to U.S. operators is estimated to be $885,480. The manufacturer has advised the DGAC that it may provide modification TU 202 at no cost to the operator, thereby substantially reducing the cost of this proposed rule.

Regulatory Analysis

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 copy of the draft regulatory evaluation prepared for this action is contained 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, pursuant to 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. Section 39.13 is amended by removing Amendment 39–9235, (60 FR 27023, May 22, 1995), and by adding a new airworthiness directive:

Turbomeca: Docket No. 94–ANE–08–AD. Supersedes AD 95–11–01, Amendment 39–9235.

Applicability: This airworthiness directive (AD) is applicable to Turbomeca turboshaft engine models Arriel 1 A, 1 A1, 1 A2, 1 B, 1 C, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 that have not incorporated modification TU 202. These engines are installed on but not limited to Eurocopter AS–350 B, B1, and B2; SA–365 C, C2, N, N1, and N2; MBB–BK 117 C–1 and C–2, Sikorsky S–76 C, and Agusta A109 K2 helicopters.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines 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 (k) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent engine failure due to rubbing of the 2nd stage turbine disk on the 2nd stage nozzle guide vanes, which could result in complete engine failure and damage to the helicopter, do the following:

(a) For Turbomeca Arriel 1 A, 1 A1, 1 A2, 1 B, 1 C, 1 C1, 1 C2, 1 D, 1 D1, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 turboshaft engines that have incorporated modification TU 202, no further action is required.

(b) For Turbomeca Arriel turboshaft engines Models 1 B, 1 D, or 1 D1 that have modification TU 76 or TU 197 installed, before further flight after the effective date of this AD, replace modification TU 76 or TU 197 with modification TU 202 in accordance with 2.B.(1) through 2.C.(2) of Arriel 1 Alert Service Bulletin (ASB) No. A292 72 0150, Update 6, dated September 4, 2000.

Daily Inspection for Engine Rubbing and Free Rotation

(c) For Arriel 1 A, 1 A1, 1 A2, 1 C, 1 C1, 1 C2, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 engines with modification TU 197 installed, perform the following daily checks:

(1) After the last flight of the day or after a ventilation (maximum of 5 seconds), immediately after engine stopping, listen for unusual engine rubbing noise during the gas generator rundown, and

(2) During the check after the last flight of the day, when the T4 temperature is below 150°C (302°F), perform a ventilation (5 seconds maximum) during gas generator rundown or check for free rotation of the gas generator and unusual noise by turning the compressor by hand.

(3) If any rubbing noise is heard and the source of the noise cannot be identified, replace module M03.

Initial Borescope Inspection

(d) For Arriel 1 A, 1 A1, 1 A2, 1 C, 1 C1, 1 C2, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 engines with modification TU 197 installed, do the following:

(1) Perform initial borescope inspections for cracks of the second stage nozzle guide vanes (NGV2) in accordance with 2.B.(a) through 2.B.(c)(*2*) of Turbomeca ASB No. A292 72 0212, Update 5, dated August 8, 2001, and the schedules specified in the following Table 1:

TABLE 1.—INITIAL BORESCOPE INSPECTION

Number of cycles-since-new or overhaul (CSN) on the effective date of this AD.	Initial inspection
(1) Modules M03 with fewer than 1,000 CSN.	Before accumulating 1,100 CSN.
(2) Modules M03 with 1,000 CSN or greater.	Within 100 additional cycles-in-service (CIS) after the effective date of this AD.

(2) If the 2nd stage nozzle guide vanes do not meet the acceptance criteria specified in 2.B.(c)(*2*) of ASB A292 72 0212, Update 5, dated August 8, 2001, replace module M03.

First Repetitive Borescope Inspection

(e) Thereafter, for Arriel 1 A, 1 A1, 1 A2, 1 C, 1 C1, 1 C2, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 engines with modification TU 197 installed, do the following:

(1) Perform the first repetitive borescope inspection for cracks of the NGV2 in accordance with 2.B.(a) through 2.(c)(*2*) of Turbomeca ASB No. A292 72 0212, Revision 5, dated August 8, 2001, and the schedules specified in the following Table 2:

TABLE 2.—REPETITIVE BORESCOPE INSPECTIONS

If module M03 has already been checked	Then repeat inspection
(i) Once, before 900 CSN	Before 1,100 CSN and then between 1,900 and 2,100 CSN.
(ii) Twice, before 900 CSN without propagation of cracks recorded between the first and second check.	Before 1,500 CSN.
(iii) Twice, before 900 CSN with propagation of cracks recorded between the first and second check.	Before 1,100 CSN and then between 1,900 and 2,100 CSN.
(iv) Once, after 900 CSN	Between 1,900 and 2,100 CSN.

(2) If the 2nd stage nozzle guide vanes do not meet the acceptance criteria specified in 2.B.(c)(*2*) of ASB A292 72 0212, Update 5, dated August 8, 2001, replace module M03.

Subsequent Repetitive Borescope Inspection

(f) Thereafter, for Arriel 1 A, 1 A1, 1 A2, 1 C, 1 C1, 1 C2, 1 E2, 1 K, 1 K1, 1 S, and 1 S1 engines with modification TU 197 installed, do the following:

(1) Repeat the borescope inspection of the NGV2 in accordance with 2.B.(a) through 2.B.(c)(*2*) of Turbomeca ASB No. A292 72 0212, Update 5, dated August 8, 2001, at intervals not to exceed 2,100 cycles-since-last-inspection (CSLI).

(2) If the 2nd stage nozzle guide vanes do not meet the acceptance criteria specified in 2.B.(c)(*2*) of ASB A292 72 0212, Update 5, dated August 8, 2001, replace module M03.

Replacement of Modification TU 197

(g) For 1 A, 1 A1, 1 A2, 1 C, 1 C1, 1 C2, 1 E2, 1K, 1 K1, 1 S, and 1 S1 engines that have modification TU 197 installed, install the improved 2nd stage nozzle guide vanes, modification TU 202 at next shop visit after the effective date of this AD, but not later than December 31, 2006, in accordance with 2.B. through 2.C. of Arriel 1 ASB No. A292 72 0150, Update No. 6, dated September 4, 2000.

Terminating Action

(h) Installation of the improved 2nd stage nozzle guide vane, modification TU 202, constitutes terminating action to the checks and inspections required by paragraphs (c)(1), (c)(2), and (d)(1) through (d)(3) of this AD.

(i) The checks required by paragraph (c)(1) and (c)(2) of this AD may be performed by the pilot holding at least a private pilot certificate as an exception to the requirements of part 43 of the Federal Aviation Regulations (14 CFR part 43). The checks must be recorded in accordance with §§ 43.9 and 91.417(a)(2)(v) of the Federal Aviation Regulations (14 CFR 43.9 and 14 CFR 91.417(a)(2)(v)), and the records must be maintained as required by the applicable Federal Aviation Regulation.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(k) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be done.

Note 3: The subject of this AD is addressed in DGAC airworthiness directive DGAC 98–311 (A) R1, dated October 7, 1998.

Issued in Burlington, Massachusetts, on March 3, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–5577 Filed 3–7–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[WO–220–1020–24 1A]

RIN 1004–AD42

Grazing Administration—Exclusive of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of proposed rulemaking for proposed amendments to the BLM's Grazing Administration Regulations and announcement of public meetings; correction.

SUMMARY: The Bureau of Land Management (BLM) in this document corrects one internet address and removes reference to another internet address to which the public cannot get access that appear in the advance notice of proposed rulemaking regarding proposed amendments to BLM's Grazing Administration Regulations, published in the **Federal Register** of March 3, 2003.

FOR FURTHER INFORMATION CONTACT: Ted Hudson, 202–452–5042.

Correction

In proposed rule FR Doc. 03–4933, beginning on page 9964 in the issue of March 3, 2003, make the following corrections:

1. In the Addresses section, on page 9964 in the 3rd column, correct the internet address immediately following the subheading ''Direct Internet response'' to read: *''http://www.blm.gov/nhp/news/regulatory/index.htm''*.

2. In the Supplementary Information section, on page 9966, in the 2nd column, correct the final paragraph of the advance notice of proposed rulemaking by revising it to read:

''Additional information about BLM's Rangeland, Soils, Water, and Air Program is available at any State Office or field office of the Bureau of Land Management.''

Dated: March 5, 2003.

Jim Hughes,

Deputy Director, Bureau of Land Management.

[FR Doc. 03–5718 Filed 3–7–03; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–437; MB Docket No. 03–47, RM–10592]

Radio Broadcasting Services; Midlothian, Orange and South Hill, VA, and Reidsville, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotment of the Commission's rules. The Commission requests comment on a petition filed by Piedmont Communications, Inc. and Old Belt Broadcasting Corporation (together, ''Joint Petitioners'') pursuant to section 1.420(i) of the Commission's rules. Joint Petitioners propose to change the community of allotment and the corresponding channel allotment for Channel 255A at Orange, Virginia, to Channel 255B1 at Midlothian, Virginia, and to modify the license of WJMA-FM accordingly. In order to facilitate those changes, Joint Petitioners further propose to substitute Channel 270A for Channel 255C3 at South Hill, Virginia, and to modify the WKSK-FM license to specify operation on Channel 270A. To accommodate this proposal, Joint Petitioners also request substitution of Channel 271C0 for Channel 271C at Reidsville, North Carolina. Channel 255B1 can be allotted to Midlothian in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.7 km (7.9 miles) northwest of Midlothian. The coordinates for Channel 255B1 at Midlothian are 37–35–23 North Latitude and 77–44–49 West Longitude. Channel 270A can be allotted to South Hill in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.4 km (7.7 miles) northwest of South Hill. The coordinates for Channel 270A at South Hill are 36–46–48 North Latitude and 78–15–04 West Longitude. Channel 271C0 can be allotted at Reidsville, North Carolina, at the current coordinates for Channel 271C. Because Midlothian is not listed in the United

States Census 2000, Joint Petitioners must establish that Midlothian is a community for purposes of the Commission's FM allotment policies. The change of community from Orange to Midlothian would result in a net gain of 2,286.8 square kilometers and a net gain of 729,525 persons. In the loss area, adoption of the proposal would leave 2,470 persons in 135 square kilometers receiving two aural broadcast services, 10,720 persons in 77 square kilometers receiving three services, and 19,189 persons in 541 square kilometers receiving four services. In the gain area, the proposal would add a fifth reception service to 252 persons in 56 square kilometers. Substitution of Channel 270A for Channel 255C3 at South Hill would produce a net loss of 2,285.7 square kilometers and a net loss of 39,412 persons. The existing 70 dBu signal for WJMA-FM at Orange does not cover any Urbanized Area. Joint Petitioners state that Midlothian is not located in an Urbanized Area and that the proposed 70 dBu contour of WJMA-FM will cover less than 50 percent of the Richmond Urbanized Area. Under the circumstances described in the petition, no *Tuck* analysis will be necessary to evaluate this change of community proposal.

DATES: Comments must be filed on or before April 11, 2003, and reply comments on or before April 28, 2003.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the petitioner as follows: Mark J. Prak, Brooks Pierce McLendon, Post Office Box 1800, Raleigh, NC 27602; Peter Gutmann, Womble, Carlyle, Sandridge & Rice, PLLC, 1401 Eye Street, NW., Washington, DC 20005; Mark N. Lipp, J. Thomas Nolan, Shook, Hardy & Bacon, 600 Fourteenth Street, NW., Suite 800, Washington, DC 20005; and Brian M. Madden, Leventhal Senter & Lerman, PLLC, 2000 K Street, NW., Suite 600, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–47; adopted February 12, 2003 and released February 18, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 271C and by adding Channel 271C0 at Reidsville.

3. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Orange, Channel 255A, and by adding Midlothian, Channel 255B1.

4. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 255C3 and by adding Channel 270A at South Hill.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–5333 Filed 3–7–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030227050–3050–01; I.D. 020603D]

RIN 0648–AQ34

Fisheries of the Northeastern United States; Proposed 2003 Specifications for the Spiny Dogfish Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes specifications for the spiny dogfish fishery for the 2003 fishing year, which is May 1, 2003, through April 30, 2004. The implementing regulations for the Spiny Dogfish Fishery Management Plan (FMP) require NMFS to publish specifications for the upcoming fishing year and to provide an opportunity for public comment. The intent is to specify the commercial quota and other management measures, such as trip limits, to address overfishing of the spiny dogfish resource.

DATES: Public comments must be received (see **ADDRESSES**) no later than 5 p.m. eastern standard time on March 25, 2003.

ADDRESSES: Written comments on the proposed specifications should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, ''Comments—2003 Spiny Dogfish Specifications.'' Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of supporting documents used by the Joint Spiny Dogfish Committee and the Spiny Dogfish Monitoring Committee; the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA); and the Essential Fish Habitat Assessment (EFHA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South Street, Dover, DE 19904. The EA, RIR, IRFA and EFHA are accessible via the Internet at *http://www.nero.nmfs.gov./ro/doc/nero.html*

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst, (978)281–9259, fax (978)281–9135, e-mail *eric.dolin@noaa.gov*

SUPPLEMENTARY INFORMATION:

Background

NMFS declared spiny dogfish overfished on April 3, 1998, and added this species to that year's list of overfished stocks in its *Report on the Status of the Fisheries of the United States*, prepared pursuant to section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Consequently, the Magnuson-Stevens Act required the preparation of measures to end overfishing and to rebuild the spiny dogfish stock. The Mid-Atlantic and New England Fishery Management Councils (Councils) jointly developed the FMP during 1998 and 1999. The Mid-Atlantic Fishery Management Council (MAFMC) was designated as the administrative lead on developing the FMP. The FMP was partially approved by NMFS on September 29, 1999, and the final rule implementing the FMP was published on January 10, 2000.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying annually the commercial quota and other management measures (e.g., minimum or maximum fish sizes, seasons, mesh size restrictions, trip limits, and other gear restrictions) for the spiny dogfish fishery to achieve the annual target F specified in the FMP. The target F for the 2003 fishing year is 0.03.

The Spiny Dogfish Monitoring Committee (Monitoring Committee), comprised of representatives from states, MAFMC staff, New England Fishery Management Council (NEFMC) staff, NMFS staff, and two non-voting, ex-officio industry representatives (one each from the Mid-Atlantic and Northeast regions), is required to review annually the best available information and to recommend a commercial quota and other management measures necessary to achieve the target F for the upcoming fishing year. The Councils' Joint Spiny Dogfish Committee (Joint Committee) then considers the Monitoring Committee's recommendations and any public comment in making its recommendation to the two Councils. Afterwards, the MAFMC and the NEFMC make their recommendations to NMFS. NMFS reviews those recommendations to ensure that they are consistent with the target F level, and publishes proposed measures for public comment.

Monitoring Committee Recommendations

The Monitoring Committee met on September 19, 2002, to review updated stock assessment information. Based on a 3–year average (2000–2002), F was estimated to range from 0.27 to 0.44, with the best estimate being F=0.3, which was far above the overfishing threshold level of F=0.11 specified in the FMP.

According to the most recent (through spring 2002), audited NEFSC spring trawl survey data, the current 3–year (2000–2002) moving average of adult female biomass is 72,600 mt versus 68,400 mt for the previous (1999–2001) value. This is approximately 36 percent of the recommended biomass rebuilding target (B_{msy}) for adult females of 200,000 mt (441 million lb). It is important to note that the biomass rebuilding target will be re-estimated this spring when the spiny dogfish stock assessment is updated. The biomass estimates of adult male dogfish between the two moving 3–year average periods is essentially unchanged. The 2000–2002 average of total stock biomass was 378,000 mt, compared to 380,000 mt for 1999–2001. The Monitoring Committee concluded that, based on recent survey updates, stock abundance, including female spawning stock biomass, appears to be stable. This contrasts with the pronounced declines in previous years.

However, the stock of adult females remains low as the result of the fact that the fishery targeted larger (female) fish in the 1990s. The survey data indicate a decrease in the average size of female spiny dogfish in recent years. NMFS survey data also show a reduction in the biomass of spiny dogfish pups based on the decline in biomass of dogfish less than 36 cm. The survey indices for pups for the past 6 consecutive years (1997–2002) have continued to be the lowest in the 34–year time series, indicating recruitment failure.

The Monitoring Committee estimated the yield associated with an F=0.03 for 2003 to be 4.0 million lb (1.81 million kg), assuming the current stock size. The Monitoring Committee recommended a 4–million lb (1.81–million kg) commercial quota for spiny dogfish for the 2003–2004 fishing season, divided into the two semi-annual periods as specified in the FMP: 57.9 percent for quota period 1 (May-October), or 2,316,000 lb (1.05 million kg); and 42.1 percent for quota period 2 (November-April), or 1,684,000 lb (765,454 kg). The Monitoring Committee also recommended maintaining a trip limit of 600 lb (273 kg) for quota period 1 and 300 lb (137 kg) for quota period 2. (Vessels are prohibited from landing more than the specified amount in any one calendar day.)

The Spiny Dogfish Monitoring Committee concluded by consensus that discards are a major issue for stock rebuilding and that discard mortality may be overwhelming the FMP objective of rebuilding female spawning stock biomass. As a result of discarding in other fisheries, fishing mortality could be greater than the F that will allow stock rebuilding. The Committee was also concerned with recent increases in Canadian landings, which now exceed U.S. landings. When the FMP was being developed, Canadian landings were of minor importance. Given all these factors, the Monitoring Committee expressed concern that even the current restrictive rebuilding strategy may be too liberal to accomplish the rebuilding objectives of the FMP, even in the long term. The Councils have initiated development of Amendment 1 to the FMP, which will consider changes to the management regime for this fishery.

Joint Spiny Dogfish Committee Recommendations

The Joint Spiny Dogfish Committee (Joint Committee) met on September 30, 2002, to consider the recommendations of the Monitoring Committee, and to make a recommendation to the Councils. The Joint Committee recommended that the Councils adopt a commercial quota of 8.8 million lb (4 million kg) for the 2003 fishing year. In addition, the Joint Committee recommended trip limits of 7,000 lb (3,182 kg) for quota period 1 and 5,000 lb (2,273 kg) for quota period 2.

Alternatives Proposed by the Councils

The MAFMC and NEFMC voted on recommendations for year 5 (2003–2004) management measures at their respective meetings on October 2, 2002, and November 5, 2002. The MAFMC adopted the Monitoring Committee recommendations for a commercial quota of 4 million lb (1.81 million kg) and trip limits of 600 lb (273 kg) for quota period 1 and 300 lb (137 kg) for quota period 2. The NEFMC adopted the Joint Committee recommendation for an F consistent with a commercial quota of 8.8 million lb (4 million kg), and trip limits of 7,000 lb (3,182 kg) and 5,000 lb (2,273 kg) for quota periods 1 and 2, respectively.

Proposed 2003 Measures

NMFS reviewed both Councils' recommendations and concluded that the MAFMC recommendation would better ensure that the target F is not

exceeded. NMFS proposes a commercial spiny dogfish quota of 4 million lb (1.81 million kg) for the 2003 fishing year to be divided into two semi-annual periods as follows: 2,316,000 lb (1.05 million kg) for quota period 1 (May 1, 2003 - Oct. 31, 2003); and 1,684,000 lb (765,454 kg) for quota period 2 (Nov. 1, 2003 - April 30, 2004). In addition, NMFS proposes to maintain trip limits of 600 lb (273 kg) for quota period 1, and 300 lb (136 kg) for quota period 2, to discourage a directed fishery. The directed fishery has traditionally targeted large mature female spiny dogfish, the stock component that is most in need of protection and rebuilding. Trip limit levels of 7,000 lb (3,182 kg) and 5,000 lb (2,273 kg) could result in a directed fishery, which is inconsistent with the rebuilding program. Maintaining the limits of 600 lb (273 kg) and 300 lb (136 kg) for quota periods 1 and 2, respectively, would allow for the retention of spiny dogfish caught incidentally while fishing for other species, but discourage directed fishing and, therefore, provide protection for mature female spiny dogfish.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared that describes the impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the SUMMARY section of the preamble. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. There are no large entities (vessels) participating in this fishery, as defined in Section 601 of the Regulatory Flexibility Act; therefore, there are no economic impacts resulting from disproportionate sizes of vessels in the fishery. A summary of the analysis follows.

The small entities considered in the analysis include 280 vessels that have reported spiny dogfish landings to NMFS in 2001 (the most recent year for which there is vessel-specific data). In addition, there are vessels that are not subject to the Federal reporting requirements because they fish exclusively in state waters. It is not possible to identify these vessels because data from most of the states are not vessel-specific, but some number of these vessels are likely to be impacted. There is no reason to presume the impacts on these vessels would be substantially different from the impact on federally permitted vessels.

Furthermore, there are a large number of vessels that have been issued Federal spiny dogfish permits, but have not fished for spiny dogfish (a total of 2,825 vessels were issued the permit in 2001). It is presumed that these vessels are interested in the fishery but have chosen not to participate under the restrictive trip limits. If any of these vessels should choose to participate in the upcoming fishing year, they might experience revenue increases associated with landings of spiny dogfish, but those increases cannot be estimated because it is impossible to determine both the number of vessels that would participate and their fishing behavior (e.g., level of effort).

The IRFA considered three alternatives. The action recommended in this proposed rule includes a commercial quota of 4 million lb (1.81 million kg), and trip limits of 600 lb (273 kg) during quota period 1 and 300 lb (136 kg) during quota period 2. Alternative 2 includes a commercial quota of 8.8 million lb (4 million kg) and trip limits of 7,000 lb (3,182 kg) for quota period 1 and 5,000 lb (2,273 kg) for quota period 2. Alternative 3 evaluates the impact of having no management measures.

The potential changes in 2003 revenues under the 4–million lb (1.81–million kg) quota were evaluated relative to landings and revenues derived during 2001: 4.94 million lb (2.25 million kg) of landings, valued at $1,126,000. The analysis is based on the last full fishing year of landings data for 280 vessels. The reduction in gross revenues to the fishery as a whole was estimated to be about $214,259, or about $765 per vessel, compared to fishing year 2001. The information necessary to perform a profitability assessment was not available. Therefore, we have used changes in gross revenues in lieu of profitability.

The proposed trip limits of 600 lb (272 kg) in quota period 1, and 300 lb (136 kg) in quota period 2 represent a continuation of the trip limits established for fishing year 2001 and would have no new impact. The trip limit analysis projected that, on average, under a 600–lb (273–kg) trip limit for quota period 1, landings would exceed the semi-annual quota of 2,316,000 lb (1.05 million kg) on about September 5 (128 days into the quota period). During quota period 2, however, if a 300–lb (136–kg) possession limit was in effect, landings were projected not to exceed the semi-annual quota of 1,684,000 lb (763,849 kg). The analysis projected landings of only 615,000 lb (279,545 kg) during quota period 2. Thus, approximately 1,069,000 lb (485,909 kg) of allowable spiny dogfish landings were projected not to be landed. Although the commercial quota is 4 million lb (1.81 million kg), total projected landings would only reach 2.93 million lb (1.33 million kg). However, the analysis does not account for behavioral changes by vessel operators that could impact the amount of landings. Also, since vessels without Federal permits are not captured in the analysis, yet their landings count towards the quota, it is likely that additional landings will occur. In fact, during the 2002 fishing year, under identical trip limits and commercial quota, period 1 was open for 61 days under a 600–lb (272–kg) trip limit and period 2 was open for 20 days under a 300–lb (136–kg) trip limit. Higher trip limits established by some states in 2002 weakened the effectiveness of the trip limit measures.

Under Alternative 2, the quota would increase to 8.8 million lb (4 million kg). This represents an increase from landings in fishing year 2001 of 3.86 million lb (1.8 million kg), valued at $878,280. Assuming that the increase is shared among the 280 vessels that landed spiny dogfish in fishing year 2001, each vessel would experience revenue increases of $3,137. However, this quota is inconsistent with the target F required by the FMP.

Under Alternative 2, the trip limit model indicates that with trip limits of 7,000 lb (3,175 kg)and 5,000 lb (2,273 kg) during quota periods 1 and 2, respectively, the semi-annual quota of 5,095,200 lb (2.32 million kg) would be exceeded on average approximately 55 days into quota period 1 and the semi-annual quota of 3,704,800 lb (1.68 million kg) would be exceeded approximately 92 days into quota period 2. However, based on the 2002 fishery, it is likely that the allocations would be landed sooner. More vessels would find it profitable to land spiny dogfish under trip limits of 7,000 lb (3,175 kg) and 5,000 lb (2,273 kg) while the season was open.

Under Alternative 3, with no quota or management measures, landings are projected to be 25 million lb (11.36 million kg) in 2003–2004. This represents an increase from 2001 landings of 20.06 million lb (9.12 million kg). Increases in gross revenues to vessels would be about $4.57 million. Gross revenues for vessels engaged in the spiny dogfish fishery would be expected to increase, on average, by

about $16,327 per vessel in fishing year 2003. Although unrestricted fishing would result in higher short-term landings and revenues, compared to fishing year 2001, this would be inconsistent with the rebuilding program established in the FMP, as required by the Magnuson-Stevens Act.

According to 2001 landings information, the impact of the proposed specifications for the 2003 fishing year will be greatest in Massachusetts, which accounted for the largest share of the landings (79.2 percent), followed by New Hampshire (10.6 percent), Rhode Island (6.7 percent), and Virginia (1.8 percent). The top four ports that landed spiny dogfish in 2001 were Chatham, MA (64.8 percent); Gloucester, MA (6.2 percent); Plymouth, MA (4.8 percent); and Newport, RI (4.6 percent).

It has been determined that this proposed rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

This proposed rule does not contain or involve any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

Dated: March 5, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 03–5719 Filed 3–6–03; 12:00 pm]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 46

Monday, March 10, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. DA–03–02]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Services' (AMS) intention to request an extension for and revision to a currently approved information collection for the Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products and for the Certification of Sanitary Design and Fabrication of Equipment Used in the Slaughter, Processing, and Packaging of Livestock and Poultry Products.

DATES: Comments received by May 9, 2003 will be considered.

ADDITIONAL INFORMATION OR COMMENTS: Contact Susan M. Sausville, USDA/AMS/Dairy Programs, Dairy Standardization Branch, Room 2746–South Building, 1400 Independence Avenue, SW., Washington, DC 20250–0230; Tel: (202) 720–2643, Fax: (202) 720–2643 or via e-mail at *susan.sausville@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements Under Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products.

OMB Number: 0581–0126.

Expiration Date of Approval: July 31, 2003.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The dairy grading program is a voluntary user fee program authorized under the Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*). The regulations governing inspection and grading services of manufactured or processed dairy products are contained in 7 CFR part 58. In order for a voluntary inspection to perform satisfactorily, there must be written requirements and rules for both Government and industry. The information requested is used to identify the product offered for grading to identify a request from a manufacturer of equipment used in dairy, meat, or poultry industries for evaluation regarding sanitary design and construction; to identify and contact the party responsible for payment of the inspection, grading, or equipment evaluation fee and expense; and to identify applicants who wish to be authorized for the display of official identification on product packaging materials, equipment, or utensils or on descriptive or promotional materials.

Estimate of Burden: Public reporting burden for this record keeping is estimated to average .0585 hours per response.

Respondents: Distributors, manufacturers, and packers of butter and cheese and manufacturers of processing equipment used in the dairy, meat, and poultry industries.

Estimated Number of Respondents: 400.

Estimated Total Annual Burden on Respondents: 360 hours.

Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should reference OMB No. 0581–0126 and the Dairy Inspection and Grading Program and be sent to the Office of the Deputy Administrator, USDA/AMS/ Dairy Programs, Room 2968–S, 1400 Independence Avenue SW., Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection during regular business hours at the same address.

All comments on this notice will be summarized and included in the request for OMB approval and will become a matter of public record.

Dated: March 4, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–5563 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS–02–20]

Lamb Promotion, Research, and Information: Certification of Organizations for Eligibility To Make Nominations to the Lamb Promotion, Research, and Information Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State, regional, and national lamb producer, seedstock producer, feeder, and first handler organizations or associations that desire to be certified as eligible to nominate lamb producers, seedstock producers, lamb feeders, or first handlers of lamb or lamb products for appointment to the Lamb Promotion, Research, and Information Board (Board). Previously certified organizations do not need to reapply. To nominate a producer, seedstock producer, feeder, or first handler member to the Board, organizations must first be certified by USDA. Notice is also given that upcoming vacancies are anticipated and that during a period to be established by USDA, nominations will be accepted from eligible organizations.

DATES: Applications for certification must be received by close of business April 9, 2003.

ADDRESSES: Certification forms as well as information regarding the certification and nomination procedures may be requested from Kenneth R. Payne, Chief; Marketing Programs Branch, Room 2638–S; Livestock and Seed Program; AMS, USDA; STOP 0251; 1400 Independence Avenue, SW., Washington, DC 20250–0251 or obtained via the Internet at *http://www.ams.usda.gov/lsg/mpb/rp-lamb.htm.*

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief, Marketing Programs Branch on (202) 720–1115, via facsimile on (202) 720–1125, or via e-mail at *Kenneth.Payne@usda.gov.*

SUPPLEMENTARY INFORMATION:

The Commodity Promotion, Research, and Consumer Information Act of 1996 (Act)(7 U.S.C. 7411 *et seq.*) authorizes the establishment and implementation of a lamb promotion, research, and information program. Pursuant to the Act, a proposed Lamb Promotion, Research, and Information Order (Order) was published in the **Federal Register** on September 21, 2001 (66 FR 48764). The final Order was published in the **Federal Register** on April 11, 2002 (67 FR 17848). The Order provides for the establishment of a 13-member Board that will consist of 6 producers, 3 feeders—producers and feeders representing regions east and west of the Mississippi river—1 seedstock producer, and 3 first handlers appointed by USDA. The duties and responsibilities of the Board are provided under the Order.

The Order provides that USDA shall certify or otherwise determine the eligibility of any State, regional, or national lamb producer, seedstock producer, feeder, or first handler organizations or associations that meets the eligibility criteria established under the Order. Those organizations that meet the eligibility criteria specified under the Order will be certified as eligible to nominate members for appointment to the Board. Those organizations should ensure that the nominees represent the interests of producers, seedstock producers, feeders, and first handlers.

The Order provides that the members of the Board shall serve for terms of 3 years, except that appointments to the initially established Board shall be proportionately for 1-, 2-, and 3-year terms. No person may serve more than two consecutive 3-year terms. USDA will announce when nominations will be due from eligible organizations and when any subsequent nominations are due when a vacancy does or will exist. The following unit/regions have vacancies in the fall of 2003:

Unit/region	Members
Producer Member: From either Region 1 or Region 2—Must own annually 101 to 500 head of lambs	1
Producer Member: From either Region 1 or Region 2—Must own annually more than 500 head of lambs	1
Feeder Member: From either Region 1 or Region 2—Either less than 5,000 lambs fed annually or 5,000 or more lambs fed annually	1
First Handler Member	1

Any eligible producer, seedstock producer, feeder, or first handler organization that is not currently certified and is interested in being certified to nominate producers, seedstock producers, feeders, or first handlers for appointment to the Board, must complete and submit an official ''Application for Certification of Organization,'' form. That form must be received by close of business April 9, 2003.

Only those organizations that meet the criteria for certification of eligibility specified under § 1280.206(b) under the Order are eligible for certification. In certifying an organization, the following will be considered:

(1) The geographic territory covered by the active membership of the organization;

(2) The nature and size of the active membership of the organization, including the number of active producers, seedstock producers, feeders, or first handlers represented by the organization;

(3) Evidence of stability and permanency of the organization;

(4) Sources from which the operating funds of the organizations are derived;

(5) The functions of the organization; and

(6) The ability and willingness of the organization to further the purpose and objectives of the Act.

In addition, the primary consideration in determining the eligibility of an organization will be:

(1) The membership of the organization consists primarily of producers, seedstock producers, feeders, or first handlers who market or handle a substantial quantity of lamb or lamb products; and

(2) A primary purpose of the organization is in the production or marketing of lamb and lamb products.

All certified organizations will be notified in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms.

The information collection requirements referenced in this notice has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35) and have been assigned OMB No. 0581–0198, except Board nominees information form has been assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 7411–7425.

Dated: March 4, 2003.

A.J. Yates,

Administrator.

[FR Doc. 03–5562 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–023–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations for the interstate movement of animals affected with Johne's disease.

DATES: We will consider all comments that we receive on or before May 9, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–023–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–023–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–023–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information regarding regulations for the interstate movement of animals affected with Johne's disease, contact Dr. Michael Carter, Senior Staff Veterinarian, National Center for Animal Health Programs, Certification and Control Team, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737–1231; (301) 734–4914. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Johne's Disease in Domestic Animals; Interstate Movement.

OMB Number: 0579–0148.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service of the United States Department of Agriculture is responsible for, among other things, preventing the spread of serious communicable animal diseases (such as Johne's disease) from one State to another, and for eradicating such diseases from the United States when feasible. Johne's disease, also known as paratuberculosis, is caused by *Mycobacterium paratuberculosis* and primarily affects cattle, sheep, goats, and other domestic, exotic, and wild ruminants. This disease is a chronic and contagious enteritis that results in progressive wasting and eventual death. It is nearly always introduced into a healthy herd by an infected animal that is not showing symptoms of the disease. The regulations in title 9, chapter I, subchapter C, of the Code of Federal Regulations govern the interstate movement of animals to prevent the dissemination of livestock and poultry diseases in the United States. Within subchapter C, part 71 contains general provisions for the interstate transportation of animals, poultry, and animal products, while part 80 pertains specifically to the interstate movement of domestic animals that are positive to an official test for Johne's disease.

Our regulations provide that cattle, sheep, goats, and other domestic animals that are positive to an official test for Johne's disease may generally be moved interstate only to a recognized slaughtering establishment or to an approved livestock facility for sale to such an establishment. The animals must bear an official eartag and be shipped with an owner-shipper statement.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.20 hours per response.

Respondents: Herd owners, shippers, State representatives.

Estimated annual number of respondents : 250.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 250.

Estimated total annual burden on respondents: 50 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC this 5th day of March 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–5595 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–024–1]

Notice of Request for Reinstatement of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of approval of an information collection in support of the Horse Protection Program.

DATES: We will consider all comments that we receive on or before May 9, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–024–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–024–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and

address in your message and ''Docket No. 03–024–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information regarding the Horse Protection Act regulations, contact Dr. Jodie Kulpa-Eddy, Horse Protection Coordinator, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 734–7833. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Horse Protection.

OMB Number: 0579–0056.

Type of Request: Reinstatement of approval of an information collection.

Abstract: In 1970, Congress passed the Horse Protection Act (15 U.S.C. 1821 *et seq.*), referred to below as the Act, that prohibits the showing, sale, auction, exhibition, or transport of horses subjected to a cruel and inhumane practice referred to as ''soring.'' This practice causes a horse to suffer pain in any of its limbs for the purpose of affecting the horse's performance in competition. All horses are covered by the Act and the regulations in title 9, part 11, of the Code of Federal Regulations, although enforcement emphasis has historically been placed on Tennessee Walking horses and other gaited breeds due to the prevalence of soring documented in that industry. The regulations are administered and enforced by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture.

In 1979, APHIS issued regulations in response to an amendment to the Act under which horse show managers may hire private individuals to conduct inspections, in order to limit their liability under the Act if sored horses are entered in their event. These individuals are referred to as designated qualified persons (DQPs). DQPs must be trained and licensed by USDA-certified and monitored programs that are run by horse industry organizations or associations (HIOs).

Enforcement of the Act and its regulations relies on horse inspections conducted by APHIS veterinarians and by DQPs. To ensure that enforcement by DQPs and USDA-certified DQP programs is effective, APHIS requires DQPs, HIOs, and horse show management to maintain or submit records related to these inspections, their DQP programs, and the horse events to APHIS.

No official government form is necessary for the reporting and recordkeeping required.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.8454 hours per response.

Respondents: Designated qualified persons, horse industry organizations, and horse show management.

Estimated annual number of respondents: 1,514.

Estimated annual number of responses per respondent: 1.84148.

Estimated annual number of responses: 2,788.

Estimated total annual burden on respondents: 2,357 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC this 5th day of March 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–5596 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–026–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the plant pest, noxious weed, and garbage regulations.

DATES: We will consider all comments that we receive on or before May 9, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–026–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–026–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–026–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related

information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information regarding the plant pest, noxious weed, and garbage regulations, contact Ms. Deborah Knott, Chief, Permit Branch, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734–5055. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS'' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Plant Pest, Noxious Weed, and Garbage Regulations.

OMB Number: 0579–0054.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection and Quarantine (PPQ) program of the Animal and Plant Health Inspection Service (APHIS), U. S. Department of Agriculture, is responsible for preventing plant pests and noxious weeds from entering the United States, preventing the spread of pests and weeds not widely distributed in the United States, and eradicating those introduced pests and weeds when eradication is feasible. PPQ is also responsible for preventing plant and animal diseases and pests from entering the United States in waste material derived from, or associated with, fruits, vegetables, meats, or other plant or animal matter commonly referred to as garbage.

The introduction and establishment of new plant and animal pests and diseases or noxious weeds in the United States could cause multimillion dollar losses to U.S. agriculture.

To prevent this from happening, we engage in a number of information collection activities under 7 CFR parts 330 and 360, and 9 CFR part 94, § 94.5, that are designed to allow us to determine whether shipments of regulated articles (such as certain plants and soil) present a possible risk of introducing plant pests or noxious weeds into the United States.

Our primary means of obtaining this vital information is by requiring individuals to apply to us for a permit to import regulated articles or to move these articles interstate. The permit application contains such information as the nature and amount of items to be imported or moved interstate, the country or locality of origin, the intended destination, and the intended port of entry in the United States.

Such data enable us to evaluate the risks associated with the proposed importation or interstate movement of plant pests, noxious weeds, and soil and to develop risk-mitigating conditions, if necessary, for the proposed importation or interstate movement.

We also require the owners or operators of certain garbage-handling facilities to apply to us for a permit so that they can be approved to process regulated garbage in such a way that it no longer poses a threat of disseminating plant pests or livestock and poultry diseases within the United States. We also employ compliance agreements in our programs to help ensure that garbage handlers and others use appropriate mitigation measures. These information gathering procedures enable us to detect and intercept shipments that pose a potential risk to U.S. agriculture.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.808961 hours per response.

Respondents: Importers and shippers of plant pests, noxious weeds, and other regulated articles; State plant health authorities; owners/operators of regulated garbage-handling facilities.

Estimated annual number of respondents: 39,962.

Estimated annual number of responses per respondent: 1.16435.

Estimated annual number of responses: 46,530.

Estimated total annual burden on respondents: 37,641 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 5th day of March 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–5597 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–027–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations under which softwood (coniferous) packing materials used with goods exported from the United States may be certified as having been heat treated.

DATES: We will consider all comments that we receive on or before May 9, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 03–027–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–027–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–027–1'' on the subject line.

You may read any comments that we receive on this docket in our reading

room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register,** and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information regarding the regulations for softwood packing materials exported from the United States, contact Mr. David B. Lamb, Export Certification Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737; (301) 734–3818. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Export Certification; Heat Treatment of Softwood Packing Materials Exported to China.

OMB Number: 0579–0147.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) provides, among other things, export certification services to assure other countries that the plants and plant products that they are receiving from the United States are free of plant pests specified by the receiving country.

The export certification regulations contained in 7 CFR part 353 (referred to below as the regulations) set forth the procedures for obtaining certification for plants and plant products offered for export or reexport. It should be noted that export certification is not required by the regulations; rather, it is provided by the Plant Protection and Quarantine (PPQ) program of APHIS as a service to exporters.

Effective January 1, 2000, the Government of the People's Republic of China required goods from the United States to be accompanied by either a statement from the exporter that the shipment does not contain any softwood (conifer) packing materials, or by an APHIS-issued certificate certifying that the conifer packing materials in the shipment have been heat treated to a minimum core temperature of 56 °C for 30 minutes.

In response to this requirement, we developed a new certificate of heat treatment and procedures for issuing it to exporters who need to heat treat their packing materials in order to ship goods to China. This certificate, PPQ Form 553, is divided into two parts and serves as both a certification by the exporter that the required heat treatment was performed and USDA endorsement of industry compliance with the certification requirements.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.01728 hours per response.

Respondents: U.S. exporters, State and county cooperators (inspectors).

Estimated annual number of respondents: 6,500.

Estimated annual number of responses per respondent: 25.

Estimated annual number of responses: 162,500.

Estimated total annual burden on respondents: 2,808 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 5th day of March 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–5598 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Report of the Emergency Food Assistance Program (TEFAP) Administrative Costs (Form FNS–667)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection of administrative cost information under the Emergency Food Assistance Program (TEFAP) for Form FNS–667. This proposal is an extension of a collection currently approved under OMB No. 0584–0385.

DATES: Written comments must be received on or before May 9, 2003.

ADDRESSES: Comments may be mailed or faxed to Rosalind Cleveland, Chief, Program Support Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. The fax number is 703–305–1410. Comments may also be emailed to: *fdd-pst@fns.usda.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5

p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 508.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Rosalind Cleveland at 703–305–2888.

SUPPLEMENTARY INFORMATION:

Title: Report of the Emergency Food Assistance Program (TEFAP) Administrative Costs (Form FNS–667).

OMB Number: 0584–0385.

Form Number: FNS–667.

Expiration Date: April 30, 2003.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: The FNS–667, Report of the Emergency Food Assistance Program (TEFAP) Administrative Costs, is completed quarterly, with a close-out report, by the State agencies administering TEFAP. States use the form to report how Federal administrative funds are utilized in three separate categories. States may use funds to pay costs incurred by the State agency itself, or to pay costs incurred by local recipient agencies—emergency feeding organizations (EFO) that distribute USDA commodities to eligible households. States also ''pass down'' to EFOs a certain percentage of Federal administrative funds received, as required by the Emergency Food Assistance Act of 1983, as amended, Section 1772(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624. The information reported on the form is used by the Food and Nutrition Service to ensure that States meet this requirement, as well as the requirement that States match all Federal administrative funds that are not passed down to the local agencies, or used to pay costs on their behalf.

Respondents: State Agencies.

Estimated Number of Respondents: 55 (States, Territories, and the District of Columbia.

Estimated Number of Responses per Respondent: 5.

Estimated Time per Response: .5 to 8 hours per response/average 3.5 hours.

Estimated Total Annual Burden on Respondents: 962.5 hours annually (55 State agencies at 5 responses per agency = 275 responses @ 3.5 hours). A total of five reports, four quarterly and a final close-out report, are submitted. Recordkeeping burden = 0 hours. Reporting burden = 962.5 hours.

Dated: March 4, 2003.

Roberto Salazar,

Administrator.

[FR Doc. 03–5585 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee will meet in Yreka, California, March 17, 2003. The meeting will include routine business and discussion, review, and recommendation of submitted project proposals.

DATES: The meeting will be held March 17, 2003 from 4 p.m. until 8 p.m.

ADDRESSES: The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Don Hall, RAC Coordinator, Klamath National Forest, (530) 841–4468 or electronically at *donaldhall@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: March 3, 2003.

Margaret J. Boland,

Designated Federal Official.

[FR Doc. 03–5579 Filed 3–7–03; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 9:30 a.m. to 12:30 p.m. on Tuesday, March 18, 2002, at the John A. Wilson Building, Room 201, 1350 Pennsylvania Avenue, NW., Washington, DC 20004. The Advisory Committee will hold a meeting to (1) receive an update on the InterSAC report, Civil Rights Concerns in the Metropolitan Washington, DC Area in the Aftermath of the September 11, 2001, Tragedies, and (2) resume planning for its next forums on police-community relations and the impact of relocation of federal agencies outside of the District of Columbia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Marc Pentino of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least 10 working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, March 4, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–5591 Filed 3–7–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 5:30 p.m. on Friday, March 28, 2003, at the Lancaster Lounge, Moulton Union, Bowdoin College, Brunswick, Maine 04011. The purpose of the meeting is to hold new member orientation, be briefed by invited guests on civil rights issues in Maine, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Aonghas St. Hilaire of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least 10 working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, March 4, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–5592 Filed 3–7–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Monday, March 17, 2003, at the Southern New Hampshire University, 2500 North River Road, Manchester, New Hampshire 03106. The purpose of the meeting is to hold new member orientation, be briefed by invited guests on civil rights issues in New Hampshire, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Aonghas St. Hilaire of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 4, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–5589 Filed 3–7–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New York Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the New York Advisory Committee to the Commission will begin at 2 p.m. and end at 3:30 p.m. on Wednesday, March 26, 2003. This conference call is available to the public through the following call-in number: 1–800–659–1203, access code: 15778611. Any interested member of the public may call this number and listen to the meeting. The purpose of the conference call is to plan a community forum on civil rights issues and post 9/11 law enforcement-community relations in New York.

To ensure that the Commission secures an appropriate number of lines, persons are asked to register by contacting Aonghas St. Hilaire of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116), by 4 p.m. on Tuesday, March 25, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, March 4, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–5590 Filed 3–7–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804]

Ball Bearings and Parts Thereof From Japan: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review, and Notice of Intent To Rescind Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review, partial rescission of administrative review, and notice of intent to rescind administrative review.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on ball bearings and parts thereof from Japan. The review covers six manufacturers/exporters and the period is May 1, 2001, through April 30, 2002.

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

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

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Please contact the appropriate case analysts for the various respondent firms, as listed below, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4733; Thomas Schauer (Koyo), Lyn Johnson (NTN), David Dirstine (NPBS), Dmitry Vladimirov (Sapporo), Catherine Cartsos (Taisei Trading Company), Kristin Case (NSK), Mark Ross, or Richard Rimlinger.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department published in the **Federal Register** the antidumping duty order on ball bearings and parts thereof from Japan (54 FR 20904). On June 25, 2002, in accordance with 19 CFR 351.213(b), we published a notice of initiation of administrative review of this order (67 FR 42753).

On October 23, 2002, the Department rescinded the administrative review with respect to Asahi Seiko Co., Ltd., and Nachi-Fujikoshi Corporation with respect to ball bearings from Japan. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.: Partial and Full Rescission of Antidumping Duty Administrative Reviews,* 67 FR 65089 (Oct. 23, 2002).

On August 9, 2002, we received a timely withdrawal of the request for review of Shinyei Kaisha from Japan. Because there were no other requests for review of this firm, we are rescinding the review with respect to this company in accordance with 19 CFR 351.213(d). The Department inadvertently neglected to include this firm in its October 23, 2002, notice.

We also initiated administrative reviews of Kitanihon Seiko, Co. Ltd., Sapporo Precision, Inc., and Sanbi Co., Ltd. In response to our questionnaires to these three entities, we received one consolidated response in which the companies explained their affiliations with one another. Given these affiliations, we have calculated a single weighted average margin for their sales in the United States and refer to them collectively as ''Sapporo'' throughout this notice. *See* analysis memorandum dated March 3, 2003, for a more detailed explanation.

We intend to rescind the administrative reviews we initiated of Jiro Okayama, Eisho Trading Co., Ltd., and Phoenix International Corporation (collectively ''Japanese trading companies'') with respect to subject merchandise from Japan. These Japanese trading companies informed us that, although they are the resellers of Japanese-manufactured ball bearings, their suppliers knew at the time of sale that the merchandise was destined for exportation to the United States. If in fact the suppliers had knowledge that

the sales they made to these trading companies were destined for exportation to the United States, then the suppliers would be the proper parties to an administrative review since their sales would be the point in the sales chain at which merchandise ''is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States * * *'' pursuant to section 772(a) of the Tariff Act of 1930, as amended (the Act).

Although another firm, Taisei Industries, Ltd. (Taisei), claimed that its suppliers ''generally'' have knowledge at the time of sale to Taisei that the ball bearings were destined for exportation to the United States, information on the record indicates that one of Taisei's suppliers did not know that the merchandise was being exported to the United States. Therefore, we have preliminarily included these sales in our administrative review of Taisei. We will seek further clarification concerning Taisei's sales to the United States and the knowledge of its suppliers concerning the ultimate disposition of the ball bearings prior to completing our final results of review.

On January 31, 2003, the Department extended the time limit for the preliminary results of this review to March 3, 2003. *See Ball Bearings and Parts Thereof from Japan; Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 68 FR 6113 (Feb. 6, 2003).

Scope of Review

The products covered by this review are ball bearings and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following *Harmonized Tariff Schedules* (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. For a listing of scope determinations which pertain to the order, see the Scope Determinations Memorandum (Scope Memorandum) from the Antifriction Bearings Team to Laurie Parkhill, dated April 1, 2002, and hereby adopted by this notice. The Scope Memorandum is on file in the Central Records Unit (CRU), Main Commerce Building, Room B–099, in the General Issues record (A–100–001) for the 01/02 review.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written description of the scope of this proceeding remains dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by certain respondents using standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports, which are on file in the CRU, Room B–099.

Export Price and Constructed Export Price

For the price to the United States, we used export price or constructed export price (CEP) as defined in sections 772(a) and (b) of the Act, as appropriate. Due to the extremely large volume of transactions that occurred during the period of review and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled CEP sales in accordance with section 777A of the Act. When a firm made more than 10,000 CEP sales transactions to the United States of subject merchandise, we reviewed CEP sales that occurred during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks are as follows: May 27–June 2, 2001; August 19–25, 2001; September 16–22, 2001; December 2–8, 2001; February 17–23, 2002; and March 24–30, 2002. We reviewed all export-price sales transactions made during the period of review.

We calculated export price and CEP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for discounts and rebates. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the Statements of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, at 823–824 (1994), we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes commissions, direct selling expenses, indirect selling expenses, and U.S. repacking expenses. For NPBS, in accordance with section 772(d)(2) of the Act, we also deducted the cost of any further manufacture or assembly, except where we applied the special rule provided in section 772(e) of the Act. *See* below. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers, *e.g.*, parts of bearings that were imported by U.S. affiliates of foreign exporters and then further processed into other products which were then sold to unaffiliated parties, we determined that the special rule for merchandise with value added after importation under section 772(e) of the Act applied to all firms, except NPBS, that added value in the United States.

Section 772(e) of the Act provides that, when the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise sold by the exporter or producer to an unaffiliated person if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we

estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated purchaser. Based on this analysis, we determined that the estimated value added in the United States by all firms, with the exception of NPBS, accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. *See* 19 CFR 351.402(c) for an explanation of our practice on this issue. Therefore, we preliminarily determine that, for the firms other than NPBS, the value added is likely to exceed substantially the value of the subject merchandise. Also, for those companies, we determine that there was a sufficient quantity of sales remaining to provide a reasonable basis for comparison and that the use of these sales is appropriate. *See* analysis memoranda for Koyo, NSK, and NTN dated February 28, 2003. Accordingly, for purposes of determining dumping margins for the sales subject to the special rule, we have used the weighted-average dumping margins calculated on sales of identical or other subject merchandise sold to unaffiliated persons.

For NPBS, we determined that the special rule did not apply because the value added in the United States did not exceed substantially the value of the subject merchandise. Consequently, NPBS submitted a complete response to our further-manufacturing questionnaire, which included the costs of the further processing performed by its U.S. affiliate, and we analyzed all sales.

No other adjustments to export price or CEP were claimed or allowed.

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by all respondents in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Each company's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on the prices at which the foreign like products were first sold for consumption in the exporting country.

Due to the extremely large number of transactions that occurred during the period of review and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate normal value in accordance with section 777A of the Act. When a firm had more than 10,000 home-market sales transactions, we used sales in sample months that corresponded to the sample weeks that we selected for U.S. CEP sales, sales in the month prior to the period of review, and sales in the month following the period of review. The sample months were April, May, August, September, and December of 2001, and February, March, and June of 2002.

We used sales to affiliated customers only where we determined such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unaffiliated customers.

Because we disregarded below-cost sales in accordance with section 773(b) of the Act in the last completed review with respect to ball bearings sold by Koyo, NPBS, NSK, and NTN (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Administrative Reviews and Revocation of Orders in Part,* 65 FR 49219, 49221 (Aug. 11, 2000), or *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Administrative Reviews and Revocation of Orders in Part,* 67 FR 55780, 55781 (Aug. 30, 2002)), we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted COP investigations of sales by these firms in the home market.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, the selling, general, and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the home-market sales and COP information provided by each respondent in its questionnaire responses.

After calculating the COP, in accordance with section 773(b)(1) of the Act, we tested whether home-market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home-market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(c) of the Act, when less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of a respondent's sales of a given product during the period of review were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and, based on comparisons of prices to weighted-average COPs for the period of review, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales with respect to all of the above-mentioned companies.

We compared U.S. sales with sales of the foreign like product in the home market. We considered all non-identical products within a bearing family to be equally similar. As defined in our questionnaire, a bearing family consists of all ball bearings that are the same in the following physical characteristics: load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, outer diameter, inner diameter, and width.

Home-market prices were based on the packed, ex-factory, or delivered prices to affiliated or unaffiliated purchasers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to export price, we made circumstances-of-sale adjustments by deducting home-market direct selling expenses from and adding U.S. direct selling expenses to

normal value. For comparisons to CEP, we made circumstances-of-sale adjustments by deducting home-market direct selling expenses from normal value. We also made adjustments, when applicable, for home-market indirect selling expenses to offset U.S. commissions in export-price and CEP calculations.

In accordance with section 773(a)(1)(B)(i) of the Act, we based normal value, to the extent practicable, on sales at the same level of trade as the export price or CEP. If normal value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with section 773(a)(7) of the Act. *See Level of Trade* section below.

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value when there were no usable sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market.

When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act and 19 CFR 351.410 for circumstances-of-sale differences and level-of-trade differences. For comparisons to export price, we made circumstances-of-sale adjustments by deducting home-market direct selling expenses from and adding U.S. direct selling expenses to normal value. For comparisons to CEP, we made circumstances-of-sale adjustments by deducting home-market direct selling expenses from normal value. We also made adjustments, when applicable, for home-market indirect selling expenses to offset U.S. commissions in export-price and CEP comparisons.

When possible, we calculated constructed value at the same level of trade as the export price or CEP. If constructed value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and (8) of the Act. *See Level of Trade* section below.

Level of Trade

To the extent practicable, we determined normal value for sales at the same level of trade as the U.S. sales (either export price or CEP). When there were no sales at the same level of trade, we compared U.S. sales to home-market sales at a different level of trade. The normal-value level of trade is that of the starting-price sales in the home market. When normal value is based on constructed value, the level of trade is that of the sales from which we derived SG&A and profit.

To determine whether home-market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the home-market sales were at a different level of trade from that of a U.S. sale and the difference affected price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and home-market sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (Nov. 19, 1997).

For a company-specific description of our level-of-trade analysis for these preliminary results, *see* Memorandum to Laurie Parkhill from Antifriction Bearings Team Regarding Level of Trade, dated March 3, 2003, on file in the CRU, Room B–099.

Preliminary Results of Review

As a result of our review, we preliminarily determine the following percentage weighted-average dumping margins on ball bearings from Japan for the period May 1, 2001, through April 30, 2002:

Company	Margin (percent)
Koyo	4.95
NTN	10.47
NPBS	6.17
Sapporo	7.59
NSK, Ltd	2.68
Taisei	35.18

Comments

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 21 days of the date of publication of this notice. If requested, a hearing will be held at the main Commerce Department building at a time and location to be determined.

Issues raised in a hearing will be limited to those raised in the respective case and rebuttal briefs. Pursuant to 19 CFR 351.309(c)(ii), interested parties may submit case briefs within 30 days of the date of publication of this notice. Furthermore, as discussed in 19 CFR 351.309(d), rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed within 5 days after the time limit for filing the case brief. Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument with an electronic version included.

We are also conducting administrative reviews of the orders on ball bearings from other countries. *See Ball Bearings and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews, Partial Rescission of Administrative Reviews, and Notice of Intent to Revoke Order in Part*, 68 FR 6404 (Feb. 7, 2003). Parties in the Japan-specific review who wish to raise general issues affecting all ongoing reviews of ball bearings from various countries should meet the following schedule regarding requests for a general issues hearing and briefs:

Request for Hearing: March 17, 2003
Case Briefs: March 24, 2003
Rebuttal Briefs: March 31, 2003

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs. The Department will issue final results of this review within 120 days of publication of these preliminary results.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an exporter/importer (or customer)-specific assessment rate or value for subject merchandise.

Export-Price Sales

With respect to export-price sales, for these preliminary results we divided the total dumping margins (calculated as the difference between normal value and export price) for each exporter's importer/customer by the total number of units the exporter sold to that importer/customer. We will direct the Customs Service to assess the resulting per-unit dollar amount against each unit of merchandise in each of that importer's/customer's entries during the review period.

Constructed Export Price Sales

For CEP sales (sampled and non-sampled), we divided the total dumping

margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct the Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries during the review period. *See* 19 CFR 351.212(b).

Cash-Deposit Requirements

To calculate the cash-deposit rate for each respondent (*i.e.*, each exporter and/or manufacturer included in this review), we divided the total dumping margins for each company by the total net value for that company's sales of merchandise during the review period.

In order to derive a single weighted-average margin for each respondent, we weight-averaged the export-price and CEP deposit rates (using the export price and CEP, respectively, as the weighting factors). To accomplish this when we sampled CEP sales, we first calculated the total dumping margins for all CEP sales during the review period by multiplying the sample CEP margins by the ratio of total days in the review period to days in the sample weeks. We then calculated a total net value for all CEP sales during the review period by multiplying the sample CEP total net value by the same ratio. Finally, we divided the combined total dumping margins for both export-price and CEP sales by the combined total value for both export-price and CEP sales to obtain the deposit rate.

Entries of parts incorporated into finished bearings before sales to an unaffiliated customer in the United States will receive the respondent's deposit rate applicable to the order.

Furthermore, the following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of ball bearings from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rates for the reviewed companies will be the rates established in the final results of review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 45.83 percent, the ''All Others'' rate made effective by the final results of review published on July 26, 1993. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729.

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

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

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

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5635 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results and partial rescission of antidumping duty administrative review.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Helen Kramer at (202) 482–0405 (Snowdrop Trading, Pvt. Ltd.), Shireen Pasha at (202) 482–0193 (Echjay Forgings Ltd./Pushpaman Exports), or Dena Aliadinov at (202) 482–3362 (Viraj Forgings, Ltd.), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain forged stainless steel flanges from India (''SS flanges'') manufactured/exported by Echjay Forgings Pvt. Ltd. (''Echjay'') and Viraj Forgings Ltd. (''Viraj''), and exported by Snowdrop Trading Pvt. Ltd. (''Snowdrop''). The period of review (POR) covers the period February 1, 2001, through January 31, 2002. We have preliminarily determined, based in part on adverse facts available, that Echjay sold subject merchandise at less than normal value (''NV'') and that Viraj had a *de minimis* margin. Lastly, we have preliminarily determined to apply a facts available (''FA'') rate to Snowdrop's sale. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of the subject merchandise for which the importer-specific assessment rates are above *de minimis*. We invite interested parties to comment on these preliminary results. We request parties who submit argument in these proceedings to submit with the argument: (1) a statement of the issues and (2) a brief summary of the argument.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published the antidumping duty order on SS flanges (59 FR 5994). On February 1, 2002, the Department published a notice of opportunity to request an administrative review for this order covering the period February 1, 2001, through January 31, 2002 (67 FR 4945). On February 28, 2002, Snowdrop and Metal Forgings Rings & Bearings Pvt. Ltd. (''MF'') requested review in accordance with 19 CFR 351.213(b)(2), and the petitioners requested review of Bhansali Ferromet Pvt. Ltd. (''Bhansali''), Echjay, Isibars Ltd., Panchmahal Steel Ltd. (''Panchmahal''), Patheja Forgings and Auto Parts, Ltd. (''Patheja''), and Viraj under 19 CFR 351.213(b)(1). The petitioners are the Coalition Against Indian Flanges (Ideal Forging Corporation and Maass Flange Corporation). They have not participated further in this review. The Department initiated these reviews on March 27, 2002 (see Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part, 67 FR 14696). The Department rescinded the review of Isibars on December 6, 2002, after

determining that Isibars did not produce or sell subject merchandise to the United States during the period of review (POR) (67 FR 72644). On October 25, 2002, we extended the time limit for the preliminary results of this administrative review to February 28, 2003 (67 FR 65538).

Partial Rescission

On May 8, 2002, Bhansali submitted a statement that it had no sales to the United States during the POR. On May 21, 2002, Panchmahal submitted a similar statement. On May 29, 2002, MF withdrew its request for review because it did not have any U.S. sales. Patheja did not respond to the questionnaire and the Department ascertained that this company is defunct. The Department conducted a query of U.S. Customs Service data on entries of SS flanges from India made during the POR, and confirmed that these companies made no entries during this period. Therefore, we preliminarily determine to rescind the review with respect to Bhansali, Panchmahal, MF and Patheja.

Scope of the Review

The products under review are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Period of Review

The POR is February 1, 2001, through January 31, 2002.

Verification

As provided in section 782(i) of the Act, we verified sales information provided by Echjay from December 11 through December 13, 2002, and sales and cost information provided by Viraj from December 16 through December 18, 2002, using standard verification procedures, including an examination of relevant sales, cost, financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports and are on file in the Department's Central Records Unit located in Room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Use of Facts Available

A. Echjay

Echjay's initial Sections B and C response of July 23, 2002, was deficient and/or unresponsive to many of the questions asked in the Department's questionnaire. There were no sales of subject merchandise in the home market during the POR, and Echjay reported sales to its three largest third country markets, Belgium, Germany and the United Kingdom (''U.K.''). Echjay claimed it had no direct or indirect selling expenses, and omitted the information requested for variable and total costs of manufacturing, stating that there are identical sales in the U.S. and U.K. markets. However, the Department found that there were identical matches for only one-fourth of the products sold in the United States. On August 12, 2002, we transmitted the Section D questionnaire to Echjay, with a deadline of August 26, 2002, for their response. On August 22, 2002, we received Echjay's request for a three-week extension of time. We granted a two-week extension until September 9, 2002. On September 5, 2002, we received a letter from Echjay in which it acknowledged that the merchandise sold in the U.K. market did not have identical matches for the entire range of the merchandise sold in the United States, but asked that the Department consider the prices in which the merchandise was sold in the U.K. as NV. Echjay asked for another extension of time until October 31, 2002, to respond to Section D. Echjay also explained that it would be computing the weighted average cost of production (''COP'') based on total tonnage produced during the year (instead of the product-specific production quantity, per the Section D instructions). On September 6, 2002, we granted an extension of time until September 18, 2002. We stated that inasmuch as certain U.S. sales will not have identical or similar matches, Echjay must report cost data for all reported products by control numbers (''CONNUMs''). We explained that when comparing similar products, the Department considers differences in variable costs associated with the physical characteristics of the products in its margin calculation. Further, we noted that the Department's preference is to use the third country market with the highest volume to determine NV, which in this case was Belgium. We explained that we need Echjay's response to Section D so that we can match products that are not identical by greatest similarity or CV. We warned that if Echjay did not respond to Section D, or if due to statutory time limits we have insufficient time to analyze a new submission, it might be necessary to resort to facts available. Finally, we instructed Echjay to prepare its response strictly in accordance with the instructions, *i.e.*, ''Calculate COP and CV figures on weighted-average basis using the CONNUM specific production quantity, regardless of market sold, as the weighing factor.''

We sent Echjay a supplemental Section B and C questionnaire on September 10, 2002, with a due date of September 24, 2002. We received Echjay's Section D response by the extended due date, September 18, 2002. Question II.A.6 asks respondents to: ''Identify those inputs, and other items * * * that your company receives from affiliated parties. For each item received from an affiliated party, provide the name of the affiliated party and state the nature of the affiliation. Finally, state whether the transfer price of the good or service reflects the market price of the item. * * * '' Footnote 2 instructs respondents to report the ''cost'' of affiliated purchases in accordance with the amounts as recorded in their normal accounting system. Question 7 on the same page asks respondents to list the major inputs purchased from affiliated parties that are used to produce the merchandise under consideration, and to complete a chart comparing purchases from affiliated and unaffiliated suppliers. In response, Echjay stated ''We do not receive any input or any other item from any affiliated parties. * * * Hence, we are leaving the chart below and the subpoints blank.'' Section D response, page 8 (September 18, 2002).

On November 1, 2002, the Department sent Echjay a second supplemental questionnaire with a due date of November 12, 2002, in which we asked

the company to list the exact functions performed by its wholly owned affiliate, Pushpaman Exports (''PE'') in the exporting of SS flanges and to report all costs incurred by PE during the POR. We stated: ''Failure to provide this information as requested will result in the use of facts available, which will be adverse to you.'' Further, we informed Echjay that we would be using its reported sales to Belgium, its largest third country market, to determine NV, in accordance with the Department's practice.

We received Echjay's response on November 21, 2002, in which it stated that it diverts some of its orders to PE, which then either purchases finished products, including SS flanges, or supplies Echjay with stainless steel billets procured from unaffiliated suppliers, which then produces the merchandise on a ''labor charge basis.'' Echjay explained that in its previous responses, it had already included sales made by PE, declaring:

> In our previous responses, we have already included expenses made by Pushpaman Exports as far as Ocean Freight, Marine Insurance, Packing are concerned. As per the instructions of this questionnaire we are now providing the other costs incurred by Pushpaman Exports, in the appropriate fields.

Although Echjay stated that sample worksheets showing the cost allocations for the CONNUMs with the highest sales volume in Belgium and the United States were attached in Annexures D and E, in fact they were missing from the submission, which was received uncollated and therefore not in proper condition for placement on the record of this proceeding.

On December 2, 2002, we sent Echjay the third supplemental questionnaire for sections B–D via email, facsimile and courier, asking Echjay to identify any other manufacturers of SS flanges sold by PE, and setting a deadline of December 5, 2002. As of the close of business on December 6, 2002, the last workday before the verification team's departure for India, the Department had not received Echjay's response. See Memorandum to the File from Shireen Pasha, Case Analyst, Third Supplemental Questionnaire for Sections B–D, December 6, 2002.

During verification, between December 11 and 13, 2002, we discovered that Echjay had failed to report the costs, transfer prices and market prices for billets supplied by PE, which are major inputs that constituted a substantial part of Echjay's direct material costs. Furthermore, Echjay's packing expenses could not be verified. In addition, worksheets Echjay prepared for verification to demonstrate how it calculated the product-specific variable and total costs revealed that it had again ignored the explicit instructions in the Section D questionnaire and supplemental requests for information, instead adopting a methodology of its own devising without consultation with the Department.

At verification, we found that Echjay had failed to provide product-specific costs by control number (''CONNUM'') to account for the cost differences associated with the physical characteristics of the products under review. A respondent's product-specific sales and cost data are the most basic and significant data needed in order for the Department to perform a dumping analysis and margin calculation. The specific physical characteristics identified at the beginning of each case, which make up a control number, are those physical characteristics determined to be the most significant in differentiating between products. These are the physical characteristics that define a unique product for sales comparison purposes. The level of detail within each physical characteristic reflects the importance the Department places on comparing the most similar products in a price-to-price comparison. In this review, the Department identified five characteristics for matching purposes: grade of stainless steel, type of flange, size, pressure rating, and finish. Echjay assigned the same costs to all products within a stainless steel grade, accounting only for cost differences due to the price and weight of the direct material input of stainless steel billets. Absent product-specific cost information, the Department lacks the necessary information to calculate a difference-in-merchandise (''DIFMER'') adjustment to account for differences in physical characteristics when comparing sales of similar merchandise. In addition, without this information, we cannot determine matches between U.S. and comparison market sales for price-to-price comparisons, nor can we determine accurate constructed values for use as normal value, as required.

When a respondent's normal accounting system does not differentiate among products nor provide product-specific costs to the level of detail required by the Department, our consistent practice is to have the respondent start with the costs established in their normal accounting system and then further allocate the costs to specific products based upon a reasonable method available to them. *See* section 773(f)(1)(A) of the Act. If there is little or no cost difference associated with a particular physical characteristic, then the respondent may provide an analysis as to why there is virtually no cost difference relating to the characteristic in question. If there is a significant difference then the respondent is required to develop a reasonable method to quantify such a difference.

Echjay's methodology allocated expenses in proportion to the weight of billets used to produce SS flanges instead of using the CONNUM-specific production quantity, as instructed, thereby failing to account for yield losses. Moreover, as the billet weight used to allocate costs did not include the billets supplied by PE, the costs of the products sold by PE in the Belgian market are understated, thereby distorting DIFMER calculations. Further, Echjay included in CV various expenses the Department normally treats as sale-specific circumstances of sale (''COS'') adjustments and movement expenses. Therefore, we cannot rely on the product-specific variable and total costs Echjay reported in its sales listings for U.S. and comparison market sales to calculate DIFMERs for the purpose of comparing similar products sold in the respective markets.

The Department uses its model matching methodology to determine which comparison market sales should be used to calculate NV for sales for which there are no identical matches. We reject comparisons if the difference in the variable costs of manufacture between the product sold in the comparison market and the product sold in the United States exceeds 20 percent of the total cost of the U.S. product. Without accurate costs, we cannot reliably determine which sales should be compared in the respective markets. Moreover, if some U.S. sales cannot be matched with comparison market sales, either because of insufficient similarity or because of lack of contemporaneousness, we must be able to calculate the CV of the products sold in the United States. Therefore, without accurate costs we cannot reliably calculate whether dumping margins exist.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot

be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Pursuant to section 776(a)(2), we find that in failing to report a substantial percentage of its direct material costs supplied by an affiliated party, Echjay withheld information requested by the Department. Further, Echjay failed to provide its cost of production data in the form and manner requested and failed to meet the deadlines for submission of information. Moreover, Echjay did not notify the Department prior to verification of any inability to report the cost data in the form and manner requested, nor did it propose an alternative acceptable methodology that would account for yield losses. Finally, the packing cost information Echjay provided could not be verified. Therefore, pursuant to section 776(a)(2)(A), (B), and (D), we preliminarily determine that the use of facts otherwise available (''FA'') is warranted in order to calculate a margin for Echjay.

Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by (the Department)'' if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, and if the Department can use the information without undue difficulties, the statute requires it to do so.

For these preliminary results, we have revised Echjay's reported CV data to conform to the Department's standard methodology, to the extent that information already on the record permits. Using cost data from Echjay's most recent fiscal year financial statements, we calculated direct labor costs, overhead costs, general and administrative expenses, and revised interest expenses per kilogram by dividing by the total weight of production of all products, subject and non-subject. However, despite repeated requests to do so, Echjay failed to report all of its direct material costs pursuant to the major input rule (19 CFR 351.407(b)). As a result, the Department was unable to verify the material costs which account for most of the total costs of production. In addition, although the Department asked Echjay several times to report its labor cost for packing, we found at verification that Echjay's explanations of the method it used to calculate packing costs were unsubstantiated and that neither the material cost nor the labor cost for packing could be verified. Therefore, pursuant to section 776(b) of the Act, we preliminarily determine that Echjay has failed to cooperate to the best of its ability.

Section 776(b) provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Statement of Administrative Action* (SAA) accompanying the URAA, H.R. Doc. No. 103–316 (1994), at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties, Countervailing Duties; Final Rule,* 62 FR 27340 (May 17, 1997).

Accordingly, we have preliminarily determined to make an adverse inference and apply the highest cost per kilogram Echjay reported in its Section D response for stainless steel material used to produce flanges to all of Echjay's direct material costs. In addition, we have preliminarily determined to add the highest reported packing expense for Belgian sales to CV for U.S. packing.

B. Snowdrop

Snowdrop made one sale of rough flanges to the United States during the POR. As there were no sales in the home market, Snowdrop reported its sales to its three largest third country markets. The Department found no identical matches to the merchandise sold to the United States. It therefore determined that it would be necessary to use CV to calculate a margin. On October 21, 2002, the Department sent Section D questionnaires to the two producers of the flanges Snowdrop exported to the United States, Panchmahal and Paramount Forge (''Paramount''), with a request that they report CV for the merchandise they sold to Snowdrop and respond by November 7, 2002. Panchmahal notified the Department via email that it would not complete the questionnaire, as it had made the sale to Snowdrop in the belief that it was for the Indian market. On November 14, 2002, the Department sent a letter to Paramount asking them to inform us of their intentions. On November 18, 2002, Paramount asked the Department for an extension of time of unspecified duration. On the same day, we replied that we could extend the deadline only to November 22, 2002, which is a total of 32 days from our original request for information. Subsequent to this date, we received no further communication from Paramount. Panchmahal and Paramount, by not providing the Department with the necessary CV information to conduct a margin analysis, as described above, repeatedly failed to respond to the Department's request for information within the meaning of section 782(d)(1) of the Act.

Although Snowdrop provided the Department with some information, that information was too incomplete for the Department to conduct a margin analysis. Pursuant to sections 776(a)(1) and 776(a)(2)(A) of the Act, we have preliminarily determined to use the facts otherwise available in reaching the applicable determination. Further, because Panchmahal and Paramount, which, as producers of subject merchandise, are interested parties in this proceeding, did not act to the best of their abilities in withholding information and significantly impeded this review, we preliminarily find that it is appropriate to make adverse inferences pursuant to section 776(b) of the Act. *See Coumarin From the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 66 FR 34614 (June 29, 2001); *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, and Final Partial Rescission of Antidumping Duty Administrative Review,* 66 FR 20634 (April 24, 2001); *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review,* 67 FR 19546 (April 22, 2002); and *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review,* 67 FR 63877 (October 16, 2002). When making adverse inferences, the SAA authorizes the Department to consider the extent to which a party may benefit from its own lack of cooperation (SAA at 870). Because Panchmahal currently has a cash deposit rate of 210.00 percent based on the highest rate in the original petition and antidumping duty order,

and both Paramount and Snowdrop have the ''All Others'' rate of 162.14 percent, the Department determines that assigning a 210.00 percent rate will prevent non-responding firms from benefiting from their failure to respond to the Department's requests for information. Anything less than the current 210 percent cash deposit rate would effectively reward non-responding firms for not cooperating by not acting to the best of their ability.

Section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. *See* SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. Id. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

To assess the reliability of the petition margin, in accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the calculations of export price and normal value upon which the petitioners based their margins for the petition. The U.S. prices in the petition were based on quotes to U.S. customers, most of which were obtained through market research. *See* Petition for the Imposition of Antidumping Duties, December 29, 1993. We were able to corroborate the U.S. prices in the petition, which were used as the basis of the 210 percent rate, by comparing these prices to publicly available information based on IM–145 import statistics from the U.S. International Trade Commission's Web site via dataweb for HTS numbers 7307215000 and 7307211000. We noted that the average reported Customs unit value for these products in calendar year 2001, which overlaps eleven months of the POR, was lower than those cited in the petition, which ranged from $4.77 to $47.32, thus corroborating the petition's U.S. price. The NVs in the petition were based on actual price quotations obtained through market research. The Department is not aware of other independent sources of information that would enable it to corroborate the margin calculations in the petition further.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (February 22, 1996), where the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Further, in accordance with *F. LII De Cecco Di Filippo Fara S. Martino S.p.A. v. United States,* 216 F. 3d 1027 (Fed. Cir. June 16, 2000), we also examine whether information on the record would support the selected rates as reasonable facts available.

We find that the 210 percent rate which we are using for these preliminary results does have probative value. We know that, during the POR, one of Snowdrop's suppliers was Panchmahal Steel Ltd. (Panchmahal), which currently has a 210 percent margin rate from the prior administrative review of this proceeding. Thus, this rate is relevant for Snowdrop because it was recently applied to Panchmahal in the prior administrative review, Panchmahal was a supplier to Snowdrop during the POR, and we are not aware of any circumstances that would render this rate inappropriate. Also, we note that four Indian manufacturers currently have a 210 percent margin under this order.

The implementing regulation for section 776 of the Act, codified at 19 CFR 351.308(d), states, ''(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' Additionally, the SAA at 870 states specifically that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. The SAA at 869 emphasizes that the Department need not prove that the facts available are the best alternative information. Therefore, based on our efforts, described above, to corroborate information contained in the petition and in accordance with 776(c) of the Act, which discusses facts available and corroboration, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this preliminary determination (*see Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 84 (January 4, 1999)).

Fair Value Comparisons: Echjay and Viraj

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

Export Price and Constructed Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold by the foreign exporter or producer before the date of importation to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. We have preliminarily determined that all of Echjay's U.S. sales during the POR were EP sales, and that direct sales made by Viraj to unaffiliated U.S. customers were EP sales.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act. We have preliminarily considered sales Viraj made through Viraj USA, Inc. (''VUI'') during the POR to be CEP sales.

We calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States. We used the date of invoice as the date of sale. We based EP on the packed CIF duty paid prices to the first unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including: foreign inland freight, foreign

brokerage and handling, ocean freight, and marine insurance.

For CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (*i.e.*, bank charges, U.S. Customs clearance expenses, and interest for discounted U.S. sales receivables), and indirect selling expenses. In accordance with section 772(d)(3) of the Act, we deducted an amount for profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. We did not deduct imputed credit expenses from the starting price because Viraj discounted its U.S. sales receivables, and therefore did not incur any opportunity cost of capital.

Duty Drawback

Section 772(c)(1)(B) of the Act provides that EP or CEP shall be increased by ''the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.'' The Department determines that an adjustment to U.S. price for claimed duty drawback is appropriate when a company can demonstrate that there is (1) a sufficient link between the import duty and the rebate, and (2) sufficient imports of the imported material to account for the duty drawback received for the export of the manufactured product (the ''two pronged test''). *See Rajinder Pipes Ltd. v. United States*, 70 F. Supp. 2d 1350, 1358 (CIT 1999). *See*, also, *Certain Welded Carbon Standard SteelPipes and Tubes from India:Final Results of New Shippers Antidumping Duty Administrative Review*, 62 FR 47632 (September 10, 1997) and *Federal Mogul Corp.* v. *United States*, 862 F. Supp. 384, 409 (CIT 1994).

We found at verification of Echjay that it had received Duty Entitlement Pass Book (''DEPB'') certificates from the Indian government, which it booked as ''export incentives'' in its Profit and Loss Statements, although it had imported no raw materials, and had sold all of these DEPB certificates on the secondary market. Echjay therefore fails both prongs of the duty drawback test, and we are preliminarily denying this adjustment.

At verification the Department found that Viraj used DEPB licenses received from the Indian government on the basis of the FOB value of its exports to offset the Indian customs duties otherwise payable on imported raw materials used in the production of SS flanges. Viraj reported these payments received from the Indian government in its profit and loss accounts as income under ''Import Duty Drawback Credit Under Pass Book/ DEPB Schemes.'' Although in the previous segment of this proceeding, the Department granted a duty drawback adjustment, we note that each segment is independent of any other. In this review, at verification Viraj traced the total quantities of raw materials which it imported and used in the production of subject merchandise, and accounted for all customs duties amounts not paid but offset against DEPB Duty Entitlement Certificates. However, Viraj was unable to demonstrate the necessary link between the amount of import duties not paid on raw materials used to make subject merchandise and the duty drawback rebate given by the government of India, thus failing the second part of the two-pronged test. Indeed, a company official explained at verification that Viraj sold DEPB licenses in excess of import duties owed on the secondary market for these licenses. Since Viraj did not meet both prongs of the Department's two-pronged test for granting a duty drawback adjustment, we have not added duty drawback to Viraj's U.S. sales prices for the preliminary results.

Normal Value

A. Viability

In order to determine whether there is sufficient volume of sales in the comparison market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of comparison market sales of the foreign like product during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR), we compared the volume of Echjay's Belgian sales and Viraj's home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Since we found no reason to determine that quantity (weight) was not the appropriate basis for these comparisons, we did not use value as the measure. *See* 19 CFR 351.404(b)(2). We determined that the comparison markets were viable because comparison market sales were greater than five percent of Echjay's and Viraj's respective U.S. sales, based on aggregate volume by weight.

B. Arm's Length Sales

Since no information on the record indicates any comparison market sales to affiliates, we did not use an arm's-length test.

C. Cost of Production Analysis

In the previous review of Viraj's sales, the Department found that certain home market sales failed the cost test. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Viraj's sales of subject merchandise were made at prices below COP during the POR. We determined that only grade, type, size, pressure rating, and finish were required to define products for purposes of matching U.S. sales to home market sales. We converted costs from a per-piece basis to a per-kilogram basis. See the company-specific analysis memorandum for Viraj, dated February 28, 2003, (''Viraj Analysis Memo'') a public version of which is available in the Central Records Unit.

In accordance with section 773(b)(3) of the Act, we calculated COP for Viraj based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (''SG&A''), net interest expenses (''INTEX'') and packing. See below under Comparison Market Price for a discussion of revisions the Department made to Viraj's reported INTEX.

After calculating COP, we tested whether home market sales of SS flanges were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less movement charges.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model are at prices less than COP, we disregard the below-cost sales because they are (1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

The results of our cost test for Viraj indicated that for certain comparison market models, less than 20 percent of

the sales of the model were at prices below COP. We therefore retained all sales of these comparison market models in our analysis and used them as the basis for determining NV. Our cost test also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain comparison market models, more than 20 percent of the comparison market sales were sold at prices below COP and were at prices which would not permit the recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

Price-to-Price Comparisons: Viraj

We compared Viraj's U.S. sales with contemporaneous sales of the foreign like product in the comparison market. We considered SS flanges identical based on grade, type, size, pressure rating and finish. We used a 20 percent DIFMER cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and comparison market variable costs of manufacturing divided by the total cost of manufacturing of the U.S. product. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in DIFMER adjustments exceeding 20 percent of the COM of the U.S. product, we based NV on CV.

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In accordance with section 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs. Based on findings at verification, we corrected Viraj's reported packing expenses for finished flanges to include packaging materials. In addition, we made adjustments for differences in COS, as appropriate. Because we were unable to verify Viraj's interest rate for calculating home market credit expenses, we did not make an adjustment for this expense. See pages 13 and 14 of the Department's Viraj Verification Report, dated January 23, 2003. During verification, we reviewed Viraj's U.S. and home market sales with the largest sales volume and found that Viraj incurred sale-specific interest expenses as a result of discounting its U.S. sales receivables, and that these expenses were incorrectly included in INTEX instead of being reported as direct selling expenses. Hence, we calculated a weighted average percentage rate for these interest expenses based on the five U.S. sales we reviewed during verification. We divided this total by the sales revenue for these five sales and took the weighted average percent ratio and multiplied it by the gross unit price (GRSUPRU) for each U.S. sale. We then deducted this interest expense total from INTEX and included it as one of the direct selling expenses which were deducted from the starting price for CEP sales. *See* Viraj Analysis Memo. For comparison to EP, we made COS adjustments by deducting comparison market direct selling expenses and adding U.S. direct selling expenses.

Price-to-CV Comparisons

A. Viraj

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a contemporaneous comparison market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, INTEX and profit. In accordance with 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts Viraj incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in India. For selling expenses, we used the weighted-average home market selling expenses. Where appropriate, we made COS adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

B. Echjay

We based NV on CV for all U.S. sales because as noted above in the Facts Available section of this notice, we could not calculate reliable DIFMERs based on Echjay's cost data. In accordance with 773(e)(2)(B)(i) of the Act, we based SG&A expenses and profit on Echjay's financial statements. We made adjustments for differences in COS between the U.S. and Belgian markets, as appropriate, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The LOT in the comparison market is the LOT of the starting-price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. With respect to U.S. price for EP transactions, the LOT is also that of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is that of the constructed sale from the exporter to the importer. To determine whether comparison market sales are at a different LOT from U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. In analyzing Echjay's and Viraj's selling activities, we did not note any significant differences in functions provided in any of the markets. Based upon the record evidence, we have determined that for Viraj there is one LOT for all EP and CEP sales, the same LOT as for all comparison market sales. Accordingly, because we find the U.S. sales and comparison market sales to be at the same LOT for both respondents, no LOT adjustment under section 773(a)(7)(A) is warranted, nor did Echjay or Viraj request one.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins for the period February 1, 2001, through January 31, 2002, to be as follows:

Manufacturer/Exporter	Margin (Percent)
Echjay Forgings/Pushpaman Exports	125.78
Snowdrop Trading	210.00
Viraj	0

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication. See CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in

these proceedings are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total quantity (in kilograms) of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of merchandise of that manufacturer/exporter made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of flanges from India entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or any previous reviews, the cash deposit rate will be 162.14 percent, the ''all others'' rate established in the LTFV investigation (59 FR 5994, February 9, 1994).

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

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

Dated: February 28, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5634 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China; Notice of Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Amended Final Results of Antidumping Duty Administrative Review.

SUMMARY: On January 30, 2003, the Department of Commerce published the final results of an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 2000, through October 31, 2001. The petitioners requested the correction of two ministerial errors with respect to the final results of review for Taian Fook Huat Tong Kee Pte. Ltd. Based on the correction of these two ministerial errors, we have concluded that this company's sale was *bona fide* and that the two corrections do not result in a change to the calculation of the final weighted-average margin for this company.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Edythe Artman, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3931.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2003, the Department of Commerce (the Department) published the final results of an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China in the **Federal Register.** *See Fresh Garlic from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part* (68 FR 4758).

On January 29, 2003, the petitioners, the Fresh Garlic Producers Association and its individual members, filed an allegation of two ministerial errors in the final results of review with respect to the respondent company Taian Fook Huat Tong Kee Pte. Ltd. (FHTK). FHTK did not file comments on the allegations.

Allegation of Ministerial Errors

In its January 29, 2003, submission, the petitioners alleged that the Department made two ministerial errors in its January 21, 2003, final results analysis memorandum (Final Results Analysis Memorandum) regarding the calculation of FHTK's margin. First, the petitioners asserted that the Department erred in the amount it listed as the quantity of subject merchandise sold by FHTK. Second, they asserted that the Department erred in its statement of FHTK's reported sales price by stating the price as a per-kilogram amount instead of as a per-pound amount. The petitioners claimed that, because of this error, the Department had improperly dismissed their argument concerning the *bona fides* of FHTK's sale. Specifically, the petitioners claimed that the Department's conclusion that FHTK's price was not unreasonably high when compared to the average export price for Chinese garlic exported to the United States at the time of the sale was not supported by the price comparison that the Department explained in its Final Results Analysis Memorandum since the Department stated the FHTK price incorrectly. The petitioners requested that the Department revise its analysis using the correct price, conclude that the transaction in question was not a *bona fide* commercial sale, and issue amended final results in this review.

We have reviewed the record and agree that the quantity sold and the sales price were stated incorrectly in the Final Results Analysis Memorandum. By correcting the sales price, we find that the price was higher than the average export prices for Chinese garlic exported to the United States that we

examined in our final results of review. Thus, we have reconsidered our analysis of whether FHTK's sale was *bona fide.*

In determining whether a transaction is *bona fide* for purposes of an antidumping review, the Department will typically consider the totality of circumstances surrounding a sale rather than a single circumstance, such as price. *See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum (*Clipper Rescission*); *Notice of Final Results of Antidumping Duty New Shipper Review: Certain In-Shell Raw Pistachios from Iran,* 68 FR 353 (January 3, 2003), and accompanying Issues and Decision Memorandum; and *Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty New Shipper Review, and Final Rescission of Antidumping Duty New Shipper Review*, 68 FR 1439 (January 10, 2003), and accompanying Issues and Decision Memorandum. We have reviewed the totality of circumstances surrounding FHTK's sale and have found that the transaction was a *bona fide* sale. Specifically, we found that, in light of average monthly U.S. import values for the subject merchandise during the period of review (POR), FHTK's price was not unreasonably high nor did the price provided a basis for determining that the sale was not commercially reasonable. In addition, we analyzed U.S. Customs Service data and found that the quantity involved in FHTK's transaction was not dissimilar to the quantity of other entries of subject merchandise during the POR and that the quantity was therefore commercially reasonable. We found that no information of record caused us to question the *bona fides* of FHTK or its customer as legitimate, historically commercial enterprises. Finally, we reviewed the record and confirmed that the terms of sale between FHTK and its customer were typical of the commercial selling practices of other exporters of the subject merchandise. For a detailed discussion of our review of the circumstances of FHTK's sale, see the ''Memorandum to Faryar Shirzad from Susan Kuhbach'' regarding the analysis of ministerial error comments (February 21, 2003), on file in the Central Records Unit, Main Commerce Building, Room B–099.

Amended Final Results of Review

Because correction of the two ministerial errors in the Final Results Analysis Memorandum does not result in a change of the calculation of the final margin for FHTK, the weighted-average margin remains 0.00 percent for this company.

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

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5637 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–806]

Silicon Metal from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review for Groupstars Chemical Co., Ltd. (Shandong) (Groupstars) under the antidumping duty order on silicon metal from the People's Republic of China (PRC). The period of review (POR) is from June 1, 2001 through May 31, 2002.

Groupstars did not respond to the Department's antidumping questionnaire. Accordingly, we have applied adverse facts available (AFA) in determining Groupstars' margin. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties. Interested parties are invited to comment on these preliminary results. See the ''Preliminary Results of Review'' section of this notice.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Christian Hughes or Matthew Renkey, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0190 and (202)482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** an antidumping duty order on silicon metal from the PRC on June 10, 1991. *See Antidumping Duty Order: Silicon Metal from the People's Republic of China*, 56 FR 26649 (June 10, 1991). On June 21, 2002, Groupstars, a Chinese exporter of silicon metal, submitted a timely request for the Department to conduct an administrative review for the period June 1, 2001 through May 31, 2002. On July 18, 2002, the Department initiated an administrative review covering the period June 1, 2001 through May 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 48435 (July 24, 2002). On August 21, 2002, the Department sent Groupstars the standard non-market-economy antidumping questionnaire. The deadline for responding to the questionnaire was September 27, 2002. As of October 18, 2002, the Department still had not received a response from Groupstars, or a letter requesting an extension of the deadline. *See Memorandum to File through Maureen Flannery, Program Manager, from Matthew Renkey, Analyst: Status of Questionnaire Response: Silicon Metal from the People's Republic of China (PRC), Administrative Review 6/1/01–5/31/02*, dated October 18, 2002.

On October 30, 2002, the Department received a letter from counsel for Groupstars informing us that they were withdrawing from representation of Groupstars because they were also unsuccessful in eliciting a response from the company regarding the substantive nature of this case.

Scope of the Antidumping Duty Order

The product covered by the order consists of silicon metal containing at least 96.00 but less than 99.99 percent of silicon by weight, and silicon metal with a higher aluminum content containing between 89 and 96 percent silicon by weight.

The merchandise is currently classifiable under item numbers 2804.69.10 and 2804.69.50 of the *Harmonized Tariff Schedule of the United States* (HTSUS) as a chemical product, but is commonly referred to as a metal. Semiconductor-grade silicon (silicon metal containing by weight not less than 99.99 percent of silicon and provided for in subheading 2804.61.00 of the HTSUS) is not subject to this order. This order is not limited to silicon metal used only as an alloy agent or in the chemical industry. Although the HTSUS subheading is provided for

convenience and customs purposes, the written description of the merchandise is dispositive.

Application of Facts Available

We find that, in accordance with section 776 (a)(2) of the Tariff Act of 1930, as amended (the Act), the use of the facts otherwise available is warranted for Groupstars. Sections 776(a)(2)(A) and 776(a)(2)(B) of the Act provide for the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. Groupstars failed to provide information explicitly requested by the Department; therefore, we must resort to the facts otherwise available. Because Groupstars did not respond to the Department's questionnaire, sections 782(d) and (e) of the Act, which reference deficient submissions and the use of certain information provided by respondent, are not applicable. In addition, section 782(c)(1), which also mentions notification by the interested party, does not apply because Groupstars did not indicate that it was unable to submit the information required by the Department.

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may use an inference that is adverse to the interests of the respondent, if it determines that a party has failed to cooperate to the best of its ability. In applying the facts otherwise available, the Department has determined that an adverse inference is warranted pursuant to section 776(b) of the Act because Groupstars failed to cooperate to the best of its ability.

The Department finds that, by not providing any response to the questionnaire issued by the Department, Groupstars has failed to cooperate to the best of its ability. Groupstars did not submit to the Department any information or reason for its failure to respond. This information was in the sole possession of the respondent, and could not be obtained otherwise. Thus, the Department is precluded from calculating a margin for Groupstars or determining its eligibility for a separate rate. Therefore, in selecting from the facts available, the Department determines that an adverse inference is warranted. Because Groupstars is not eligible for a separate rate, it is considered part of the PRC-wide entity. In accordance with sections 776(a)(2)(A) and (B), as well as section 776(b) of the Act, we are applying total AFA to the PRC-wide entity. Section 776(b)(4) of the Act permits the Department to use as AFA ''any other information placed on the record.'' Thus, in selecting an AFA rate, the Department's practice has been to assign respondents who fail to cooperate with Department's investigation the highest margin determined for any party in the less-than fair-value investigation or in any administrative review. *See Sigma Corp. v. United States*, 117 F.3d 1401,1411 (Fed. Cir. 1997); *See also Sparklers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 65 FR 43293, (July 13, 2000). As AFA, the Department is assigning the rate of 139.49 percent, which is the only rate, as well as the highest rate, from any segment of this proceeding. This is the rate from the petition, as adjusted by the Department in the investigation of sales at less than fair value (*see Final Determination of Sales at Less Than Fair Value: Silicon Metal From the People's Republic of China*, 56 FR 18570 (April 23, 1991)), and the rate currently in effect for all exporters. As discussed below, this rate has been corroborated.

Corroboration of Secondary Information Used As Adverse Facts Available

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The *Statement of Administrative Action*, H.R. Doc. 103–316 (SAA), clarifies that the petition is ''secondary information,'' and states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. We have previously examined the reliability of the 139.49 rate and found it to be reliable. *See Memorandum to Ed Yang, Office Director, Office 9, AD/CVD Enforcement, through Maureen Flannery, Program Manager, from Gideon Katz, Analyst: Corroboration of Data Contained in the Petition in the Antidumping Investigation of Silicon Metal from the People's Republic of China*, dated March 2, 1998, and placed on the record of this review. We have no information in this administrative review which would indicate a change in the reliability of this rate.

With respect to the relevance aspect of corroboration, the Department has considered information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here. Moreover, the rate selected is the rate currently applicable to all exporters, and there is no information on the record of this review that demonstrates that this rate is not relevant for use as AFA during this administrative review.

Accordingly, we determine that the highest rate from any previous segment of this administrative proceeding (*i.e.*, the rate of 139.49 percent for the determination of sales at less than fair value) is in accord with section 776(c)'s requirement that secondary information be corroborated (*i.e.*, that it have probative value).

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/ Exporter	Time Period	Margin (percent)
PRC-Wide Rate	6/1/01–5/31/02	139.49

Duty Assessment and Cash Deposit Requirements

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service within 15 days of publication of the final results of review. For assessment purposes, for all PRC exporters, we will apply the rate listed above. Furthermore, the following deposit rates will be effective with respect to all shipments of silicon metal from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this review, as provided for by section

751(a)(2)(C) of the Act: (1) for all PRC exporters, the rate will be the PRC-wide rate, 139.49 percent. (2) for all non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Pursuant to section 351.309 of the Department's regulations, interested parties may submit written comments in response to these preliminary results. Case briefs should be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, should be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, pursuant to section 351.310 of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal briefs, not later than 120 days after publication of these preliminary results, unless that deadline is extended.

Notification of Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and sections 351.213 and 351.221 of the Department's regulations.

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5636 Filed 3–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–856]

Synthetic Indigo from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a timely request from a manufacturer/exporter, the Department of Commerce is conducting an administrative review of the antidumping duty order on synthetic indigo from the People's Republic of China with respect to Liyang Skyblue Chemical Co., Ltd. The period of review is June 1, 2001, through May 31, 2002. As a result of this review, the Department of Commerce has preliminarily determined that sales have been made below normal value by the above-referenced company for the covered period. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Margarita Panayi, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 19, 2000, the Department of Commerce (the Department) published in the **Federal Register** (65 FR 37961) an antidumping duty order on synthetic indigo from the People's Republic of China (PRC), which was amended on June 23, 2000 (65 FR 39128). On June 26, 2002, Liyang Skyblue Chemical Co., Ltd. (Liyang), a PRC manufacturer/exporter of the subject merchandise, requested, in accordance with 19 CFR 351.213, that we conduct an administrative review of Liyang's exports. On July 24, 2002, the Department published a notice of initiation of an administrative review of the antidumping duty order on synthetic indigo from the PRC with respect to Liyang (67 FR 48435). In July 2002, we issued the antidumping questionnaire to Liyang, and we received its responses in August and September 2002. We issued a supplemental questionnaire to Liyang in October 2002 and received its response in November 2002.

On July 25, 2002, the Department informed the parties of an opportunity to submit publicly available information (PAI) for consideration as surrogate values in these preliminary results. The petitioner, Buffalo Color Corporation, provided such data in November 2002.

Scope of Order

The products subject to this order are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as ''Vat Blue 1.'' Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre-reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (*e.g.*, powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this order are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Period of Review

The period of review (POR) is June 1, 2001 through May 31, 2002.

Separate Rates Determination

In previous antidumping duty proceedings, the Department has treated the PRC as a non-market economy (NME) country. We have no evidence

suggesting that this determination should be changed. Accordingly, the Department has determined that NME treatment is appropriate in this review. *See* section 771(18)(c)(i) of the Act. In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assigned a single antidumping duty deposit rate (*i.e.*, a PRC-wide rate).

To establish whether a company operating in an NME is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this test, companies operating in an NME are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to export activities (*Sparklers*, 56 FR 20589). In this review, the sole respondent is a Hong Kong/PRC joint-venture company and, thus, a separate rates analysis is necessary to determine whether its export activities are independent from government control.

1. Absence of De Jure Control

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

The respondent has placed on the record a number of documents to demonstrate absence of *de jure* control, including the ''General Principles of the Civil Law of the People's Republic of China'' and the ''PRC's Enterprise Legal Person Registration Administrative Regulations.''

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of collectively-owned enterprises, joint ventures between PRC and foreign companies, and/or limited liability companies. *See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* (*Furfuryl Alcohol*) 60 FR 22544 (May 8, 1995), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995). We have no new information in this review which would cause us to reconsider this determination with regard to Liyang.

2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide* and *Furfuryl Alcohol.* Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide* and *Furfuryl Alcohol.*

Liyang asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and obtain loans. Furthermore, our analysis of Liyang's questionnaire responses reveals no other information indicating government control. This information supports a preliminary finding that there is an absence of *de facto* governmental control of Liyang's export functions. Consequently, we preliminarily determine that Liyang has met the criteria for the application of a separate rate.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Liyang to the United States were made at prices below normal value, we compared the export price to the normal value, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

We used export price methodology in accordance with section 772(a) of the Act, because the subject merchandise was sold prior to importation by the exporter outside the United States directly to unaffiliated purchasers in the United States and constructed export price methodology was not otherwise indicated.

We calculated export price based on the packed, CIF price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, foreign brokerage and handling, international freight, and marine insurance, in accordance with section 772(c) of the Act. Because these movement services were provided by NME service providers or paid for in an NME currency, we based these expenses on surrogate values from India. To value foreign inland trucking charges, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies obtained in the less-than-fair-value (LTFV) investigation of Bulk Aspirin from the PRC. For rail freight costs, we used 1999–2000 rates published in the July 2001 *Reserve Bank of India Bulletin.* Foreign brokerage and handling expenses were based on November 1999 price quotes from Indian freight forwarders used in the LTFV investigation of Synthetic Indigo from the PRC. Ocean freight was based on publicly available shipping rates between Shanghai, PRC and a U.S. east coast port obtained from the market-economy shipping company Maersk Sealand. For marine insurance, we used public information that was used in the 2000–2001 administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China. A more detailed discussion of the valuation methodology for these expenses is described in *Preliminary Results Valuation Memorandum,* Memorandum to the File dated March 3, 2003 (*Valuation Memo*).

Normal Value

A. Non-Market Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Neither party to this review has contested such treatment. Accordingly, we calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries.

B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market-economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development (*see* Memorandum from Jeff May, Director, Office of Policy, to Davina Hashmi, Senior Import Compliance Specialist, Office 2, dated July 22, 2002). According to the available information on the record, we have determined that India meets the statutory requirements for an appropriate surrogate country for the PRC. Accordingly, we have calculated normal value using Indian values for the PRC producer's factors of production, except, as noted below, in certain instances where an input was sourced from a market economy and paid for in a market-economy currency. We have obtained and relied upon PAI wherever possible.

C. Factors of Production

In accordance with section 773(c) of the Act, we calculated normal value based on the factors of production reported by Liyang's affiliated producer, Liyang Brothers Chemical Company, Ltd. To calculate normal value, the reported unit factor quantities for materials, energy and utilities were multiplied by publicly available Indian values, where possible, or, in the case of the auxiliary agent and the wetting agent, by the weighted-average purchase price of materials manufactured in a market-economy country and paid for in a market-economy currency, in accordance with 19 CFR 351.408.

The selection of the surrogate values applied for purposes of this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POR and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics.* For a complete description of the surrogate values, see the *Valuation Memo.*

We valued raw materials used in the producer's production of the subject merchandise based on data derived from one or more of the following sources:

- The average Indian domestic unit price during the POR derived from the Indian publication *Chemical Weekly* during the POR. We adjusted the average price to exclude the Indian excise tax and state sales tax, where appropriate.
- The average unit import value derived from various editions of *Monthly Statistics of Foreign Trade of India (Indian Import Statistics*).
- The average daily Indian price based on the Indian newspaper *Economic Times of Bombay.*

For certain materials reportedly consumed in small to very small quantities, such as the dispersing, permeating, integration, and water stabilization agents, we were unable to identify appropriate surrogate values. Therefore, we have not included these factors in our preliminary results normal value calculation.

We have been unable to identify a surrogate value for the input phenylglycinonitrile, which Liyang consumes in one of two production methods used during the POR to produce the intermediate input potassium salt. Therefore, for purposes of the preliminary results, we are valuing all of Liyang's internal potassium salt production using the consumption factors and corresponding surrogate values applicable to the other production method, which does not involve the consumption of phenylglycinonitrile. We will reconsider this methodology for the final results if we obtain surrogate value information for phenylglycinonitrile.

Liyang reported that it resold 33% ferric hydroxide and a mixture of sodium hydroxide and potassium hydroxide as by-products from its synthetic indigo production. However, we did not make an offset deduction to the surrogate cost of production in the preliminary results because we were unable to identify appropriate surrogate values for these materials.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value electricity, we used the 2000–2001 ''revised estimate'' average rate for industrial consumption as published in the Government of India's Planning Commission report, *The Working of State Electricity Boards & Electricity Departments Annual Report (2001–02*). We based the value of steam coal on the weighted-average unit price data derived from the *Indian Import Statistics* and the financial statements of Indian chemical companies.

To value water, we relied on the publicly available tariff rates reported in the October 1997 publication *Second Water Utilities Data Book: Asian and Pacific Region.* We valued water separately rather than as part of factory overhead (FOH) because the financial statements used to derive FOH and SG&A surrogate values appeared to exclude water consumption expenses (*see Valuation Memo*).

As we have no available information from an Indian producer of synthetic indigo, we based our calculation of FOH, SG&A expenses, and profit on data contained in the 2001–2002 annual reports of Daurala Organics Ltd., an Indian producer of various chemicals including phenylglycine, a chemical intermediate which may be produced during the manufacture of synthetic indigo, and Atul Limited (Atul), an Indian producer of dyes and dye intermediates, as well as bulk and intermediate chemicals, agrochemicals and pharmaceuticals. We have relied on the data from these two companies because a significant portion of each of their businesses is devoted to the manufacture of products similar to synthetic indigo or its intermediate inputs. *See* the *Valuation Memo* for further discussion.

For the reported packing materials, we used April 2001–December 2001 average unit values derived from *Indian Import Statistics.*

In accordance with the decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401 (CAFC 1997), when using an import surrogate value, we have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin applies to Liyang for the period June 1, 2001, through May 31, 2002:

Manufacturer/producer/exporter	Margin percent
Liyang Skyblue Chemical Co., Ltd.	46.18

Pursuant to 19 CFR 351.309, interested parties may submit written

comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

In addition, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs. Any hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice, containing: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case and rebuttal briefs.

The Department will publish the final results of this administrative review with respect to subject merchandise exports by Liyang, including the results of its analysis of issues raised in any case or rebuttal briefs or at a hearing, not later than 120 days after the date of publication of these preliminary results.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sale to the total entered value of that sale. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appropriate appraisement instructions for the companies subject to this review directly to the Customs Service upon completion of this review. For entries of the subject merchandise during the POR from companies not subject to this review, we will instruct the Customs Service to liquidate them at the cash deposit rate in effect at the time of entry.

Cash Deposit Instructions

Upon completion of this review, for entries from Liyang, we will require a cash deposit at the rate established in the final results as further described below.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of synthetic indigo from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Liyang will be the rate determined in the final results of review (except that if the rate is *de minimis*, *i.e.*, less than 0.50 percent within the meaning of 19 CFR 351.106(c)(1), a cash deposit rate of zero will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity will continue to be 129.60 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213.

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5632 Filed 3–7–03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–846 and C–122–848]

Preliminary Affirmative Countervailing Duty Determinations and Alignment of Final Countervailing Duty Determinations With Final Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat From Canada

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

ACTION: Notice of preliminary affirmative countervailing duty determinations

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers or exporters of certain durum wheat and hard red spring wheat from Canada. For information on the estimated countervailing duty rates, *see infra* section on ''Suspension of Liquidation.''

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Craig Matney, Audrey Twyman, Stephen Cho, or Geoffrey Craig, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1778, (202) 482–3534, (202) 482–3798 and (202) 482–5256, respectively.

Petitioners

The petitioners in these investigations are the North Dakota Wheat Commission (hard red spring wheat), United States Durum Growers Association (durum wheat), and the Durum Growers Trade Action Committee (durum wheat) (collectively, the ''petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 65951 (October 29, 2002) (''*Initiation Notice*'')), the following events have occurred:

On November 4, 2002, the Department of Commerce (''Department'') issued the countervailing duty (''CVD'') questionnaire to the Government of Canada (''GOC''). The questionnaire informed the GOC that it was responsible for forwarding the questionnaire to the appropriate provincial governments (*e.g.*, the Government of Alberta (''GOA'') and the Government of Saskatchewan (''GOS'')) and to producers/exporters (*e.g.*, the Canadian Wheat Board (''CWB'')) of the hard red spring wheat and durum wheat (collectively, ''subject merchandise''). The Department also provided courtesy copies of the questionnaire to the GOA, GOS, and CWB on the same day.

On November 18, 2002, the GOC submitted two scope exclusion requests. See ''Scope Comments'' section, below.

On December 3, 2002, the Department postponed the preliminary determinations of these investigations until March 3, 2003. *See Certain Durum Wheat and Hard Red Spring Wheat: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations*, 67 FR 72918.

The Department received responses to its countervailing duty questionnaires from the GOC, GOA, GOS and CWB on January 13, 2003. On January 31, 2003, we issued supplemental questionnaires to the GOC, GOA, GOS and CWB. On February 6, 2003, we issued a second supplemental questionnaire to the GOC, GOA and GOS. Responses to these supplemental questionnaires were received between February 11 and February 14, 2003.

On December 23, 2002, the petitioners submitted a new subsidy allegation regarding the GOC's guarantee of the CWB's initial payment to producers. On February 11, 2003, we initiated on this alleged program. *See* February 11, 2003, Memorandum to Acting Deputy Assistant Secretary Susan H. Kuhbach (''*New Subsidy Allegation Memo*'') on file in the Central Records Unit (''CRU'') in room B–099 of the main Department building. We issued questionnaires to the GOC and CWB regarding this program on February 13, 2003, and received their responses on February 25, 2003.

Alignment With Final Antidumping Duty Determinations

On February 24, 2003, the petitioners submitted a letter requesting alignment of the final determinations in these investigations with the final determinations in the companion antidumping duty (''AD'') investigations. *See Notice of Initiation of Antidumping Duty Investigations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 65947 (October 29, 2002). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determinations in these investigations with the final determinations in the antidumping investigations of certain durum wheat and hard red spring wheat from Canada.

Period of Investigation (''POI'')

The period for which we are measuring subsidies is August 1, 2001 to July 31, 2002, which coincides with the fiscal year of the CWB, the sole responding exporter. *See* 19 CFR 351.204(b)(2).

Scope of Investigation

For purposes of these investigations, the products covered are (1) durum wheat and (2) hard red spring wheat.

A. Durum Wheat

Imports covered by this investigation are all varieties of durum wheat from Canada. This includes, but is not limited to, a variety commonly referred to as Canada Western Amber Durum. The merchandise subject to this investigation is typically classified in the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 1001.10.00.10, 1001.10.00.91, 1001.10.00.92, 1001.10.00.95, 1001.10.00.96, and 1001.10.00.99.

B. Hard Red Spring Wheat

Imports covered by this investigation are all varieties of hard red spring wheat from Canada. This includes, but is not limited to, varieties commonly referred to as Canada Western Red Spring, Canada Western Extra Strong, and Canada Prairie Spring Red. The merchandise subject to this investigation is typically classified in the following HTSUS subheadings: 1001.90.10.00, 1001.90.20.05, 1001.90.20.11, 1001.90.20.12, 1001.90.20.13, 1001.90.20.14, 1001.90.20.16, 1001.90.20.19, 1001.90.20.21, 1001.90.20.22, 1001.90.20.23, 1001.90.20.24, 1001.90.20.26, 1001.90.20.29, 1001.90.20.35, and 1001.90.20.96.

Although the HTSUS subheadings provided for durum wheat and hard red spring wheat are for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Scope Comments

In the *Initiation Notice*, we invited comments on the scope of these proceedings. On November 18, 2002, we received a request from the GOC to amend the scope of these investigations and the companion AD investigations of hard red spring wheat and durum wheat. Specifically, the GOC requested that the scope be amended to exclude those areas of Canada where the CWB does not have jurisdiction, and to remove Harmonized Tariff Schedule number 1001.90.20.96 from the scope of the AD and CVD investigations of certain hard red spring wheat.

On December 12, 2002, the petitioners submitted their rebuttal comments. On February 4, 2003, the GOC responded to those comments, and on February 11, 2003, the petitioners commented on the GOC's February 4, 2003 comments.

The Department preliminarily determines that the requested exclusions are not warranted. For further discussion, *see* March 3, 2003 memorandum to Acting Deputy Assistant Secretary Susan H. Kuhbach, ''Scope Exclusion Requests: Non-Canadian Wheat Board Areas and HTSUS 1001.90.20.96'' on file in the CRU.

Injury Test

Because Canada is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Tariff Act of 1930, as amended (''the Act''), the International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On November 25, 2002, the ITC transmitted to the Department its preliminary determinations finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Canada of hard red spring wheat and durum wheat. *See Durum and Hard Red Spring Wheat from Canada*, 67 FR 71589 (December 2, 2002).

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life (''AUL'') of the renewable physical assets used to produce the subject merchandise. 19 CFR 351.524(d)(2) creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the ''IRS Tables''). For the wheat products industry, the IRS Tables prescribe an AUL of 10 years.

In order to rebut the presumption in favor of the IRS tables, the Department must find that the IRS tables do not reasonably reflect the company-specific

AUL or the country-wide AUL for the industry in question, and that the difference between the company-specific or country-wide AUL and the IRS tables is significant. *See* 19 CFR 351.524(d)(2)(i). For this difference to be considered significant, it must be one year or greater. *See* 19 CFR 351.524(d)(2)(ii).

Neither the petitioners, CWB, GOC, GOA, or GOS have contested using the AUL reported for the wheat products industry in the IRS tables. Therefore, we preliminarily determine that any non-recurring benefits should be allocated over 10 years.

Attribution of Subsidies

19 CFR 351.525(b)(6)(ii) states that the Department will attribute subsidies received by corporations with ''cross-ownership'' that produce the subject merchandise to the combined sales of those companies. Based on our review of the responses, we preliminarily find no ''cross-ownership'' between the CWB and any other parties, and we have attributed countervailable subsidies received by the CWB to the CWB's sales.

Benchmark Interest Rates

Pursuant to 19 CFR 351.505(a) and 19 CFR 351.524(d)(3)(i), the Department will use as a long-term loan benchmark and as a discount rate the actual cost of comparable long-term borrowing by the company, when available. 19 CFR 351.505(a)(2) defines a comparable commercial loan as one that, when compared to the government-provided loan in question, has similarities in the structure of the loan (*e.g.*, fixed interest rate v. variable interest rate), the maturity of the loan (*e.g.*, short-term v. long-term), and the currency in which the loan is denominated. In instances where no applicable company-specific comparable commercial loans are available, 19 CFR 351.505(a)(3)(ii) permits the Department to use a national average interest rate for comparable commercial loans.

In 1999, the Red Coat Road and Rail Ltd. short line railway was approved for and received a long-term loan from the GOS under the Short Line Financial Assistance Program, described in the ''Analysis of Programs'' section, below. The petitioners have alleged that any railways receiving benefits under this program were entrusted and/or directed to provide a financial contribution to the CWB through this program. There is no information on the record as to whether the Red Coat Road and Rail Ltd. had comparable long-term borrowings of its own during 1999. Accordingly, we compared the effective interest rate on the loan received by the Red Coat and Rail Ltd. to the 1999 national average annual long-term interest rate, represented by the weighted average yield on long-term bonds.

A. CWB Borrowing

The CWB had a large quantity of outstanding short-term borrowing during the POI, all of which was guaranteed by the GOC. The CWB borrowed using four different instrument types: (1) Commercial paper issued in the United States in U.S. dollars (''USCP program''); (2) notes issued in Canada in Canadian dollars (''WBN program''); (3) commercial paper issued in the euromarkets (*i.e.*, international markets) in U.S. dollars and certain other foreign currencies (however, all foreign currency borrowings were swapped to U.S. dollar debts) (''ECP program''); and (4) Euro Medium Term Notes issued in U.S. dollars and Japanese Yen (however, all the Japanese Yen borrowings were swapped to U.S. dollar debts and all the borrowings swapped to variable rates) (''EMTN program''). 19 CFR 351.505(a)(2) states that the Department normally will select a benchmark interest rate reflecting the structure, maturity and currency in which a firm's loans are denominated. However, for purposes of these preliminary determinations, for the non-U.S. or Canadian dollar borrowings under the ECP and EMTN programs, we have used the U.S. dollar, variable rate terms applicable under the swap agreements (rather than on the underlying loans) in determining whether a benefit exists. We intend to examine these borrowings further, including any additional possible benchmarks, to determine whether there is another, more appropriate methodology for the final determinations.

19 CFR 351.506(a) states that ''{i}n the case of a loan guarantee, a benefit exists to the extent that the total amount a firm pays for the loan with the government-provided guarantee is less than the total amount the firm would pay for a comparable commercial loan that the firm could actually obtain on the market absent the government-provided guarantee,'' and that the Department ''will select a comparable commercial loan in accordance with section 351.505(a) {of the Department's regulations}.'' 19 CFR 351.505(a)(3)(i) states that in selecting a benchmark loan, the Department ''normally will rely on the actual experience of the firm in question in obtaining comparable commercial loans,'' but 19 CFR 351.505(a)(3)(ii) explains that ''if the firm did not take out any comparable commercial loans * * * {the Department} may use a national average interest rate for comparable commercial loans.'' Because all of the CWB's borrowings are guaranteed by the GOC, no company-specific benchmark exists for ''a comparable commercial loan that the firm could actually obtain on the market absent the government-provided guarantee.'' Accordingly, we reviewed the information on the record to determine the appropriate national average interest rates, both for U.S. dollar and Canadian dollar borrowings.

B. Comparable Short-Term Borrowing

The GOC and CWB argue that the U.S. and Canadian dollar prime rates are inappropriate benchmarks for the CWB's commercial paper [1] borrowings because the prime rate ''is not relevant to the CWB or any similar-size corporation operating in the same business segments and international markets as the CWB.'' As an alternative to the prime rates, the GOC provided interest rate information on the Canadian Bankers' Acceptance rates (CBA rates) for 1 and 3 month borrowings (for Canadian dollars), and the U.S. dollar LIBOR rate for 1, 3, and 6 month borrowings, as these rates typically serve as a reference rate for top-rated commercial paper borrowing. Furthermore, in response to the Department's inquiry about why the LIBOR/CBA rates would be appropriate benchmarks for CWB borrowings in the absence of the guarantee, the CWB stated that its borrowing terms ''are not materially different from the borrowing terms * * * that apply to highly rated, non-guaranteed issuers in the United States and Canada.''

We do not believe that this response addresses the crucial question of what interest rate the CWB would pay on its borrowings in the absence of the GOC's guarantee. Based on our research, the interest rate the CWB would pay would depend on whether the CWB had access to the commercial paper market, which, in turn, would depend on the CWB's credit rating in the absence of the GOC guarantee. For example, according to Fabozzi and Modigliani, in *Capital Markets: Institutions and Instruments*, ''commercial paper is an alternative * * * for large corporations *with strong credit ratings*,'' (emphasis added). Similarly, according to the U.S. Federal Reserve, ''the overwhelming majority of

[1] ''Commercial paper'' is a short-term unsecured promissory note representing the obligation of the issuing corporation that is issued in the open market and sold at a discount from its face value. This discount represents the effective interest rate on the notes. Commercial paper is typically purchased by money market mutual funds.

{commercial paper} issuers are extremely creditworthy.'' *See The Commercial Paper Market: Who's Minding the Shop* at *www.stls.frb.org/publications/re/1998/b/re1998b3.html.*

Based on the CWB's own statement, its credit rating would be less favorable in the absence of the GOC's guarantee. This is reflected in the CWB's 2000–2001 Annual Report, at 31, which states that ''{a} borrowings of the {CWB} are unconditionally and irrevocably guaranteed by the Minister of Finance, *resulting in the top credit ratings from Moody's* * * *, Standard and Poor's * * *, and Dominion Bond * * *'' (emphasis added).

Indeed, it may be the case that the CWB's ability to borrow in the commercial paper market is due entirely to the GOC's guarantee. Sources show that companies with lower credit ratings can still have access to the commercial paper market, so long as their borrowings are supported or guaranteed by parties with higher credit ratings. Fabozzi and Modigliani, at 473–4, describe how companies with lower credit ratings have been able to issue commercial paper ''by means of credit support from a firm with a high credit rating,'' issuing so-called ''credit supported commercial paper'' or ''letter of credit paper.'' Clearly, the GOC's backing is an important feature of the GOC's borrowing. In reviewing the sample placement documents submitted by the CWB, all place great emphasis on the fact that underlying debt instruments are guaranteed by the GOC, in essence making these issues credit supported commercial paper-supported by the full faith and credit of the GOC. *See* Exhibit 3 of the February 13, 2003 CWB supplemental response. Furthermore, a search on the Moody's internet site reveals that this credit rating agency considers the CWB to be a ''sovereign'' borrower.

While this evidence leads us to question whether the CWB would have access to the commercial paper market in the absence of the GOC's guarantee, we do not believe it is sufficient to support a preliminary determination that the CWB could not access that market. Instead, the evidence currently on the record supports the conclusion that the GOC's guarantee ensures that the CWB has the top credit rating. Thus, the issue is what rate the CWB would pay without the top credit rating it currently enjoys by virtue of the GOC's guarantee.

Based on our research, companies with the highest credit rating (*i.e.*, P–1 (Moody's), A–1/A–1+ (S&P)) are able to borrow in the commercial paper market at LIBOR/CBA. Because the evidence indicates that the CWB's high credit rating is due to the GOC guarantee, we preliminarily determine that in the absence of the guarantee, the CWB would have a credit rating less favorable than P–1/A–1 and, therefore, the LIBOR/CBA rates are not the appropriate benchmark.

Fabozzi and Modigliani, at 474–5, indicate that there are two tiers of investment grade commercial paper. To be able to use the first tier, the borrower must have a credit rating of P–1/A–1, as described above. The second tier is available to issuers with P–2/A–2 credit ratings. Commercial paper is sold in this market at a greater discount (*i.e.*, it has a higher effective interest rate). Thus, the second tier commercial paper market might be a source of funds for the CWB in the absence of the GOC's guarantee.

A second alternative would be for the CWB to borrow from banks at the prime rate. According to Fabozzi and Modigliani, at 471–2, borrowing from a bank is an alternative to the commercial paper markets, albeit a higher cost alternative, and one that would be used by firms with lower credit ratings. Also, according to the U.S. Federal Reserve, the prime rate is ''one of several base rates used by banks to price short-term business loans.'' *See http://www.federalreserve.gov/ releases/h15/update/.*

In reviewing the record, we find no information that clearly indicates, based on a presumed credit rating of P–2/A–2 or below, whether the CWB would be able to borrow in the second-tier commercial paper market or whether it would be required to raise funds through banks. Accordingly, lacking such information for these preliminary determinations, we have calculated an average of the rates applicable to second-tier commercial paper and the prime rates in order to derive a benchmark rate. For purposes of the final determinations, we encourage parties to submit further information that would allow us to more accurately estimate the credit rating of the CWB in the absence of the GOC guarantee, and the benchmark rates that would be applicable to the CWB with such a credit rating.

19 CFR 351.505(a)(2)(iv) states that the Department ''normally will use an annual average of the interest rates on comparable commercial loans.'' However, if the Department ''finds that interest rates fluctuated significantly during the period of investigation or review, the {Department} will use the most appropriate interest rate based on the circumstances presented.'' A review of the interest rates on the underlying loans and the benchmarks selected indicate that there was a substantial and sustained decrease in interest rates over the POI. For example, the prime rate went from 5.95 percent in August 2001, to a low of 3.75 percent in February and March, and then to 4.4 percent in July 2002. A similar pattern exists on the CWB's actual loans. Accordingly, we have used monthly average benchmark interest rates in our benefit calculations.

Analysis of Programs

Unless otherwise specified, these programs encompass both hard red spring wheat and durum wheat. Accordingly, the countervailable subsidy rate applies equally to both products.

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined To Be Countervailable

A. Provision of Government-Owned and Leased Railcars

The GOC, GOA, and GOS purchased railway hopper cars (''hopper cars'') and provided them to the Canadian Pacific Railway (''CP'') and the Canadian National Railway (''CN'') (collectively referred to as the ''railway companies'') for the transportation of grain, including subject merchandise. During the POI, the GOC, GOA, and GOS provided a total of 14,414 hopper cars to the railway companies for transporting grain. The provision of these railcars to the railway companies is governed by operating and alternate use agreements between the federal and provincial governments and the railway companies. The GOC provided 12,510 hopper cars and the GOA and GOS provided 951 and 953 hopper cars, respectively.

Under the operating agreement, the railway companies are permitted to use and operate the hopper cars as part of the railway companies' common railcar fleet, subject to certain specified alternate use restrictions. The railway companies, in turn, have to repair, maintain, and service the hopper cars and to transport Western Division grain included in Schedule II of the Canada Transportation Act (''Schedule II''). Hard red spring wheat and durum wheat are included in Schedule II. According to the Canada Transportation Act, Western Division means the part of Canada lying west of the meridian passing through the eastern boundary of the City of Thunder Bay, including the whole of the Province of Manitoba.

The agreements also permit alternate uses of the cars. Specifically, the railway companies may use the government hopper cars to transport any grain not listed in Schedule II or for transporting other commodities. Also, the railway companies may use the cars to move grain into eastern Canada, through eastern Canada into the United States, and southbound for export into the United States. For any of these alternate uses, the railway companies must pay a fixed rate per day, the ''alternate use'' fee.

In addition to the government-owned hopper cars provided to the railway companies by the federal and provincial governments, the GOC also provided 1,675 leased hopper cars to the CP through the CWB during the POI. Specifically, in March 1981, the GOC entered into a contribution agreement with the CWB directing the CWB to lease, on behalf of the GOC, hopper cars designed for the transportation of grain, including subject merchandise. The agreement also directs the CWB to provide the leased hopper cars to the railway companies for the transportation of Western Division grain. Pursuant to the terms of the contribution agreement, the CWB is obliged to make lease payments for the leased hopper cars in a timely manner and to invoice the GOC for costs that the CWB incurs. The GOC, in turn, fully reimburses the CWB for the lease costs.

Similar to the various operating agreements for the government-owned hopper cars, the operating agreement between the CWB and the CP provides the CP with the day-to-day operation and use of the hopper cars. The CP, in turn, has to repair, maintain, and service the hopper cars and to transport grain as listed in Schedule II. The CP is also required to pay alternate use fees for transporting grain not listed in Schedule II or for transporting other commodities, and for transporting grain to destination ports other than Vancouver, Prince Rupert, Churchill, Thunder Bay, and Armstrong, including the transportation of grain to the United States. Under the alternate use agreement, the CP is required to pay a fixed alternate use fee to the CWB. The CWB reduces the reimbursement amount it requests from the GOC by the amount of alternate use fees it collected.

According to the GOC, it acquired hopper cars ''to cover the railways'' inability to make the investment with their own resources.'' The GOC also stated that the regulated railway rates in effect at the time ''did not fully compensate the railways for all of their costs.'' The GOA and GOS stated that they acquired their hopper cars because, at the time, the railway companies were not willing to invest in hopper cars because the regulated railway rates were not compensatory.

For these preliminary determinations, we are treating the railcars provided by the CWB to the CP as if they were provided directly by the government. This is because, with respect to these railcars, the CWB is acting as an agent of the GOC, leasing the cars on GOC's behalf and receiving full reimbursement of the lease fees. Therefore, for both the CWB- and government-provided railcars we have analyzed whether the railway companies have been entrusted or directed (within the meaning of section 771(5)(B)(iii) of the Act) to make a financial contribution (provision of services under section 771(5)(D)(iii) of the Act) by means of the provision of railway services to the CWB for less than adequate remuneration (within the meaning of section 771(5)(E)(iv) of the Act).

First, we preliminarily determine that the operating and alternate use agreements entered into between the governments (including the CWB) and railway companies, require the railway companies to transport Western Grain.[2] Through the operating and alternate use agreements, the governments are directing the railway companies to provide transport services for Western Grain. Therefore, we preliminarily determine that the CP and CN have been entrusted or directed to provide rail service for the movement of Western Division grain, including grain shipped by the CWB.

Second, we preliminarily determine that the provision of this rail service is a financial contribution within the meaning of section 771(5)(D)(iii) of the Act, that is, provision of services other than general infrastructure. Moreover, the services are being provided to a specific group, the CWB and other users of hopper car services, within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Finally, we preliminarily determine that the CN and CP are providing these rail services for less than adequate remuneration within the meaning of section 771(5)(E)(iv) of the Act. Pursuant to the Canada Transportation Act, the railway companies determine the prices they charge for railway services by way of published tariffs, confidential contracts negotiated between the railway company and the shipper, or by a combination of the two. The CWB negotiates with the railway companies with respect to the published tariffs and other factors affecting freight rates.

In determining whether adequate remuneration has been paid, § 351.511(a)(2)(i) of the Department's regulations states that the Department will normally compare the prices in question to market-determined prices in the country where the service is being provided. There is no information on the record of these investigations about prices charged by other railways in Canada for hopper car service. Section 351.511(a)(2)(ii) directs that where no market-determined prices are available in the country where the service is being provided, the Department should look to world market prices as a measure of adequate remuneration, if such prices are available to the purchasers of the service. There is no information about world market prices for hopper car service, or the availability of such prices to Canadian hopper car users. Therefore, to determine whether the CN and CP have received adequate remuneration for their provision of hopper car services, we have examined whether their prices are consistent with market principles. *See* section 351.511(a)(2)(iii).

In 2000, a study was prepared for Transport Canada, the government agency that administers the GOC-owned hopper cars, by the Sparks Company Inc. (the ''Sparks Study''). This study concluded that disposal of the government-owned hopper cars and termination of the provision of these hopper cars by the federal and provincial governments to the railway companies would have the effect of adding ownership costs for these cars to the railway companies' and/or shippers' costs. The Sparks Study estimated the ownership costs for these cars to be between C$2.00 and C$3.00 per ton of grain transported.

Based on the conclusions of the Sparks Study, we preliminarily determine that the rates charged by the CN and CP for hopper car service do not reflect the ownership costs of these cars and, consequently, the rates are not consistent with market principles. As a result, we preliminarily determine that the CN and CP are providing these railcar services for less than adequate remuneration.

To calculate the benefit to the CWB, we multiplied the total volume of grain the CWB shipped during the POI by the added ownership costs (modified as described below) to arrive at the total benefit the CWB received from the subsidy. As a starting point, we used the mid-point (*i.e.*, C$2.50 per tonne) of the Sparks Study's estimate of C$2.00 to

[2] *See* Memorandum to Susan H. Kuhbach, dated March 3, 2003, ''Analysis of Provision of Government-Owned and Leased Railcars as Indirect Subsidies,'' which is on file in the CRU.

C$3.00 per tonne. However, the GOC provided information to support its claim that the lease rates used in the Sparks Study to calculate estimated ownership costs were substantially higher than the range of lease rates quoted by Canadian hopper car leasing companies during the POI. Thus, we have preliminarily reduced the $2.50 per tonne estimate of ownership costs by the percentage difference between the average lease rate used in the Sparks Study and the average of the lease rates quoted by Canadian hopper car leasing companies during the POI.

Finally, we divided the benefit received by the CWB in the POI by CWB's total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy from the federal and provincial governments' provision of railway hopper cars to be 0.35 percent *ad valorem* for the CWB.

The GOC, GOA and GOS have argued that the benefit from the governments' provision of railcars, if any, is tied to east/west shipments of grain because for other shipments, including shipments to the United States, the railway companies must pay commercially determined alternate use fees. We have not adopted this position in our preliminary determinations because we have focused our analysis on whether the railway companies receive adequate remuneration when they provide hopper car service. No information has been provided to show that the rates charged by the railway companies for service to particular destinations varies because they pay (or don't pay) an alternate use fee for the government-provided hopper cars.

B. GOC Guarantee of CWB Borrowing

Until 1998, the CWB was an agent Crown Corporation of Canada, and CWB borrowings were guaranteed by virtue of this agency relationship. At the end of 1998, the CWB lost its agency status, and the Canadian Wheat Board Act was amended to its current form, which requires the CWB to submit an annual borrowing plan to the Minister of Finance, and seek approval of terms and conditions of the proposed borrowing plans. Section 19(5) of the Canadian Wheat Board Act provides that borrowings under an approved borrowing plan are guaranteed by the GOC. All CWB borrowings must be consistent with the time, terms and conditions authorized pursuant to the borrowing plan and, accordingly, all CWB borrowings are guaranteed by the GOC.

During the POI, the CWB engaged in short-term borrowing by accessing the money markets in Canada, the United States, and the global money market. The CWB also had outstanding borrowings using Euro Medium Term Notes (''EMTNs''). The CWB has issued a variety of EMTNs in different currencies, having maturities ranging from 5 to 15 years. However, the CWB has swapped all of these EMTNs to U.S. dollars and floating rates of interest.

The CWB borrows to finance its initial payments to farmers, operating expenses, and credit sales to sovereign and private buyers (*see, also, GOC Guarantee of CWB Lending* section, below). The CWB opened the POI with approximately C$7.6 billion in outstanding borrowings.

We preliminarily determine that the GOC's guarantee of the CWB's borrowing is a countervailable subsidy. By providing this guarantee, the GOC has provided a financial contribution in the form of a potential direct transfer of funds, within the meaning of section 771(5)(D)(i) of the Act. This guarantee is limited to the CWB and, therefore, specific within the meaning of section 771(5A)(D)(iii)(I) of the Act. We calculated the benefit to the CWB by comparing the amounts that the CWB paid on its borrowings with what it would have paid absent the government guarantee. *See,* ''Subsidies Valuation Information, Benchmark Interest Rates'' section, above, for further discussion of the benchmark rates used in this calculation. To calculate the countervailable subsidy, we divided the total benefit received by the CWB on all its borrowings by the CWB's total sales in the POI. On this basis, we preliminarily determine the countervailable subsidy from the GOC's guarantee of CWB borrowing to be 3.59 percent *ad valorem.*

II. Programs Preliminarily Determined To Be Not Countervailable

A. GOC Guarantee of CWB Lending

The CWB has two types of credit grain sales programs which are guaranteed by GOC, the Credit Grain Sales Program (''CGSP'') and the Agri-Food Credit Facility (''ACF''). The CGSP was established in 1952, and allows the CWB to sell grain on credit to customers who can provide a sovereign guarantee of repayment. Repayment terms under the CGSP cannot exceed 36 months. As of the beginning of the POI, the CWB had approximately C$7.1 billion in outstanding credit under the CGSP. Approximately 84 percent of this total consisted of debt that had been rescheduled or subject to rescheduling pursuant to Paris Club agreements,[3] and an additional 12 percent represents overdue debt from the Government of Iraq. The ACF was established in 1995 to support sales of grain on credit to private sector customers. CWB lendings under the ACF are short-term, with repayment periods of one year or less. At the start of the POI, the CWB had approximately C$85 million in outstanding credit under the ACF. All of the debts under this program are current.

The CWB states that neither of these programs has been used to support sales to the United States, and that the United States is not on the GOC-approved list of countries to which export credits can be extended under the CGSP. In addition, the CWB states that all of its credit customers, with the exception of Iraq, are paying the CWB according to the terms of their most recent lending agreement (original or restructured), and that the net cash flows to the CWB on restructured debt are the same both before and after the rescheduling. However, the CWB and GOC have stated that the GOC made portions of the rescheduled payments for Poland, Ethiopia, Zambia, Egypt and Haiti.

The petitioners allege that this program provides a benefit to the CWB because the CWB is able to earn interest income (*i.e.*, the difference between the rate at which it lends to its customers and the rate at which it borrows in order to disburse this revenue to producers) on debts that are uncollectible. However, as stated above, all the debts, with the exception of Iraq, are, in fact, performing in accordance with their debt agreements. While a benefit arises as a result of the fact that the CWB is borrowing at a rate less than it would otherwise be able to borrow but for its borrowing guarantee, we have already countervailed this benefit on all of the CWB's borrowings. (*See* ''GOC Guarantee of CWB Borrowing'' section, above.)

However, although we have preliminarily found that the benefit alleged by petitioners under this program is already countervailable under the GOC guarantee of CWB borrowing program, we note that the GOC payments to the CWB may give rise to an additional or alternative benefit in the amount of these payments. We preliminarily determine that such payments would be export subsidies. 19 CFR 351.514(a) states that the Department will consider a subsidy to be an export subsidy if ''eligibility for, approval of, or the amount of, a

[3] The Paris Club is a forum where the GOC and other sovereign creditors have periodically agreed to extend repayment terms beyond original maturity dates and/or reduce the principal owed by a debtor country.

subsidy is contingent upon export performance.'' The GOC payments under this guarantee are contingent upon sales to the eligible foreign markets.

We further preliminarily determine that any subsidies conferred as a result of these lending guarantees are tied to the markets that received the guarantees. Consequently, in accordance with 19 CFR 351.525(b)(5)(i), any benefits would be attributed to export sales to those markets. Because sales to the United States do not benefit from these guarantees, we find no countervailable subsidies on the subject merchandise under this program.

B. Rail Freight Revenue Cap

In August 2000, the GOC implemented an annual cap on the revenues (the ''revenue cap'') that the CN and CP can earn from the transportation of certain Western Division grains. The grains subject to the revenue cap are set out in Schedule II and include the subject merchandise. The revenue cap only applies to grain movements on CN or CP lines from ''a point on any line west of Thunder Bay or Armstrong, Ontario, to (a) Thunder Bay or Armstrong, Ontario, or (b) Churchill, Manitoba, or a port in British Columbia for export, but does not include the carriage of grain to a port in British Columbia for export to the United States for consumption in that country (the ''capped routes'').'' (*See* Canada Transportation Act, Division VI, Transportation of Western Grain, Section 147.)

The revenue cap is calculated using a formula that takes into consideration the following: the railway's revenue for the movement of grain in the base year (crop year 2000–2001); the number of tons of grain moved in the base year and the actual year; the average length of haul in miles for the base year and actual year; and the volume-related composite price index. (*See* Canada Transportation Act, Division VI, Transportation of Western Grain, Section 151.) If CN's or CP's revenues for the movement of grain on capped routes in a crop year exceed the railway's maximum revenue cap entitlement, the railway must pay refunds according to a specified formula.

Under section 771(5)(B)(iii) of the Act, a subsidy exists when, *inter alia,* a government entrusts or directs a private entity to make a financial contribution that confers a benefit. As discussed in the ''Provision of Government-Owned and Leased Railcars'' section, above, we preliminarily find that the GOC is entrusting or directing the railways to provide a financial contribution, specifically rail transportation services, to the CWB. *See* sections 771(5)(B)(iii) and 771(5)(D)(iii) of the Act.

Further, we find that the revenue cap is limited to the transportation of Western Division grain and, therefore, specific within the meaning of section 771(5A)(D)(i) of the Act.

We preliminarily determine, however, that the CWB did not receive any benefits from the revenue cap within the meaning of section 771(5)(E)(iv) of the Act. This is because, as discussed below, there is no evidence that, as a result of the revenue cap, the railways are providing the rail services to the CWB for less than adequate remuneration. Accordingly, we preliminarily determine that the rail freight revenue cap is not a countervailable subsidy.

Our reasons for preliminarily determining that the revenue cap does not confer a benefit to the CWB are threefold. First, in the two crop years that the revenue cap has been in place, CN's and CP's earnings subject to the revenue cap have fallen significantly short of their respective revenue caps. In 2000/01 and 2001/02, respectively, CN earned C$3 million and C$13.5 million less than the cap, while CP earned C$2.6 million and C$8.7 million less. Second, the railways are allowed to increase or create fees for services that are not subject to the revenue cap. This allows the railways to increase revenue from Western grain movements, irrespective of the revenue cap. Examples of these exempted service fees are demurrage, storage, performance penalties, additional switching and staging. Lastly, on behalf of the GOC, the Canadian Transportation Agency (''CTA'') conducted a study to compare per ton revenue for capped and non-capped movements. In the study, the CTA used three methods to compare non-revenue cap to revenue cap movements. The CTA compared revenue per ton mile for (1) Eastern Canada non-cap movements versus Western Canada revenue cap movements, (2) Western Canada non-cap movements versus Western Canada revenue cap movements, and (3) Eastern Canada versus Western Canada movements which originate as a revenue cap movement, but continue east and become non-cap movements. This generated nine different comparisons, eight of which showed that the revenue cap did not affect the rates per ton mile that CP and CN charged for the transportation of grain.

The petitioners have asserted that the revenue cap conferred a benefit on the CWB based on two sources which state that the August 1, 2000 revenue cap would be set at a level leading to ''an estimated 18 per cent reduction in grain freight rates from 2000–2001 levels,'' and an ''immediate 18 per cent reduction in railway revenues.'' Petitioners acknowledge that the actual rail rates did not decrease by the full 18 percent. Even if they did, we preliminarily find that the 18 percent figure is not a useful measure of whether the revenue cap constituted a countervailable benefit. The pre-revenue cap freight rates were regulated by the GOC and, therefore, do not provide an accurate benchmark for adequate remuneration. Also, the comparison cited by the petitioners predates our POI. For these reasons, and in light of the CTA study, we do not believe the 18 percent reduction is a useful benchmark for determining whether the revenue cap conferred a benefit upon the CWB.

C. Maintenance of Uneconomic Branch Lines

Effective August 2000, under the Canada Transportation Act, as amended, a railway company that discontinues a grain-dependent branch line must provide compensation to the municipality or district through whose territory the grain-dependent branch line passes in the amount of C$10,000 per mile for each mile of line within the municipality or district, for three years.

We preliminarily determine that the payment for discontinuance of a grain-dependent branch line (''GDBL payment'') does not constitute a countervailable subsidy. Under section 771(5)(B)(iii) of the Act, a subsidy exists when, *inter alia,* a government entrusts or directs a private entity to make a financial contribution that confers a benefit. With respect to GDBL payments, evidence provided by the GOC, as discussed below, indicates that the cost of maintaining a grain-dependent branch line far outweighs the cost of closure. Decisions on whether to maintain or close such lines are made irrespective of GDBL payments. Hence, we find that the GOC is not directing and/or entrusting the railways to provide continued rail transportation services over grain-dependent branch lines.

The GOC cites to the 1999 Branch Line Review that studied the economic costs to the grain handling and transportation system of discontinuing the operation of 22 branch lines totaling 698.9 miles and affecting the delivery of 1,367,560 tons of grain. The study examined several grain handling and transportation scenarios and, ''[i]n each of the twenty-two cases substantial savings will result when the operation of all of these lines are discontinued and

the grain is transferred to the alternative delivery points.'' While this review did not consider the income the railways earned from transporting grain over the grain-dependent branch lines, the GOC claims that the railways would experience very little loss of revenue, if any, from the closure of a branch line because the farmer will truck the grain to the next closest elevator and the railway would still receive payment for the transportation of the grain to the final destination, only on a slightly different route.

The GOC also explains that the reason for grain-dependent branch lines' closures is the rationalization of grain elevators and the move to multi-car block loading, which is dependent on high volume, larger elevators. This has led to a closure of older, smaller capacity wooden elevators on branch lines as large capacity non-wooden elevators have been built on main lines to take advantage of multi-car discounts.

The petitioners argue that the payment is causing the railways to keep open grain-dependent branch lines that were slated for closure and cite to an article reporting that CN imposed a moratorium on grain-dependent branch lines' closures. However, the Department notes that CN closed two grain-dependent branch lines in Saskatchewan after the GDBL payments were initiated and before the moratorium was announced. This suggests that the GDBL payments were not the reason for CN issuing the moratorium. As further proof that the GDBL payments did not deter the railways from closing grain-dependent branch lines, the GOC has reported that 78.1 miles of grain-dependent branch lines were closed in crop year 1999/00; 33.8 miles were closed and 75.4 miles were transferred in crop year 2000/01; and 97 miles were closed in crop year 2001/02 (the POI). These statistics demonstrate that the railways continued to close grain-dependent branch lines after the GDBL payments went into effect. Further, the Quorum Corporation, the third party entity appointed by the GOC to monitor the Grain Handling and Transportation System, issued a report which states that ''of the 384.3 route-miles of infrastructure abandoned in the 2000–01 crop year, 289.9 (or 75.4 percent) were grain dependent branch lines.'' These closures were in the crop year just after the GDBL payments came into effect.

As the evidence supports the finding that the GDBL payments did not deter the railways from abandoning grain-dependent branch lines, we preliminarily find that the GOC is not directing and/or entrusting CP and CN to continue to provide rail service on grain-dependent branch lines that would normally be abandoned.

D. Short Line Financial Assistance Program

Under the Short Line Financial Assistance Program, short line operators are eligible to receive a percentage of the capital required to purchase rail lines slated for abandonment within Saskatchewan. Funding for the program was provided by the GOC, through the Canadian Agri-Infrastructure Program (CAIP), and the GOS. The program was in effect from July 2, 1996, to December 31, 2001, during which time only one application was presented and approved, all within 1999. For the one project, a 15-year loan from the GOS was disbursed on May 1, 1999 and a one-time non-repayable cash grant from the GOC was disbursed on July 20, 1999. (*See* ''Program Preliminarily Determined to be Not Used During the POI,'' below, for a discussion of the grant.)

a. GOS Loan

We preliminarily determine that the 15-year loan from the GOS as part of the Short Line Financial Assistance Program is not a countervailable subsidy.

Consistent with section 771(5)(E)(ii) of the Act there is no benefit conferred by this loan, because the benchmark interest rate, the 1999 national average annual long-term interest rate represented by the weighted average yield on long-term industrial bonds, is lower than the interest rate charged on the underlying loan.

Both the CWB and the GOC further argue that since no subject merchandise was shipped to the United States on this short line, any benefit would be tied to non-U.S. sales. Because we found no benefit conferred by the GOS loan, the Department did not reach this question.

III. Program Preliminarily Determined To Be Not Used During the POI

Based on the information provided in the responses, we preliminarily determine that no benefits were applied for or received under the following program during the POI:

Short Line Financial Assistance Program

For a general description of this program, please see the description under ''Programs Preliminarily Determined to be Not Countervailable.''

a. GOC Grant

For non-recurring subsidies, we apply the ''0.5 percent expense test,'' described in section 351.524(b)(2) of the Department's regulations, in which we compare the amount of subsidies approved under a given program in a particular year to sales (total or export, as appropriate) in that year. If the amount of subsidies is less than 0.5 percent of sales, the benefits are expensed in their entirety in the year of receipt rather than allocated over the AUL period. In the case of this GOC grant made under the Short Line Financial Assistance Program, the resulting percentage was significantly below 0.5 percent. Accordingly, any countervailable benefit from this grant would be completely expensed in 1999 and would not provide a benefit to the CWB during the POI.

IV. Program for Which We Need More Information

Guarantee of the Initial Payment

The Canadian Wheat Board Act requires that the GOC cover any shortfall if the CWB's initial payment to producers (plus operating costs) exceeds the total pool receipts during the pool period. The petitioners maintain that this guarantee effectively provides an insurance policy against losses, for which the CWB does not pay. The petitioners state that payments under this guarantee have been made seven times during the history of the CWB, the last time for the 1990–91 marketing year. The petitioners argue that a commercial firm would need to buy insurance (in the form of a put option) to guarantee against losses in a similar fashion, and there would be an identifiable cost in all years for such insurance, not just those in which the CWB receipts fell short of the initial payments. The petitioners estimated the value of such put options using the Black-Scholes options valuation formula.

As described above, the Department initiated on this program on February 11, sent out its questionnaires on February 13, and received responses on February 25, 2003. The Department has not had the opportunity to analyze thoroughly the information received or issue any necessary supplemental questionnaires. Accordingly, we are not making preliminary determinations with regard to this program at this time. After we collect, review and analyze the necessary information, we will prepare an analysis memorandum addressing the countervailability of this program, and provide all parties an opportunity to comment on our analysis.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted in these investigations prior to making our final determinations.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each exporter/manufacturer of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/manufacturer	Net subsidy rate (hard red spring wheat) (percent)	Net subsidy rate (durum wheat) (percent)
Canadian Wheat Board	3.94	3.94
All Others	3.94	3.94

In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A) of the Act, we have set the ''all others'' rate as CWB's rate because it is the only exporter/manufacturer investigated.

In accordance with section 703(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of certain durum wheat and hard red spring wheat from Canada which are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determinations are affirmative, the ITC will make its final determinations within 45 days after the Department makes its final determinations.

Public Comment

Case briefs for these investigations must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

These determinations are published pursuant to sections 703(f) and 777(i) of the Act.

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5633 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 021224331–3049–02]

RIN 0693–AB52

Establishment of a Team Under the National Construction Safety Team Act

AGENCY: National Institute of Standards and Technology, United States Department of Commerce.

ACTION: Notice.

SUMMARY: The Director of the National Institute of Standards and Technology (NIST), Technology Administration, United States Department of Commerce, announces the establishment of a National Construction Safety Team pursuant to the National Construction Safety Team Act. The Team was established to investigate the building failure at The Station nightclub in West Warwick, Rhode Island.

DATES: The Team was established on February 27, 2003.

ADDRESSES: Dr. James E. Hill, Deputy Director, Building and Fire Research Laboratory, National Institute of Standards and Technology, Mail Stop 8600, Gaithersburg, MD 20899–8600, telephone number (301) 975–5900. Members of the public are encouraged to submit to the Team non-privileged evidence that is relevant to the subject matter of the NIST investigation described in this notice. Such evidence may be submitted to the address contained in this section. Confidential information will only be accepted pursuant to an appropriate nondisclosure agreement.

FOR FURTHER INFORMATION CONTACT: Dr. James E. Hill, Deputy Director, Building and Fire Research Laboratory, National Institute of Standards and Technology, Mail Stop 8600, Gaithersburg, MD 20899–8600, telephone number (301) 975–5900.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 7301 *et seq.*, 15 CFR part 270.

Background

The National Construction Safety Team Act (''Act''), Pub. L. 107–231, codified at 15 U.S.C. 7301 *et seq.*, was enacted to provide for the establishment of investigative teams (''Teams'') to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life. The purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States. As stated in the statute, a Team will (1) Establish the likely technical cause or causes of the building failure; (2) evaluate the technical aspects of evacuation and emergency response procedures; (3) recommend, as necessary, specific improvements to building standards, codes, and practices based on the findings made pursuant to (1) and (2); and recommend any research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation.

Pursuant to the Act, on February 27, 2003, the Director of the National Institute of Standards and Technology (NIST), Technology Administration, United States Department of Commerce, established a Team to investigate the building failure at The Station nightclub in Warwick, Rhode Island. The Team may include members who are Federal employees and members who are not Federal employees. Team members who are Federal employees are governed by the Federal conflict of interest laws. Team members who are not Federal employees will be Federal government contractors, and conflicts of interest related to their service on the Team will be governed by FAR Subpart 9.5, Organizational and Consultant Conflicts of Interest, which will be incorporated by reference into all such contracts.

On January 30, 2003, NIST published an interim final rule with a request for public comments, establishing 15 CFR part 270, National Construction Safety Teams. The interim final rule contains general provisions regarding implementation of the Act and establishes procedures for the collection and preservation of evidence obtained and the protection of information created as part of investigations conducted pursuant to the Act, including guiding the disclosure of information under section 7 of the Act (§§ 270.350, 270.351, and 270.352) and guiding the Teams in moving and preserving evidence (§ 270.330). The interim final rule became effective upon publication. The procedures contained in the interim final rule apply to the investigation announced in this notice.

Members of the public are encouraged to submit to the Team non-privileged evidence that is relevant to the subject matter of the NIST investigation described in this notice. Such evidence may be submitted to the address contained in the **ADDRESSES** section of this notice. Confidential information will only be accepted pursuant to an appropriate nondisclosure agreement.

Dated: March 4, 2003.

Arden L. Bement, Jr.,

Director.

[FR Doc. 03–5600 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–13–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 68 FR 7776.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m., Wednesday, March 05, 2003.

CHANGES IN THE MEETING: The closed meeting to discuss Personnel Matters has been postponed until Monday, March 10, 2003 at 2 p.m.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03–5788 Filed 3–6–03; 2:13 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Public Affairs, DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Public Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 9, 2003.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to The Office of the Assistant Secretary of Defense for Public Affairs, Attn: CR&PL (Mr. Michael Byers), 1400 Defense, The Pentagon, Washington, DC 20301–1400.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Directorate for Programs and Community Relations, at (703) 695–6108.

Title; Associated Form; and OMB Number: ''Request for Armed Forces Participation in Public Events (Non-Aviation),'' DD Form 2536, and ''Request for Military Aerial Support,'' DD Form 2535, OMB Number 0704–0290.

Needs and Uses: The information collection requirement is necessary to evaluate the eligibility of events to receive Armed Forces community relations support and to determine whether requested military assets are available.

Affected Public: Individuals or households; State or local governments; Federal agencies or employees; non-profit institutions.

Annual Burden Hours: 5,547.

Number of Respondents: 43,000.

Responses per Respondent: 1.

Average Burden per Response: 8 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals or representatives of Federal and non-Federal government agencies, community groups, non-profit organizations, and civic organizations requesting Armed Forces support for patriotic events conducted in the civilian domain. DD Forms 2535 and 2536 record the type of military support requested, event data, and sponsoring organization information. The completed forms provide the Armed Forces the minimum information necessary to determine whether an event is eligible for military participation and whether the desired support permissible and/or available. If the forms are not provided, the review process is greatly increased because the Armed Forces must make additional written and telephonic inquiries with the event sponsor. In addition, use of the forms reduces the event sponsor's preparation time because the forms provide a detailed outline of information required, eliminate the need for a detailed letter, and contain concise information necessary for determining appropriateness of military support. Use of the forms is essential to reduce preparation and processing time, increase productivity, and maximize responsiveness to the public.

Dated: March 3, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–5535 Filed 3–7–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Establishment of the Technology and Privacy Advisory Committee

AGENCY: Department of Defense.

ACTION: Notice of establishment.

SUMMARY: The Technology and Privacy Advisory Committee (TAPAC) is being established in consonance with public interest and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' title 5 U.S.C., Appendix 2. The TAPAC will advise the Secretary of Defense concerning the legal and policy considerations implicated by the application of pattern queries/data correlation technology to counter-terrorism and counter-intelligence missions.

The Panel will consist of up to 14 members selected on the basis of their preeminence in the fields of constitutional law and public policy relating to communication and information management.

FOR FURTHER INFORMATION CONTACT: Lisa Davis, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), on 703–697–0051.

Dated: March 3, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–5532 Filed 3–7–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Advisory Board, Standing Committee of Emerging Chemical and Biological Technology Advisory Committee of Experts Closed Panel Meeting

AGENCY: Defense Intelligence Agency, Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Advisory Board, Standing Committee on Emerging Chemical and Biological Technology Advisory Committee of Experts was scheduled as follows:

DATES: February 25 & 26, 2003 (9 a.m.–5 p.m.).

ADDRESSES: Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Mr. Jack A. McNulty, Director, DIA Advisory Board, Standing Committee on Emerging Chemical and Biological Technology Advisory Committee of Experts, Washington, DC 20340–1328, (202) 231–3507.

SUPPLEMENTARY INFORMATION: The entire meeting was devoted to the discussion of classified information as defined in section 552b(c)(I), Title 5 of the U.S. Code, and therefore was closed to the public. The Board received briefings on and discussed several current critical intelligence issues and advised the Director, DIA, on related scientific and technical matters.

Dated: March 3, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–5534 Filed 3–7–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Pentagon Memorial Design Competition Jury

AGENCY: Director, Administration and Management, Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Pentagon Memorial Design Competition Jury will meet in closed session on February 21, 2003. The purpose of the meeting is for the Jury to make its final concept recommendation.

The Jury was chartered on August 26, 2002, by the Department of Defense to review and evaluate the concepts submitted in response to the Baltimore District, Corps of Engineers announcement of the competition for a Pentagon Memorial to the victims of the September 11, 2001 terrorist attack on the Pentagon.

In accordance with the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C., Appendix II 1982], discussion of matters as covered by 5 U.S.C. 552b(c)(4), (6), and (9)(B) (1988), will take place throughout the meeting, and that, accordingly, the meeting will be closed to the public.

Due to extraordinary legal issues encountered during the meeting planning phase, this notice is being published after the meeting was held.

DATES: Friday, February 21, 2003—9 a.m.–5 p.m.

ADDRESSES: National Building Museum, 401 F Street NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Marilyn Jajko, Program Manager, Real Estate and Facilities, Washington Headquarters Services, on 703–614–4893.

Dated: February 21, 2003.

Patricia L. Toppings,

Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–5533 Filed 3–7–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a computer matching program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended (5 U.S.C. 552a), requires agencies to publish advanced notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act, is hereby giving notice to the record subjects of a computer matching program between the Department of Veterans Affairs (VA) and DoD that their records are being matched by computer. The purpose is to identify and locate Federal personnel, employed, serving, or retired, who owe delinquent debts to the Federal Government under certain programs administered by VA.

DATES: This proposed action will become effective April 9, 2003, and matching may commence unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr. at (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the Defense Manpower Data Center (DMDC) and VA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data

between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal government so that VA can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures.

The parties to this agreement have determined that a computer matching program is the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between VA and DoD is available upon request. Requests should be submitted to the address caption above or to the Debt Management Center, U.S. Department of Veterans Affairs, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published on June 19, 1989, at 54 FR 25818.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on February 12, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records about Individuals'', dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 21, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Notice of a Computer Matching Program Between the Defense Manpower Data Center, the Department of Defense, and the Debt Management Center, Department of Veterans Affairs, for Debt Collection

A. *Participating Agencies:* Participants in this computer matching program are the Defense Manpower Data Center (DMDC), the Department of Defense, and the Debt Management Center, Department of Veterans Affairs. VA is the source agency, *i.e.*, the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, *i.e.*, the agency that actually performs the computer matching.

B. *Purpose of the Match:* Upon the execution of this agreement, VA will provide and disclose debtor records to DMDC to identify and locate any matched Federal personnel, employed, serving, or retired, who owe delinquent debts to the Federal government under certain programs administered by VA. VA will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982, as amended, when voluntary payment is not forthcoming. These collection efforts will include requests by VA of the military service/employing agency in the case of military personnel (either active, reserve, or retired) and current non-postal civilian employees, and to OPM in the case of retired non-postal civilian employees, to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *Authority for Conducting the Match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Pub. L. 97–365), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001); 31 U.S.C. chapter 37, subchapter I (General) and subchapter II (Claims of the United States Government); 31 U.S.C. 3711, Collection and Compromise; 31 U.S.C. 3716, Administrative Offset; 5 U.S.C. 5514, Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 135, Under Secretary of Defense (Comptroller); section 101(l) of Executive Order 12731; 31 CFR chapter IX, Federal Claims Collection Standards; 5 CFR 550.1101–550.1110 Collection by Offset from Indebted Government Employees (OPM); 38 CFR 1.980–1.994 (VA).

D. *Records to be Matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

VA will use personal data from the following Privacy Act record systems for the match: Accounts Receivable Records-VA, 88VA244, published in the **Federal Register** at 63 FR 16864 on April 6, 1998.

DoD will use personal data from the record system identified as S322.11 DMDC, entitled ''Federal Creditor Agency Debt Collection Data Base,'' last published in the **Federal Register** at 64 FR 42101, August 3, 1999.

E. *Description of Computer Matching Program:* VA, as the source agency, will provide DMDC with an electronic file which contains the names of delinquent debtors for programs VA administers. Upon receipt of the electronic file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the VA file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of personnel records of non-postal Federal civilian employees and military members, both active and retired. The ''hits'' or matches will be furnished to VA. VA is responsible for verifying and determining that the data on the DMDC electronic reply file are consistent with VA's source file and for resolving any discrepancies or inconsistencies on an individual basis. VA will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The electronic file provided by VA will contain data elements of the debtor's name, SSN, internal account numbers and the total amount owed for each debtor on approximately 240,000 delinquent debtors.

The DMDC computer database file contains approximately 4.84 million records of active duty and retired military members, including the Reserve and Guard, and approximately 3.56 million records of active and retired non-postal Federal civilian employees.

DMDC will match the SSN on the VA file by computer against the DMDC database. Matching records, ''hits'' based on SSNs, will produce data elements of the individual's name, SSN, military service or employing agency, and current work or home address.

F. *Inclusive Dates of the Matching Program:* This computer matching program is subject to public comment and review by Congress and the Office of Management and Budget. If the mandatory 30 day period for comment has expired and no comments are received and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange of data at a mutually agreeable time and thereafter every six months. By agreement between VA and DMDC, the matching program will be in effect for

18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for Receipt of Public Comments or Inquiries:* Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 03–5536 Filed 3–7–03; 8:45 am]

BILLING CODE 5001–08–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission (''DRBC'' or ''Commission'') will hold an informal conference followed by a public hearing on Wednesday, March 19, 2003. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 9:30 a.m. Topics of discussion include: the DRBC Water Resources Program for 2003; a progress report on development of the basinwide plan and new DRBC comprehensive plan; a discussion about the Delaware River Basin Conservation Reserve Enhancement Program; a proposal to extend Docket D–77–20 CP (Revision 5) (Amended) relating to New York City reservoir releases to protect tailwater fisheries; a proposal to amend the Commission's project review fees; a report on the coordinated EPA, state and DRBC approach to the staged PCB TMDL for the Delaware Estuary; and a discussion on proposed revision of the Commission's water quality standards for PCBs.

The subjects of the public hearing to be held during the 1 p.m. business meeting include, in addition to the dockets listed below, a resolution extending Docket D–77–20 CP (Revision 5) (Amended); a resolution amending Docket D–77–110 CP by the addition of a ''Designated Unit'' to Table A (Revised); a resolution adopting the 2003 Water Resources Program; and a resolution to approve the Commission's budgets for the fiscal year ending June 30, 2004.

1. *New Jersey-American Water Company D–85–2 CP Renewal 3.* A renewal of a ground water withdrawal project to continue withdrawal of 51.8 million gallons (mg)/30 days to supply the applicant's public water distribution system from existing Wells Nos. 3, 4 and 5 in the Kittatinny Formation. The project is located in Washington Township, Warren County, New Jersey.

2. *Borough of Roosevelt D–85–8 CP Renewal 2.* A renewal of a ground water withdrawal project to supply up to 7 mg/30 days of water to the applicant's public water distribution system from existing Wells Nos. 3 and 4 in the Raritan Formation. No increase in the maximum allocation is proposed. The project is located in Roosevelt Borough, Monmouth County, New Jersey.

3. *Netcong Borough D–2000–41 CP.* A ground water withdrawal project to supply up to 17.8 mg/30 days of water to the applicant's public water distribution system from existing Wells Nos. 1A and 2 in glacial deposits, and Wells Nos. 5 and 6 in the Gneiss Formation, and to limit the withdrawal from all wells to 17.8 mg/30 days. The project is located in Netcong Borough and Roxbury Township, Morris County, New Jersey.

4. *Hanah Country Inn D–2002–7 (Revised).* A project revision to improve and expand a 9,000 gallons per day (gpd) septic treatment system to treat 13,830 gpd at the applicant's 900 acre lodging facility located in the Town of Middletown, Delaware County, New York, within the drainage area to DRBC's Special Protection Waters. The applicant had originally planned to provide a new subsurface discharge leach field, but now plans to provide advanced treatment followed by discharge to a new percolation trench. The site is located on both sides of State Route 30, between County Route 38 (Arkville Road) and East Hubbell Road. The project is in the East Branch Delaware River Watershed, upstream from Pepacton Reservoir.

5. *Municipal Authority of the Township of Westfall D–2002–23 CP.* An upgrade and expansion of a 0.095 mgd advanced secondary sewage treatment plant (STP) to provide tertiary treatment of 0.3 mgd, using a sequencing batch reactor process. The proposed expansion is needed to serve residential and commercial development in Westfall Township, Pike County, Pennsylvania. The plant, known locally as the Hunts Landing STP, is located on the west bank of the Delaware River, just south of the Route 209 and I–84 interchange in Westfall Township. The plant was formerly owned by Delaware Valley Utilities, Inc., who constructed the facility in 1986 and expanded it in 1991. The plant uses an activated sludge treatment process and will be phased out of operation. A new outfall line will be constructed and STP effluent will be discharged via submerged diffusers to the Delaware River in the Special Protection Waters of Water Quality Zone 1C.

6. *New Jersey Department of Corrections D–2002–31 CP.* An expansion of a 0.769 mgd STP to process 1.3 mgd while continuing to provide advanced secondary treatment. The expanded plant will continue to serve the A. C. Wagner Youth Correctional Facility and a portion of Chesterfield Township. The plant is located just less than one mile northeast of the intersection of Ward Avenue and Hogback Road in Chesterfield Township, Burlington County, New Jersey. STP effluent will continue to be discharged to Crosswicks Creek through the existing outfall diffuser. The project expansion is needed to eliminate malfunctioning septic systems serving Crosswicks Village and to provide treatment capacity to serve a planned 350 bed minimum security facility.

7. *Strausser Enterprises, Inc. D–2002–43.* A ground water withdrawal project to supply up to 9.31 mg/30 days of water to the applicant's golf course irrigation system from new Wells Nos. ITW 1, 2, 3 and 4 in the Allentown Formation. The project is located in the Delaware River Watershed in Forks Township, Northampton County, Pennsylvania.

8. *North Coventry Water Authority D–2002–47 CP.* A transfer of up to 0.76 mgd of potable water from Pottstown Borough Authority (PBA) to serve customers in North Coventry and a portion of East Coventry Townships, both in Chester County, Pennsylvania. Most of these customers are currently served by PBA, which will transfer to North Coventry Water Authority its service area south of the Schuylkill River. PBA has adequate capacity at its 12 mgd filter plant, located at the confluence of the Schuylkill River and Manatawny Creek, to meet the applicant's potable water demand. The applicant currently operates two wells in the Southeastern Pennsylvania Ground Water Protected Area to provide customers in North Coventry Township with up to 16,500 gpd.

In addition to the public hearing items, the Commission will address the following at its 1 p.m. business meeting: Minutes of the January 29, 2003 business meeting; announcements; a report on Basin hydrologic conditions; a report by the executive director; a report by the Commission's general counsel; a resolution re-authorizing the Water Quality Advisory Committee; and a resolution authorizing the executive

director to enter into an agreement with the University of Delaware to acquire the expertise of faculty and staff in developing inputs for carbon parameters in the water quality model for the Delaware Estuary.

Draft dockets and other items scheduled for public hearing on March 19, 2003 are posted on the Commission's Web site, *http://www.drbc.net,* where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact Thomas L. Brand at 609–883–9500 ext. 221 with any docket-related questions.

Persons wishing to testify at this hearing are requested to register in advance with the Commission Secretary at 609–883–9500 ext. 203. Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Dated: March 4, 2003.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 03–5574 Filed 3–7–03; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: Department of Energy (DOE), National Energy Technology Laboratory (NETL).

ACTION: Notice of availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–03NT41739–0 entitled ''EE–IT Mining Industry of the Future: Exploration and Mining Technology''. The U.S. Department of Energy (DOE) Office of Industrial Technologies (OIT) is soliciting applications for cost-shared research and development of technologies which will reduce energy consumption, enhance economic competitiveness and reduce environmental impacts of the domestic mining industry. An efficient and productive mining industry requires constant progress in the processes and technologies used in exploration and mining. While the mining industry uses many of the latest technologies to locate and mine materials, further process and technological advances are needed to enable enhanced and more efficient resource identification, characterization and production. The objective of the targeted solicitation is to support the stated national interests by funding research and development projects that address key industry-identified technology needs described in the Exploration and Mining Technology (EMT) Roadmap (Sept. 2002) (*http://www.oit.doe.gov/mining/pdfs/emroadmap.pdf*), and the Energy Analysis (*http://www.oit.doe.gov/mining/pdfs/energyanalysis.pdf*). Applications are being solicited in four (4) interest areas: (1) *Exploration and Mine Planning* (DE–PS26–03NT41739–1); (2) *Underground Mining* (DE–PS26–03NT41739–2); (3) *Surface Mining* (DE–PS26–03NT41739–3); and (4) *Energy Intensive Processes* (DE–PS26–03NT41739–4). Applications are sought for applied research at the bench-scale to field-scale level, for time periods of up to five (5) years.

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) Web page located at *http://e-center.doe.gov* on or about February 26, 2003, with a proposal due date of May 21, 2003, 8 p.m. Eastern Time. Applicants can obtain access to the solicitation from the address above or through DOE/NETL's Web site at *http://www.netl.doe.gov/business.*

FOR FURTHER INFORMATION CONTACT: Donna J. Jaskolka, MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, PO Box 10940, Pittsburgh, PA 15236–0940, E-mail address: *jaskolka@netl.doe.gov.*

SUPPLEMENTARY INFORMATION:

The U.S. Congress looks to the Department of Energy (DOE) to work toward improving the energy efficiency of America's most energy-intensive industries with special interest in industrial processing. DOE, through it's Industrial Technologies Program (IT) supports industries in their efforts to increase energy efficiency, reduce waste and increase productivity. The goal of the IT Program is to accelerate the development and use of advanced, energy efficient, renewable and pollution prevention technologies that benefit industry, the environment and the U.S. energy security. At IT's core, is the Industries of the Future program that focuses on basic materials and processing industries, of which the Mining Industry is one such business sector.

The objective of the targeted solicitation is to support the stated national interests by funding research and development (R&D) projects that address technology needs described in the Exploration and Mining Technology (EMT) Roadmap (Sept. 2002) (*http://www.oit.doe.gov/mining/pdfs/emroadmap.pdf*), and Energy Analysis (*http://www.oit.doe.gov/mining/pdfs/energyanalysis.pdf*). The Roadmap focuses on process and technological advances that will improve the exploration for, and extraction of, ore from the earth. The Energy Analysis is a 2-page presentation showing the results of a study to demonstrate where the largest energy saving opportunities are in Mining.

As stated above, the key industry-identified research areas as presented in the Roadmap and Analysis form the bases of this solicitation and are characterized in four interest areas as follows:

(1) *Exploration and Mining Planning (DE–PS26–03NT41739–1).* Exploration includes locating economic deposits and establishing their nature, shape and grade. Activities involved in exploration include geological surveys, geophysical prospecting (both ground and aerial), boreholes and trail pits, surface/underground headings, drifts or tunnels. Mining, as used here, is the extraction or removal of ore from surface or underground mines. This involves excavating activities such as digging, blasting, breaking, loading and hauling. Interests include prospecting, sampling and exploratory drilling such as rotary and percussive drilling, and other work involved in searching for ore.

(2) *Underground Mining (DE–PS26–03NT41739–2).* Mining that takes place underground. This type of mining is generally done where the valuable mineral is located deep enough where it is not economically viable to be removed by surface mining. Interests include near face (such as intelligent or remote controlled robotics); ancillary (activities not directly involved in ore mining such as ventilation and improved health conditions) and maintenance services and technical services are also of interest.

(3) *Surface Mining (DE–PS26–03NT41739–3).* Mining at or near the surface. This type of mining is generally done where the overburden can be removed without too much expense. Also called strip mining; placer mining; opencast; opencut mining; and/or open pit mining. Interests include solution mining; materials handling systems integration and automation/robotics for

all mining at or near the surface where overburden can be economically removed.

(4) *Energy Intensive Processes (DE–PS26–03NT41739–4).* Materials handling, comminution, and pumping systems are highlighted as areas of special interest as they are considered to offer the potential for substantial energy savings in industry-wide application. The definitions used for the different areas are as follows: (a) Materials handling—any equipment or process used to transport ore and waste; and (b) extraction—any equipment or process used to search for and mine ore and waste.

Applications submitted in response to these four interest areas will only be funded if the proposed research and development addresses improving the energy efficiency of the mineral industry in the areas directly related to exploration and mining. Applications for literature reviews *only* will not be considered. Additionally, applications offering emissions or waste disposal, remediation, or treatment as a primary focus are not eligible for funding under this solicitation. This limitation does not include applications that target materials recycling or by-product utilization as their primary focus.

This solicitation marks a transition in the EE–OIT Mining Program to emphasizing fewer, but larger, projects that can be expected to have impact industry-wide and offer maximum energy savings potential. Awards will be cost-shared, financial assistance cooperative agreements, with a mandatory requirement that the recipient provide a minimum cost share of fifty percent (50%) of the total project cost. It is anticipated that six to eight (6–8) projects will be selected for negotiation of an award. It is generally contemplated that DOE will cost-share between $1.5 to $2 million per award, or an amount not to exceed 50% of the total estimated cost of the effort. Approximately two million dollars ($2,000,000) in federal funds are expected to be available to fund the first twelve (12) months of performance for projects selected from this solicitation. Subject to the availability of funds, approximately $6 to $10 million is planned to fund the remaining years of the projects.

Any nonprofit or for-profit organization, university or other institution of higher education, or non-federal agency or entity is eligible to apply in response to the four interest areas encompassed by Program Solicitation DE–PS26–03NT41739–0. Applications including performance of a portion of the work by: (1) A Department of Energy (DOE) Management and Operating (M&O) contractor, (2) a Federally Funded Research and Development Center (FFRDC) funded by another Federal agency, or (3) another Federal agency are eligible for consideration, subject to the provisions to be set forth in Program Solicitation DE–PS26–03NT41739–0. (Applicants take note that the combined limit on participation by an M&O contractor, FFRDC or other Federal Agency for an individual project under this solicitation is a maximum of 20% of the total project cost.)

Additional eligibility requirements for applicants seeking financial assistance through this solicitation are the ability to: (1) Comply with the mandatory fifty percent (50%) cost share requirement; (2) satisfy the eligibility requirements of Section 2306 (Foreign Involvement) of the Energy Policy Act of 1992 (EPAct); and (3) formulate a multi-partner team that includes the involvement, at a minimum, of either (a) two (2) ''mining companies'' (a ''mining company'' is defined as a firm actively engaged in the extraction and/or processing of rock or mineral resources for the purpose of producing a salable product(s)'') or (b) two (2) companies, one of which must be a ''mining'' company and the other must be an equipment manufacturer/re-manufacturer or service provider to the mining industry, or mining technology developer or a mineral processing company if it's appropriate for facilitating the commercial process. Applications submitted directly by or on behalf of: (1) Another Federal agency, (2) an FFRDC sponsored by another Federal agency; or (3) a DOE M&O Contractor are ineligible for consideration under this solicitation. Applications submitted by an organization covered by the Simpson-Craig Amendment are also ineligible for consideration.

The solicitation is available for downloading from the IIPS Web page (*http://e-center.doe.gov*). At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov.* The solicitation will only be made available on IIPS, no hard (paper) copies of the solicitation and related documents will be made available. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA, on February 26, 2003.

Dale A. Siciliano,

Director, Acquisition and Assistance Division.

[FR Doc. 03–5588 Filed 3–7–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Public Workshops on the Selection of a Sodium Bearing Waste Treatment Technology and Resource Conservation and Recovery Act Pre-Application Permit Meetings

AGENCY: U.S. Department of Energy.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) Idaho Operations Office will hold public workshops to inform stakeholders of technology options being considered for treating sodium-bearing waste at the Idaho Nuclear Technology and Engineering Center (INTEC), location on the Idaho National Engineering and Environmental Laboratory (INEEL). DOE invites the public to comment on these options during a comment period, which starts on the date of this Notice. The workshops will provide an overview of the treatment options, allow for questions, and provide an opportunity for participants to identify issues and concerns.

These public meetings/workshops will also serve as Permit Pre-Application Meetings under the Resource Conservation and Recovery Act, as discussed in 40 CRR 124.31. Public notice of the Pre-Application meetings has been published in local newspapers and announced in other forms of public media. The public may submit comments, which DOE will forward to the state of Idaho, Department of Health and Welfare, as part of the Part B permit application process.

DATES: Public workshops, each preceded by an informal open house, will be held on the following dates and times:

Thursday, March 13, 2003

Jackson Hole Middle School
1230 S. Park Loop Road
Jackson, Wyoming
Open House: 4:30 p.m.
Workshop Starts: 7 p.m.

Tuesday, March 18, 2003

Eastern Idaho Technical College

1600 South 25th East
Idaho Falls, Idaho
Open House: 5 p.m.
Workshop Starts: 7:30 p.m.

Tuesday, March 25, 2003

College of Southern Idaho
315 Falls Ave., Taylor Building
Twin Falls, Idaho
Open House: 5:30 p.m.
Workshop Starts: 7 p.m.

ADDRESSES: Please submit all comments to Alan Jines, P.E., U.S. DOE–Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain information by contacting: Alan Jines, (208) 526–7524; Fax: (208) 526–8789; E-mail: *jinesa@id.doe.gov,* or by mailing a request to the address above. Please also contact Mr. Jines in advance if you need: special accommodations at this meeting such as an American Sign Language or Spanish translator.

SUPPLEMENTARY INFORMATION:

In October 2002, DOE issued the *Idaho High-Level Waste and Facilities Disposition Final Environmental Impact Statement* (DOE/EIS–0287) (EIS). The EIS examined the potential environmental impacts of various alternatives for treating certain liquid and solid radioactive wastes stored at the INEEL. The wastes include about 1 million gallons of sodium-bearing waste in underground storage tanks and 4,400 cubic meters of high-level waste calcine resulting from 40 years of spent nuclear fuel reprocessing at the INEEL.

The State of Idaho was a cooperating agency in the preparation of this EIS. Although DOE and the State of Idaho identified different preferred alternatives for waste processing, the two parties agree the ultimate objective is to treat sodium-bearing waste and dispose of the treated waste outside of Idaho.

The Final EIS identified DOE's preferred alternative, which is to select appropriate technologies and construct facilities necessary to prepare sodium-bearing waste for shipment to the Waste Isolation Pilot Plant near Carlsbad, New Mexico. To implement its preferred alternative, DOE will continue proof of process and demonstration-scale testing of the four technologies that appear most likely to meet the performance criteria which include effectiveness, technical maturity, risk, cost, schedule, and safety. The four technologies are: (1) Calcination; (2) Steam Reforming; (3) Direct Evaporation and (4) Cesium Ion Exchange. Selection of another technology or option analyzed in the EIS is not precluded if these four technologies fail to meet performance criteria or if a new, more promising technology is identified.

DOE issued the Final EIS after extensive public involvement that included eight hearings in four states on the Draft EIS; a 90-day public comment period; and consideration of over 900 comments. DOE expects to announce its decisions in phases, with each phase of the EIS Record of Decision addressing specific activities. DOE expects to select a technology for the treatment of sodium bearing waste in an EIS Record of Decision scheduled for early 2004. DOE hereby invites the public to participate in evaluating the technologies being considered for the treatment of sodium-bearing waste.

Copies of the EIS

Interested individuals may view the Final EIS on the Department of Energy—Idaho Operations office Web site at *http://www.id.doe.gov/doeid/eis/.*

Issued in Idaho Falls, Idaho, on this 3rd day of March, 2003.

Walter N. Sato,

Acting Manager, Idaho Operations Office.

[FR Doc. 03–5587 Filed 3–7–03; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7462–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; ''Clean Air Act Section 608–National Refrigerant Recycling and Emissions Reduction Program''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): ''National Recycling and Emissions Reduction Program,'' *EPA ICR Number:* 1626.08, *OMB Control Number:* 2060–0256, expiration date—07/31/2003. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 9, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Julius Banks, Global Programs Division, U.S. EPA (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; phone: (202) 564–9870; facsimile: (202) 566–2155; Email address: *banks.julius@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OAR–2003–0018, which is available for public viewing at the Office of Air and Radiation (OAR) Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OAR Docket is (202) 566–1741. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 60 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method), by email to *a-and-r-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Air and Radiation, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as

CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *www.epa.gov/edocket.*

Affected Entities: Entities potentially affected by this action are refrigeration and air-conditioning service and repair shops; plumbing, heating, and air-conditioning contractors; refrigerated transport service dealers; scrap metal recyclers; automobile dismantlers and recyclers. Additional entities affected include Clean Air Act section 608 technician certification programs, equipment certification programs, refrigerant wholesalers and reclaimers, and other establishments that perform refrigerant removal, service, and/or disposal.

Title: ''National Refrigerant Recycling and Emissions Reduction Program'' (OMB Control No. 2060–0256; EPA ICR No. 1626.08) expiring 7/31/03.

Abstract: In 1993, EPA promulgated regulations under section 608 of the Clean Air Act Amendments of 1990 for the recycling of ozone depleting refrigerants, specifically chlorofluorocarbons (CFCs) and hydrofluorocarbons (HCFCs), in air-conditioning and refrigeration equipment. These regulations were published on May 14, 1993 (58 FR 28660) and codified in 40 CFR subpart F (§ 82.150 *et seq.*).

The mandatory reporting and recordkeeping requirements are found at 40 CFR 82.166, and are used to judge the effectiveness of EPA regulations aimed at reducing emissions of ozone-depleting substances and meet the Unites States' obligation under the Montreal Protocol to reduce the use and emissions of ozone depleting substances (ODSs) to the lowest achievable level. The reporting and recordkeeping requirements affect persons who sell or distribute any class I or class II substance for use as a refrigerant; purchasers of any class I or class II refrigerants who employ certified technicians; EPA-approved refrigerant recovery equipment testing organizations; EPA-approved technician certification programs; EPA-certified refrigerant reclaimers; persons disposing (including metal scrap recyclers) of small appliances, motor vehicle air-conditioners (MVACs), and MVAC-like appliances; persons servicing appliances normally containing 50 or more pounds of refrigerant; owners/operators of appliances normally containing 50 or more pounds of refrigerant; and service technicians certified under 40 CFR 82.161.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

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

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

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

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

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The annual burden is reported in this notice by annual respondent burden. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. This ICR renewal does not include any burden for third-party or public disclosures that were not previously reviewed and approved by OMB.

The annual burden hours for this collection of information are estimated as follows: 16 hours for the two EPA-approved equipment testing organizations; 1,125 hours for an estimated 2,250 service establishments that will change ownership or enter the market; 12.5 hours for an estimated 25 disposal establishments that change ownership or enter the market; 10,000 hours for the maintenance of copies of signed statements by an estimated 500 disposal establishments; 40 hours for certification of an estimated 20 refrigerant reclaimers that change ownership or enter the market; 400 hours for reclaimer reporting from an estimated 70 respondents; 40,000 hours for an estimated 5,000 refrigerant wholesalers to maintain records of refrigerant sales transactions; 300 hours for an estimated 10 technician certification programs applying for first-time approval; 1,600 hours for 100 technician certification programs to maintain records; 96,000 hours for an estimated 330,000 technicians acquiring certification and maintaining certification cards; 268,500 hours for an estimated 2,003,850 owners of refrigeration and air-conditioning equipment to maintain records on refrigerant and equipment; and 990 hours for an estimated 210 owners of industrial process refrigeration equipment.

Dated: March 4, 2003.

Drusilla Hufford,

Division Director, Global Programs Division.

[FR Doc. 03–5617 Filed 3–7–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7462–4]

Investigator Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency.

ACTION: Notice of requests for applications.

SUMMARY: This notice provides information on the availability of fiscal year 2003 investigator initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation

criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research areas within the solicitations.

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency invites research applications in the following areas of special interest to its mission: (1) Epidemiologic Research on Health Effects of Long-Term Exposure to Ambient Particulate Matter and Other Air Pollutants, (2) Consequences of Global Change for Air Quality: Spatial Patterns in Air Pollution Emissions, (3) Microbial Risk in Drinking Water, (4) Environmental Statistics Research: Novel Analyses of Environmental Data, (5) Aggregate Exposure Assessment for Pesticides: Longitudinal Case Studies of Human Exposure-Related Behavior and (6) Valuation for Environmental Policy.

CONTACTS: (1) Epidemiologic Research on Health Effects of Long-Term Exposure to Ambient Particulate Matter and Other Air Pollutants—*Glenn.Barbara@EPA.GOV,* (2) Consequences of Global Change for Air Quality: Spatial Patterns in Air Pollution Emissions—*Winner.Darrell@epa.gov,* (3) Microbial Risk in Drinking Water—*Nolt-Helms.Cynthia@epa.gov,* (4) Environmental Statistics Research: Novel Analyses of Environmental Data—*Saint.Chris@epa.gov,* (5) Aggregate Exposure Assessment for Pesticides: Longitudinal Case Studies of Human Exposure-Related Behavior—*Saint.Chris@epa.gov,* (6) Valuation for Environmental Policy—*Wheeler.William@epa.gov*

FOR FURTHER INFORMATION CONTACT: The complete program announcement can be accessed on the Internet at *http://www.epa.gov/ncer,* under ''announcements.'' The required forms for applications with instructions are accessible on the Internet at *http://es.epa.gov/ncer/rfa/forms/downlf.html.* Forms may be printed from this site.

Dated: February 25, 2003.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 03–5618 Filed 3–7–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0076; FRL–7292–3]

Pollution Prevention Grants and Announcement of Financial Assistance Programs Eligible for Review; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA expects to have approximately $5 million available in fiscal year 2003 grant/cooperative agreement funds under the Pollution Prevention (P2) grant program. Grants/cooperative agreements will be awarded under the authority of the Pollution Prevention Act (PPA) of 1990, subject to the availability of funds at the time of award. The Pollution Prevention Act of 1990 and 40 CFR part 35, subpart B authorize EPA to award grant funds to State, Tribes, and Intertribal Consortia programs that address the reduction or elimination of pollution across environmental media (air, land, and water) and to strengthen the efficiency and effectiveness of pollution prevention technical assistance programs in providing source reduction information to businesses. This notice describes the procedures and criteria for the award of these grants.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Lena Ferris, Pollution Prevention Division (7409), Office Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8831; e-mail address: *ferris.lena@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to States (including state universities), Tribes and Intertribal Consortia. This notice may, however, be of interest to local governments, private universities, private nonprofit entities, private businesses, and individuals who are not eligible for this grant program. If you have any questions regarding the applicability of this action to a particular entity, contact the technical person listed in the **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2002–0076. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102–Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. This document will also be available at the EPA P2 Web site at *http://www.epa.gov/p2*. A frequently updated electronic version of 40 CFR part 35 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr35_00.html* and of 40 CFR part 31 at *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr31_00.html*, both beta sites currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket identification number.

II. Background of the Pollution Prevention Grant Program

More than $80 million has been awarded to over 100 State and Tribal organizations under EPA's multimedia P2 grant program, since its inception in 1989. During the past 13 years, P2 grant funds have established and enabled State and Tribal programs to implement a wide range of pollution prevention activities. P2 grants provide economic benefits to small businesses by funding pollution prevention technical assistance programs focused on helping the businesses develop more efficient production technologies and operate more cost effectively.

The goal of the P2 grant program is to assist businesses and industries in identifying better environmental strategies and solutions for reducing waste at the source. The majority of the P2 grants fund State-based projects in the areas of technical assistance and training, education and outreach, regulatory integration, data collection and research, demonstration projects, and recognition programs.

In November 1990, the Pollution Prevention Act of 1990 (Public Law 101–508) was enacted, establishing as national policy that pollution should be prevented or reduced at the source whenever feasible.

1. Section 6603 of the Pollution Prevention Act of 1990 defines source reduction as any practice that:

i. Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal.

ii. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

EPA further defines pollution prevention as the use of other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or protection of natural resources, or protection of natural resources by conservation.

2. Section 6605 of the Pollution Prevention Act of 1990 and 40 CFR part 35, subpart B authorizes EPA to make matching grants to promote the use of source reduction techniques by businesses. In evaluating grant applications, the Pollution Prevention Act of 1990 directs EPA to consider whether the proposed program will:

i. Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice and to assist in the development of source reduction plans.

ii. Target assistance to businesses for which lack of information is an impediment to source reduction.

iii. Provide training in source reduction techniques.

III. Availability of FY 2003 Funds

EPA expects to have approximately $5 million in grant/cooperative agreement funds available for FY 2003–2004 pollution prevention activities. The Agency has delegated grant making authority to the EPA regional offices. EPA regional offices are responsible for the solicitation of interest and the screening of proposals. The Agency reserves the right to reject all initial proposals and make no awards.

In addition to the statutory criteria discussed in Unit II., all applicants must address all five of the national program criteria listed in Unit VI.B.2. EPA invites applicants to submit proposals that make the case for how their work will address P2 priorities on the national, Tribal, regional, and State level. Interested applicants should contact their EPA Regional Pollution Prevention Coordinator, listed in Unit X. for more information.

The *2003 Pollution Prevention Grant Guidance* is located at *http://www.epa.gov/p2/grants/ppis/ppis.htm*.

IV. Catalogue of Federal Domestic Assistance

The number assigned to the P2 grant program in the Catalogue of Federal Domestic Assistance is 66.708 (formerly 66.900).

V. Matching Requirements

States, Tribes, and Intertribal Consortia recipients of P2 grants under section 6605 of the PPA must provide at least 50% of the total allowable project cost. For example, the Federal Government will provide half of the total allowable cost of the project, and the recipient will provide the other half. Recipients may meet the match requirements by allowable costs incurred by the grantee (often referred to as ''in-kind goods or services'') or the value of third party in-kind contributions consistent with 40 CFR 31.24. If a Tribe or Intertribal Consortium is selected for award of a P2 grant and the Tribe includes the funds in a Performance Partnership Grant awarded under 40 CFR part 35, subpart B, the required Tribal match for the Pollution Prevention portion of the P2 grant will be reduced to 5% of the allowable Pollution Prevention project cost for the first 2 years of the P2 grant.

VI. Eligibility

A. Applicants

Eligible applicants for purposes of funding under this program include the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, any territory of or possession of the United States, any agency or instrumentality of a State including State universities, and Indian tribes that meet the requirement for treatment in a manner similar to a state at 40 CFR 35.663 and Intertribal Consortia that meet the requirements at 40 CFR 35.504. Local governments, private universities, private nonprofit, private businesses, and individuals are not eligible for funding. Eligible applicants are encouraged to establish partnerships with business and other environmental assistance providers to seamlessly deliver pollution prevention assistance. Successful applicants will be those that best meet the evaluation criteria in Unit VI.B.2. In many cases, this is likely to be accomplished through partnerships.

B. Activities and Criteria

1. *General*. EPA specifically seeks to build pollution prevention capabilities or to test innovative pollution prevention approaches and methodologies. Funds awarded under the P2 grant program must be used to support pollution prevention programs that address the transfer and reduction of potentially harmful pollutants across environmental media: Air, water, and land. Programs should reflect comprehensive and coordinated pollution prevention planning and implementation efforts.

2. *National program criteria for 2003*. This section describes the five national program criteria EPA will use to evaluate proposals under the P2 grant program. In addition to the statutory criteria and the national program criteria, there may be regionally specific criteria that the proposed activities are also required to address. For more information on the EPA regional requirements, applicants should contact their EPA Regional Pollution Prevention Coordinator, listed in Unit X. As well as ensuring that the proposed activities meet EPA's definition of pollution prevention, the applicant's proposal must include how they address the following five criteria:

i. *Promote multimedia pollution prevention*. Applicants should identify how projects will encourage source reduction to actively prevent pollution

across environmental media: Air, water and land. Programs should reflect comprehensive and coordinated pollution prevention planning and implementation efforts. Pollution prevention programs can develop multimedia pollution prevention activities which provide technical assistance to businesses, institutionalize multimedia pollution prevention as a environmental management priority, or initiate demonstration projects that test and support innovative pollution prevention approaches and methodologies.

ii. *Advance environmental goals.* EPA believes that State and Tribal pollution prevention programs have a unique opportunity to promote pollution prevention, especially through the environmental performance agreements. By developing applications that support stated environmental goals, pollution prevention programs can help ensure that States and Tribes achieve objectives through a cost-effective preventive approach. Pollution prevention programs will continue to be valuable to top management if they can demonstrate how their actions will help advance stated goals. EPA would like to ensure that pollution prevention is integrated and that the funds provide a service that supports each State's or Tribes strategic plan. EPA will not fund any projects developed apart from those included in the stated strategic plans.

iii. *Promote accomplishments within State's environmental programs.* EPA realizes the importance of being able to document the effectiveness of the program back to the affected media office. EPA added this application criteria to create the necessary link between the regulatory program and the pollution prevention program activities to ensure that the affected offices know the good work that is being done within their sectors/programs/geographic areas. By periodically documenting the proposed activities' accomplishments, grantees will help media program managers understand the benefits of their delivered services. By creating this positive feedback mechanism to the regulatory program, the grantee can market their accomplishments and help promote the sustainability of the P2 program.

iv. *Promote partnerships.* For the past 6 years, EPA has required P2 grant applicants to identify major environmental assistance providers in their area and to work with these organizations to educate businesses on pollution prevention. EPA believes that pollution prevention programs that do not develop a strong relationship with other environmental assistance providers will face difficulties accessing State and Federal resources in the future.

EPA continues to seek more cooperation among State and Tribal pollution prevention programs and the other environmental and business assistance providers. These can include university-based technical assistance and cooperative extension programs, and other State-based assistance programs. Partnerships are also encouraged with regional and national programs such as the Pollution Prevention Resource Exchange (P2Rx) centers, National Institute of Standards and Technology (NIST) programs, Office of Enforcement and Compliance Assistance (OECA) Compliance Assistance Centers, EPA's Small Business Assistance Programs (SBAPs), etc.

By developing such partnerships, EPA would like to ensure that pollution prevention programs leverage this outside expertise. This partnership will also reduce the need for other environmental assistance providers to develop their own expertise, which would result in duplication of effort.

v. *Estimate environmental impact.* Applicants are requested to estimate the environmental impact from their proposed activities. This would be a quantifiable number that provides an estimation of waste reduction expected. Many of the EPA regional offices have negotiated with their States specific measurement structures which may provide appropriate frameworks for estimating environmental impact.

3. *Program management.* Awards for FY 2003 funds will be managed through the EPA regional offices. Applicants should contact their EPA Regional Pollution Prevention Coordinator, listed in Unit X. or view the *2003 Pollution Prevention Grant Guidance* located at *http://www.epa.gov/p2/grants/ppis/ppis.htm* to obtain specific regional requirements and deadlines for submitting proposals. National funding decisions will be made by June 2003.

VII. Proposal Narrative Format

The proposed work plan must meet the requirements for an approvable work plan at 40 CFR 35.107 or 35.507.

VIII. Applicable Regulations

State applicants and recipients of P2 grants are subject to the requirements of 40 CFR parts 31 and 35, subpart A. Tribal and Intertribal Consortia applicants and recipients of P2 grants are subject to the requirements of 40 CFR parts 31 and 35, subpart B.

IX. Reporting

The work plans and reporting must be consistent with the requirements of 40 CFR 35.107, 35.115, 35.507, and 35.515.

The grantee, along with the Regional Project Officer, will develop a process for jointly evaluating and reporting progress and accomplishments under the work plan (see 40 CFR 35.115 and 35.515). A description of the evaluation process and a reporting schedule must be included in the work plan (see 40 CFR 35.107(b)(2)(iv) and 35.507(b)(2)(iv)).

The evaluation process must provide for:

1. A discussion of accomplishments as measured against work plan commitments.
2. A discussion of the cumulative effectiveness of the work performed under all work plan components.
3. A discussion of existing and potential problem areas.
4. Suggestions for improvement, including, where feasible, schedules for making improvements.

EPA's Pollution Prevention Division has created an optional progress report format to facilitate national reporting on status of P2 grant activities. A copy of the report format is included in the grant guidance located on the P2 Grant Program Web site (*http://www.epa.gov/p2/grants/ppis/ppis.htm*). This progress report format is not required but has been used in several States for the past year.

X. Regional Pollution Prevention Coordinators

Region I: (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont) Rob Guillemin, 1 Congress St. (SPP), Boston, MA 02203; telephone number: (617) 918–1814 or (617) 918–1841; e-mail address: *guillemin.robert@epa.gov*.

Region II: (New Jersey, New York, Puerto Rico, Virgin Islands) Tristen Gillespie (SPMMB), 290 Broadway, 25th Floor, New York, NY 10007; telephone number: (212) 637–3753; e-mail address: *gillespie.tristen@epa.gov*.

Region III: (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia) Lorna Rosenberg (3E100), 1650 Arch St., Philadelphia PA 19103–2029; telephone number: (215) 814–5389; e-mail address: *rosenberg.lorna@epa.gov*.

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee) Dan Ahern, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303; telephone number: (404) 562–9028; e-mail address: *ahern.dan@epa.gov*.

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin) Phil Kaplan (DW-8J), 77 West Jackson Blvd., Chicago, IL 60604–3590; telephone number: (312) 353–4669; e-mail address: *kaplan.phil@epa.gov*.

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas) Eli Martinez (6EN-XP), 1445 Ross Ave., 12th Floor, Suite 1200, Dallas, TX 75202; telephone number: (214) 665–2119; e-mail address: *martinez.eli@epa.gov*.

Region VII: (Iowa, Kansas, Missouri, Nebraska) Gary Bertram (ARTD/TSPP), 901 N 5th St., Kansas City, KS 66101; telephone number: (913) 551–7533; e-mail address: *bertram.gary@epa.gov*.

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) Linda Walters (8P-P3T), 999 18th St., Suite 300, Denver, CO 80202–2405; telephone number: (303) 312–6385, e-mail address: *walters.linda@epa.gov*.

Region IX: (American Samoa, Arizona, California, Guam, Hawaii, Nevada) Leif Magnuson (WST-7), 75 Hawthorne Ave., San Francisco, CA 94105; telephone number: (415) 972–3286; e-mail address: *magnuson.leif@epa.gov*.

Region X: (Alaska, Idaho, Oregon, Washington) Carolyn Gangmark, 01–085, 1200 Sixth Ave., Seattle, WA 98101; telephone number: (206) 553–4072; e-mail address: *gangmark.carolyn@epa.gov*.

XI. Congressional Review Act

Grant solicitations such as this are considered rules for the purpose of the Congressional Review Act (CRA). The CRA, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 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**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Grants, Pollution prevention.

Dated: February 26, 2003.

Stephen L. Johnson,

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

[FR Doc. 03–5621 Filed 3–7–03; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Sub-Saharan Africa Advisory Committee (SAAC) of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Sub-Saharan Africa Advisory Committee was established by Public Law 105–121, November 26, 1997, to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank. Further, the committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

Time and Place: Wednesday, March 26, 2003, at 9:30 a.m. to 12:30 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda: This meeting will focus on improving deal flow for transactions in Sub-Saharan Africa. SAAC members and the Bank staff will discuss previous committee recommendations and the industry-specific experience of particular SAAC members.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to March 21, 2003, Teri Stumpf, Room 1215, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FURTHER INFORMATION: For further information, contact Teri Stumpf, Room 1215, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3502.

Peter B. Saba,

General Counsel.

[FR Doc. 03–5640 Filed 3–7–03; 8:45 am]

BILLING CODE 6696–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting Notice; Announcing an Open Meeting of the Board and a Public Hearing on Business Objectives and Practices of Federal Home Loan Bank Unsecured Lending

TIME AND DATE: The meeting of the Board of Directors is scheduled to begin at 2 pm on Wednesday, March 12, 2003. The public hearing will take place immediately following the Board of Directors meeting.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

STATUS: The entire meeting and the public hearing will be open to the public.

MATTERS TO BE CONSIDERED:

1. At the meeting of the Board of Directors:

- Appointments to the Office of Finance. Part 985 of the Federal Housing Finance Board regulations requires the agency to appoint the members of the Office of Finance board of directors (12 CFR 985.7).
- Appointment of Federal Home Loan Bank Directors. Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) requires the Federal Housing Finance Board to appoint public interest directors to the boards of directors of the Federal Home Loan Banks.
- Financial Expertise Requirements for Certain Federal Home Loan Bank Appointed Directors. Consideration of a proposed rule to ensure that at least one appointive director serving on the board of directors of each Federal Home Loan Bank has financial expertise.
- Delegation of Authority to the Chairperson of the Board of Directors of the Federal Housing Finance Board. Consideration of a resolution setting forth the sense of the Board of Directors about the delegation to the Chairperson.

2. At the hearing:

Business Objectives and Practices of Federal Home Loan Bank Unsecured Lending.

CONTACT PERSON FOR MORE INFORMATION: Mary H. Gottlieb, Paralegal Specialist, Office of General Counsel, by telephone at 202/408–2826 or by electronic mail at *gottliebm@fhfb.gov*.

Dated: March 5, 2003.

By the Federal Housing Finance Board.

Arnold Intrater,

General Counsel.

[FR Doc. 03–5674 Filed 3–5–03; 5:08 pm]

BILLING CODE 6725–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0274]

Art in Architecture Program National Artist Registry

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement regarding the Art in Architecture Program national artist registry form.

The Art in Architecture Program is the result of a policy decision made in January 1963 by GSA Administrator, Bernard L. Boudin, who had served on the Ad Hoc Committee on Federal Office Space in 1961–62.

The program has been modified over the years, most recently in 1996 when a renewed focus on commissioning works of art that are an integral part of the building's architecture and adjacent landscape was instituted. The program continues to commission works of art from living American artists. One half of one percent of the estimated construction cost of new or substantially renovated Federal buildings and U.S. courthouses is allocated for commissioning works of art.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: May 9, 2003.

FOR FURTHER INFORMATION CONTACT: Susan Harrison, Public Buildings Service, Office of the Chief Architect, Art in Architecture, Room 3341, 1800 F Street, NW., Washington, DC 20405.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory and Federal Assistance Publications Division, General Services Administration (MVA), Room 4035, 1800 F Street, NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Art in Architecture Program actively seeks to commission works from the full spectrum of American artists, and strives to promote new media and inventive solutions for public art. The GSA Form 7437, Art in Architecture Program National Artist Registry will be used to collect information from artists across the country to participate and to be considered for commissions.

B. Annual Reporting Burden

Respondents: 360.
Responses Per Respondent: 1.
Hours Per Response: .25.
Total Burden Hours: 90.
Obtaining copies of proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory and Federal Assistance Publications Division (MVA), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0274, Art in Architecture Program National Artist Registry, in all correspondence.

Dated: January 27, 2003.

Michael W. Carleton,

Chief Information Officer.

[FR Doc. 03–5531 Filed 3–7–03; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03029]

Intervention Research Grants To Promote the Health of People With Disabilities; Notice of Availability of Funds

Application Deadline: May 13, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301 and 317(C) of the Public Health Service Act, (42 U.S.C. 241 and 247b–4, as amended). The Catalog of Federal Domestic Assistance number is 93.184.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 research grant funds for intervention research directed to implementing health promotion programs for people with disabilities. This announcement is related to the ''Healthy People 2010'' focus area of Disability and Secondary Conditions.

The purpose of this program is to support research to develop, implement and measure the effectiveness of interventions that promote the health and wellness of people with disabilities and prevent secondary conditions. For the purpose of this announcement, disability is defined as a physical or cognitive limitation in a major life activity(ies). For the purpose of this announcement, health promotion will be defined as the process of enabling people to increase control over, and to improve their health.

Measurable outcomes of the program must be in alignment with the following performance goal of the National Center on Birth Defects and Developmental Disabilities: Monitor, characterize, and improve the health status of Americans with disabilities.

C. Eligible Applicants

Applications may be submitted by public and private non-profit organizations and by governments and their agencies; that is, universities, colleges, technical schools, research institutions, hospitals, other public and private nonprofit organizations, community-based organizations, faith-based organizations, state and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds: Approximately $2,275,000 will be available in FY 2003 to fund an estimated seven awards. It is expected that the average award will be $325,000, ranging from $310,000 to $340,000. The maximum funding level per year will not exceed $340,000, including both direct and indirect costs. Applications that exceed the funding cap of $340,000 will be excluded from the competition and returned to the applicant without review.

In addition to the above, one award will be made to an applicant whose intervention targets populations with limb loss or limb absence. This award

will have a budget ceiling of $450,000, including both direct and indirect costs. Applications for limb loss intervention research that exceed the funding cap of $450,000 will be excluded from the competition and returned to the applicant without review.

It is anticipated that awards will begin on or before September 1, 2003, for a 12-month budget period within a project period of up to three years. Funding estimates are subject to change. Continuation awards within an approved project period will be based on satisfactory progress as evidenced by required reports and the availability of funds.

Applicants may submit more than one application under the selections available for intervention research targeting populations of people with disabilities. However, given the limited funds available under this announcement, no applicant nor an applicant's parent organization will receive more than one award.

Use of Funds: Grant funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services directly related to project activities consistent with the approved scope of work. Project funds cannot be used to supplant other available applicant or collaborating agency funds, for construction, for lease or purchase of facilities or space, or for patient care. Project funds cannot be used for individualized preventive measures (direct patient support) such as for wheelchairs, medical appliances, or assistive technology unless specifically approved by the funding agency.

Each year, applicants should budget travel funds for two staff members to attend a three day workshop in Atlanta to review the collective performance of funded projects; and for two staff members to participate in a four day national conference/meeting of relevance to the project.

Given the availability of other Federal resources for that purpose, grant funds under this announcement cannot be used for intervention research directed at people with a ''Diagnostic and Statistical Manual of Mental Disorders'' (DSM IV) primary diagnosis of mental illness, although such impairments (*e.g.*, depression, adjustment reaction, anxiety) can be considered as secondary conditions as part of the intervention research.

Funding Preferences: As determined by the quality and ranking of the applications received, CDC plans to support research projects based on: (a) The programmatic interest areas listed in the announcement; (b) race, age, gender and ethnic diversity of the populations to be included within the study groups; (c) geographical distribution; and (d) urban/rural distinctions.

Recipient Financial Participation: Although matching funds are not a requirement under this announcement, applicants are encouraged to seek additional funds to support project activities. Applicants should document the source and amount of financial support, including in-kind contributions. Such letters of financial commitment as well as additional correspondence citing specific areas of project collaborations should be included in the application Appendix.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the grantee will be responsible for the following activities:

1. Confirm the basis for study participant selection and the mechanisms in place to access this group(s); finalize the location/sites of the study; and engage and impact the target population selected for interventions over the full course of the project.
2. Implement the proposed research methods including study instruments, questionnaires, protocols, and expected outcome measures; and address the expected applicability of research findings to the intended population.
3. Institute the work plan based on the major actions (measurable goals and objectives) required to conduct and complete the project with specific timelines and action steps for attaining all work plan and performance outcomes.
4. Undertake major activities as identified to be performed by key staff, sustain management oversight for all components of the project, and sustain a viable organizational structure to assure optimal performance.
5. Measure the effects of the proposed collaborations and outline the project's relationship to other programs underway or recently completed.
6. Account for the expected outcomes of the intervention and how the overall effectiveness of the project will be measured; including methods for detecting meaningful changes in outcomes of interest such as improved health, reductions in health disparities, and fewer or less severe secondary conditions among the targeted populations.
7. Catalog effective communication channels and announce best formats for disseminating results to specific and general audiences including; persons with disabilities, caregivers, disability service organizations, advocacy groups, public health organizations, governmental agencies, non-governmental organizations, researchers, and the general public.

Programmatic Interests: The CDC is interested in funding interventions that address the health of people with disabilities across the lifespan. CDC encourages the development of interventions and/or the modification of existing programs shown to be effective in the general population. Research should include interventions that address objectives identified in ''Healthy People 2010,'' for which people with disabilities demonstrate disparities in health. The leading health indicators reflect the major public health concerns in the United States and were chosen based on their ability to motivate action, the availability of data to measure their progress, and their relevance as broad public health issues. Within the descriptions of the leading health indicators contained in ''Healthy People 2010,'' CDC is interested in projects that address physical activity, overweight and obesity, depression, violence, and access to quality health care services.

Specific populations of people with disabilities targeted for health promotion interventions should be appropriately justified. Interventions may be targeted at the individual, group or system level. Applicants may focus on multiple and/or common functional categories such as people with mobility limitations, sensory, communication, or developmental disabilities. Applicants must focus on at least two or more underlying etiologies within the population of people with disabilities selected for intervention.

Applicants are encouraged to collaborate with existing programs that have experience conducting effective interventions in the areas of interest. In addition, applicants are strongly encouraged to include people with disabilities in all phases of research planning and implementation.

Applicants should pilot, implement, and evaluate innovative health promotion interventions that have the potential for application and/or replication in other settings (*e.g.*, local and state health departments, disability and voluntary organizations) beyond what is developed within the controlled research environment.

F. Content

Letter of Intent: A letter of intent (LOI) is requested for this program. The LOI should identify the program announcement number and the

proposed project director. The LOI should be no more than three pages, double spaced, printed on one side, with one inch margins, and unreduced 12-point font. It should describe the intent of the proposed intervention, the target population, and describe those activities and collaborations already in place to fully meet the requirements of the announcement. The LOI will be used to determine the level of interest in the announcement, and assist CDC in the planning for the conduct of the application review process.

Applications: The PHS 398 grant application form requires the applicant to enter the project title on page 1 (Form AA, ''face page'') and the project description (abstract) on page 2 (Form BB). Applicants must also submit a separate typed summary of their proposal consisting of no more than two single-spaced pages. Applicants must include a table of contents for the project narrative and related attachments.

The main body of the application narrative should not exceed 35 double-spaced pages. Please note that this maximum number of pages allowed exceeds the maximum number of pages (25 pages) indicated in the PHS 398 grant application form (Form CC, ''Research Grant Table of Contents''.) The budget justification and biographical sketch sections do not count toward the maximum page limit. Pages must be numbered and printed on only one side of the page.

All material must be typewritten, with 10 characters per inch type (12-point font) on 8½ inch by 11 inch white paper with one inch margins, headers and footers (except for applicant-produced forms such as organizational charts, graphs and tables, etc.) Applications must be held together only by rubber bands or metal clips, and not bound together in any other way. Attachments to the application should be held to a minimum in keeping to those items required or referenced by this announcement.

Within the application narrative, present the rationale for the proposed research, and explain the public health and scientific importance of the study. In the context of previous studies, describe the contribution this research will make and how the conduct of this intervention research will achieve the stated purpose of this Announcement. In addition, address and defend the choice of the leading health indicator of interest and the proposed intervention, including a statement of the main purpose/goal of the intervention.

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated according to the criteria listed in those sections of this announcement, so it is important to follow them in laying out your program plan.

G. Submission and Deadline

Letter of Intent (LOI) Submission: On or before April 10, 2003, submit the LOI to the Senior Project Officer identified in the ''Where to Obtain Additional Information'' section of this Announcement.

Application Forms: Submit the signed original and two copies of PHS–398 NIH Form (OMB Number 0925–0001) and adhere to the instructions on the Errata Instruction Sheet for PHS–398. Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address: The application must be received by 4 p.m. eastern time on May 13, 2003. Submit the application to: Technical Information Management—PA# 03029, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Atlanta, Georgia 30341–4146.

Forms may not be submitted electronically.

CDC Acknowledgment of Application Receipt: A postcard will be mailed by PGO–TIM notifying you that CDC has received your application.

Deadline: Letters of intent and applications will be considered as meeting the deadline if they are received before 4 p.m. eastern time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time; or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be returned. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Applicants are required to provide measures that will demonstrate the effectiveness of the proposed intervention. Measures of effectiveness must relate to the performance goal stated in section ''B. Purpose'' of this announcement. Measures must also be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Applications will be reviewed by CDC staff for completeness and responsiveness as outlined under the previous heading, Program Requirements. Incomplete applications and applications that are non-responsive will be returned to the applicant without further consideration.

Applications which are complete and responsive will be subjected to a preliminary evaluation (triage) by a Special Emphasis Panel (SEP) to determine if the application is of sufficient technical and scientific merit to warrant further review by the SEP. Applications that are determined to be non-competitive will not be considered, and the SEP will promptly notify the investigator/program director and the official signing for the applicant organization. Applications then determined to be competitive will be evaluated by a dual review process.

Awards will be made based on priority scores assigned to applications by the SEP, programmatic priorities, needs as determined by a secondary review committee, and the availability of funds.

Each application will be evaluated individually against the following criteria. It is suggested that applications be organized to be compatible with the evaluation criteria, as that is the process by which the review committee will assess the quality of the applications.

All criteria (Background/Understanding of Need, Research Approach, Investigators/Collaborators/Management Plans, and Evaluation) are of equal importance, however an application does not need to be strong in all categories to be judged likely to have a major scientific impact.

1. Background/Understanding of Need

Evaluation will be based on:

a. Identification of the problem and justification for the study, including the ''Healthy People 2010'' objective(s) to be addressed.

b. Review of the relevant literature and discussion of the research

foundation being utilized in determining the proposed intervention.

c. Description of the theoretical framework underlying the intervention.

d. Description of the study goals, objectives and/or hypotheses.

e. Intended use and applicability of study findings

2. Research Approach

Evaluation will be based on:

a. The overall strength and feasibility of the research design.

b. Description and justification of the study population, including case definitions, number of participants, selection criteria, and methods for recruiting, enrolling, and sustaining participation.

c. Description of the consent process, including procedures for informing participants about the study and methods for obtaining consent.

d. A detailed description of the intervention.

e. Description of all study instruments, including survey questionnaires, and a discussion of their reliability and validity.

f. Data handling and analysis plans, including statistical methodology, data entry, storage, and disposition.

g. Plans for disseminating and reporting results to multiple target audiences.

3. Investigators/Collaborators/and Management Plans Evaluation Will Be Based on:

a. A description of the major collaborators and their explicit contributions to project objectives.

b. A description of investigator(s) qualifications, roles, tasks, time commitments, and responsibilities.

c. A detailed work plan with specific time frames for implementation of the project. This includes the presentation of overarching goals for the full three year project period with a detailed work plan outlining monthly or quarterly objectives covering the first two budget years.

d. Evidence that people with disabilities will participate in all phases of the research.

4. Evaluation

Evaluation will be based on:

a. A description of how progress will be monitored and evaluated over the course of the intervention.

b. The extent to which project goals are attained and specific objectives accomplished.

c. A description of expected outcomes and the overall effectiveness of the intervention. This includes methods for detecting meaningful changes in outcomes of interest such as improved health, reductions in health disparities, and fewer or less severe secondary conditions among the targeted populations.

d. A description of the expected cost/benefit of the intervention.

5. Budget

This includes the comprehensiveness and adequacy of the applicant's proposed budget in relation to program operations, collaborations, and services; the degree of cost-sharing; and the extent to which the budget is reasonable, clearly justified, accurate, and consistent with the purposes of this announcement.

6. Human Subjects

This includes the extent to which the application adequately addresses the requirements of title 45 CFR part 46 for the protection of human subjects. If the proposed project involves research on human participants, assurance and evidence must be provided that the project will be subject to initial and continuous reviews by an appropriate institutional review board. Does the applicant adequately address the requirements of 45 CFR part 46 for the protection of human subjects?

7. The Degree to Which the Applicant Has Met the CDC Policy Requirements Regarding the Inclusion of Women, Ethnic Minorities, and Racial Groups in the Proposed Research

This includes: The proposed plan for the inclusion of racial ethnic minority populations and both sexes for appropriate representation; the proposed justification when representation is limited or absent; a statement as to whether the design of the study is adequate to measure differences when warranted; and a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress Report for a PHS Research Grant (form PHS–2590 found on the CDC Web site), no less than 90 days before the end of the budget period (date to be determined at time of award).

A. The progress report should represent the accomplishments of the project during the reporting period. You do not need to limit the progress report to two pages as specified in the standard PHS–2590 form instructions (page 2, item A).

B. The report should describe the work which has been accomplished to date, please describe accomplishments in terms of the specific aims/timetable.

C. List each specific aim separately and elaborate on the progress that has been made and where you are in terms of the time schedule.

D. Include a detailed budget with justification.

E. Include a copy of your most current IRB approval.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see the Attachment in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–14 Accounting System Requirements
AR–15 Proof of Non-Profit Status
AR–22 Research Integrity

Executive Order 12372 does not apply to this program.

J. Where to Obtain Additional Information

For this and other announcements, the necessary applications and associated forms can be found on the CDC home page Internet address: *http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146. Telephone: (770) 488–2700.

For business management and budget assistance in the states, contact: Sheryl Heard, Grants Management Specialist, Procurement and Grants Office Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Atlanta, Georgia 30341–4146. Telephone: (770)

488–2723. E-mail address: *slh3@cdc.gov.*

For business management and budget assistance in the territories, contact: Charlotte Flitcraft, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: 770–488–2632. E-mail address: *caf5@cdc.gov.*

For program technical assistance, contact: Joseph B. Smith, Senior Project Officer, National Center on Birth Defects and Developmental Disabilities, Disability and Health Team, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road (Mailstop F–35). Atlanta, Georgia 30333. Telephone: (404) 498–3021. E-mail address: *jos4@cdc.gov.*

Dated: March 3, 2003.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–5581 Filed 3–7–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03019]

Population-Based Birth Defects Surveillance Programs and the Utilization of Surveillance Data by Public Health Programs; Notice of Availability of Funds

Application Deadline: April 30, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301, 311 and 317(C) of the Public Health Service Act (42 U.S.C. 241, 243, and 247b–4), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for developing, implementing, and improving state's birth defects surveillance data and utilizing the surveillance data by other public health programs. This program addresses the ''Healthy People 2010'' focus area of Maternal, Infant, and Child Health.

The purpose of the program is to support: (1) The development, implementation, expansion, and evaluation of state's population-based birth defects surveillance systems; (2) the development and implementation of population-based programs to prevent birth defects; (3) the development and implementation or expansion of activities to improve the access of children with birth defects to health services and early intervention programs; and (4) the evaluation of the effectiveness of the referral activities and the impact on the affected children and families.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center on Birth Defects and Developmental Disabilities:

- Improve the data on the prevalence of birth defects and developmental disabilities.
- Find causes and risk factors for birth defects and developmental disabilities in order to develop prevention strategies.

C. Eligible Applicants

Assistance will be provided only to the health departments of States or their *bona fide* agents, including the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and Federally recognized Indian tribal governments.

Recipients funded under CDC Program Announcement 02011 (Cooperative Agreements for the Development and Improvement of Population-Based Birth Defect Surveillance Programs and the Integration of Surveillance Data with Public Health Programs) and Program Announcement 02081 (Centers for Birth Defects Research and Prevention) are not eligible. *See* Attachment I, as posted on the CDC website, for a list of the States currently funded under these program announcements. Additionally, if the applicant is not the State health agency, the applicant must provide a letter from the appropriate State health agency designating the applicant as a *bona fide* agent. This information should be placed directly behind the cover letter of the application. Applications that fail to submit the evidence requested above will be considered non-responsive and returned without review.

The eligible States are: Arizona, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Kansas, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Washington, Wisconsin, and Wyoming.

Applicants may apply under one of two categories:

Category 1—States/territories/tribes with no birth defects surveillance systems; or

Category 2—States/territories/tribes with ongoing surveillance systems.

Note: Title 2 of the United States Code, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

D. Availability of Funds

Approximately $1,900,000 is available in FY 2003 to fund approximately 2–4 awards in Category 1, and 6–10 awards in Category 2. It is expected that the awards will range from $50,000 to $250,000. The average award will be $100,000 for Category 1 States and $200,000 for Category 2 States. The awards will begin on or about September 1, 2003, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds: These awards may be used for personnel services, equipment, travel, and other costs related to project activities. Project funds may not be used to supplant State funds available for birth defects surveillance or prevention, health care services, patient care, nor construction.

Award recipients agree to use cooperative agreement funds for travel by project staff selected by CDC to participate in CDC-sponsored workshops, or other called meetings such as regional or annual meetings.

E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient activities for States with no birth defects surveillance systems; or 2. Recipient activities for States with ongoing surveillance systems; and CDC will be responsible for the activities under 3. CDC activities.

1. Recipient Activities for States with no birth defects surveillance systems:

a. Develop and begin implementation of a population-based surveillance system to ascertain cases and generate timely population-based data of major birth defects occurring in the State.

b. Analyze and disseminate the surveillance data generated by the

system in a timely fashion including rates and trends of major birth defects.

c. Develop and implement a plan to evaluate the surveillance methodology used.

d. Involve the appropriate partners within the State, including the State's organization receiving title V Federal funds, to develop a plan and begin implementation of a birth defects prevention program (*i.e.*, Neural Tube Defects (NTD) occurrence prevention). Share results with appropriate organizations within the State and with other States.

e. Develop a plan to evaluate your prevention activities.

f. Involve the appropriate partners within the State to develop a plan and begin implementation of activities to improve the access of children with birth defects to comprehensive, community-based, family-centered care (*e.g.*, establish linkages with other programs like Children with Special Health Care Needs).

g. Develop a plan to evaluate the identification of and/or timeliness of referral to services among eligible children or families.

2. Recipient Activities for States with ongoing surveillance systems:

a. Broaden methodologies and approaches which will improve and expand the capacity of the existing population-based surveillance system to ascertain cases and generate timely population-based data of major birth defects occurring in the State.

b. Analyze and disseminate the surveillance data generated by the system in a timely fashion including rates and trends of major birth defects (*e.g.*, publish a report on the surveillance data).

c. Evaluate the surveillance methodology used.

d. Involve the appropriate additional partners within the State, including the State's organization receiving title V Federal funds, to expand birth defects prevention programs (*i.e.*, Neural Tube Defects (NTD) occurrence prevention). Share results with appropriate organizations within the State and with other States.

e. Evaluate the prevention progress.

f. Involve the appropriate partners within the State to expand activities to improve the access of children with birth defects to comprehensive, community-based, family-centered care (*e.g.*, establish linkages with other programs like Children with Special Health Care Needs).

g. Evaluate the progress on improving access to services (*e.g.*, identification of children and families eligible for services; evaluate the timeliness of referral to services).

h. Evaluate the effectiveness of the referral activities and the benefit/impact on the affected children and families.

3. CDC Activities:

a. Provide technical assistance such as presenting the need, benefits, and description of a birth defects surveillance, prevention, and intervention program, reviewing draft legislation, etc. to state agencies and interested parties.

b. Assist in designing, developing, and evaluating methodologies and approaches used for population-based birth defects surveillance. Discuss the advantages and disadvantages of different case ascertainment methods.

c. Assist in analyzing surveillance data related to birth defects.

d. Assist in designing, developing, and evaluating plans for prevention programs.

e. Assist in designing, developing, and evaluating plans to improve the access of children with birth defects to health services and intervention programs.

f. Provide a reference point for sharing regional and national data and information pertinent to the surveillance and prevention of birth defects.

F. Content

Letter of Intent (LOI): A LOI is requested for this program. The Program Announcement title and number must appear in the LOI. The narrative should be no more than two, double-spaced pages, printed on one side, with one-inch margins and 12-point font. The LOI will not be used to eliminate potential applicants, but it will enable CDC to determine the level of interest and plan the review more efficiently. The LOI should include the following information: This program announcement number; applicant's name and address; project director's name, phone number, and email; identification of the category for which the applicant is applying (Category 1 or Category 2); a brief description of the number of state-wide births and current birth defect surveillance system; and a brief description of the planned statement of work.

Applications: The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in describing the program plan.

The applicant should provide a detailed description of first-year activities and briefly describe future-year objectives and activities. The application must contain the following:

1. *Cover Letter:* A one page cover letter should indicate whether the applicant is applying for Category 1 or Category 2. Additionally, if the applicant is not the State health agency, the applicant must provide a letter from the appropriate State health agency designating the applicant as a *bona fide* agent. This information should be placed directly behind the cover letter of the application.

2. A one-page, single-spaced, typed abstract in 12-point font must be submitted with the application. The heading should include the title of the grant program, project title, organization, name and address, project director and telephone number. The abstract should clearly state which option the applicant is applying for: Category 1 or Category 2. The abstract should briefly summarize the program for which funds are requested, the activities to be undertaken, and the applicant's organization structure. The abstract should precede the program narrative. A table of contents that provides page numbers for each of the following sections should be included. All pages must be numbered.

3. *Narrative:* The narrative should be no more than 25 double-spaced pages, printed on one side, with one-inch margins, and unreduced font (12-point). The required detailed budget and detailed budget justification are not considered to be part of the program narrative. The narrative should specifically address item 1. or 2. in the ''Program Requirements'' and should contain the following sections:

a. Use of Surveillance Data for Prevention Activities.

b. Use of Surveillance Data for Improving Access to Health Services and Early Intervention Programs.

c. Impact on Population-Based Birth Defects Surveillance.

d. Organizational and Program Personnel Capability.

e. Understanding of the Public Health Impact of Birth Defects.

f. Human Subjects Review.

4. *Budget and Budget Justification*—Provide a detailed budget which indicates the anticipated costs for personnel, fringe benefits, travel, supplies, contractual, consultants, equipment, indirect, and other items. Please provide a copy of the appropriate indirect rate agreement letter or cost allocation plan.

G. Submission and Deadline

Letter of Intent (LOI) Submission: On or before March 7, 2003, submit the LOI to Larry Edmonds, Project Officer, at the address designated for programmatic technical assistance identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application Forms: Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm*. If you do not have access to the internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section at telephone number (770) 488–2700. Application forms can be mailed to you.

Submission Date, Time, and Address: The application must be received by 4 p.m. eastern time on April 30, 2003. Submit the application to: Technical Information Management—PA #03019, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgment of Application Receipt: A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline: Letters of intent and applications will be considered as meeting the deadline if they are received before 4 p.m. eastern time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: (1) carrier error (when the carrier accepted the package with a guarantee for delivery by the closing date and time) or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Applications which do not meet the above criteria will not be eligible for competition and will be discarded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals as stated in section ''B. Purpose'' of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

An independent review group appointed by CDC will evaluate each application against the applicant's response to either item 1. or 2. in the ''Program Requirements'' section.

1. Use of the surveillance data for prevention activities (30 points):

The extent to which the applicant describes the plans for using surveillance data to develop and implement or expand existing programs to prevent birth defects. The current and proposed activities evaluated in this element are specific for Category 1 and Category 2.

a. Evaluation criteria for Category 1 (States with no birth defects surveillance systems):

(1) Ability to work with appropriate partners in the State (*e.g.*, provide letters of support, Memorandums of Agreement/Understanding).

(2) Plan for using the surveillance data to develop prevention programs.

(3) Plan for sharing surveillance data (*e.g.*, personal identifiers and contact information) with programs or agencies so that children or families can be enrolled in prevention programs.

(4) Letter from the State's organization receiving title V Federal funds that describe the data linkages and other collaborative activities with the applicant.

b. Evaluation criteria for Category 2 (States with ongoing birth defects surveillance systems):

(1) Ability to work with appropriate partners in the State (*e.g.*, provide letters of support, Memorandums of Agreement/Understanding).

(2) Use of surveillance data to expand prevention programs.

(3) Sharing the surveillance data (*e.g.*, personal identifiers and contact information) with programs or agencies so that children or families are enrolled in prevention programs.

(4) Evaluation of progress made in the prevention of birth defects.

(5) Letter from the State's organization receiving title V Federal funds that describe the data linkages and other collaborative activities with the applicant.

2. Use of surveillance data for improving access to health services and early intervention programs (30 points):

The extent to which the applicant describes the plans to develop and implement or expand existing activities to improve the access of children with birth defects to health services and early interventions. The current and proposed activities evaluated in this element are specific for Category 1 and Category 2.

a. Evaluation criteria for Category 1 (States with no birth defects surveillance systems):

(1) Identification of appropriate programs within the State for referral to health services (*e.g.*, provide letters of support, Memorandums of Agreement/Understanding).

(2) Plan for linking programs or developing other approaches to increase identification of children or families eligible for health services.

(3) Plan to evaluate the implementation process.

b. Evaluation criteria for Category 2 (States with ongoing birth defects surveillance systems):

(1) Ability to integrate programs within the State (*e.g.*, provide letters of support, Memorandums of Agreement/Understanding, documentation of numbers of eligible children or families referred for and percent receiving services).

(2) Improve and expand approaches to increase identification of children or families eligible for health services.

(3) Plan for evaluating the effectiveness of the referral services and the outcomes of children and families who receive services.

3. Impact on population-based birth defects surveillance (20 points):

The extent to which the applicant describes the anticipated level of impact this cooperative agreement will have on birth defects surveillance activities in the State. The current and proposed activities evaluated in this element are specific for Category 1 and Category 2.

a. Evaluation criteria for Category 1 (States with no birth defects surveillance systems):

(1) Plans for developing population-based birth defects surveillance.

(2) Methods of case ascertainment.

(3) Timeliness of case ascertainment.

(4) Level of coverage of the population.

(5) Specific birth defects ascertained.

(6) Plans for analyzing and reporting surveillance data to appropriate State, local, and Federal health officials.

(7) Plans for evaluating the surveillance methodology and the quality of the surveillance data.

(8) The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(a) The proposed plan for the inclusion of both sexes and racial and

ethnic minority populations for appropriate representation.

(b) The proposed justification when representation is limited or absent.

(c) A statement as to whether the design of the study is adequate to measure differences when warranted.

(d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

b. Evaluation criteria for Category 2 (States with ongoing birth defects surveillance systems):

(1) Ability to improve/expand population-based birth defects surveillance.

(2) Methods of case ascertainment.

(3) Timeliness of case ascertainment.

(4) Level of coverage of the population.

(5) Specific birth defects ascertained.

(6) Analyzing and reporting surveillance data to appropriate State, local, and Federal health officials.

(7) Evaluating the surveillance methodology and quality of the surveillance data.

(8) The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(b) The proposed justification when representation is limited or absent.

(c) A statement as to whether the design of the study is adequate to measure differences when warranted.

(d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Organizational and program personnel capability (15 points):

a. The extent to which the applicant has the experience, skills, and ability to develop and improve birth defects surveillance and use surveillance data to develop prevention programs and improve access to health services or early intervention programs.

b. The adequacy of the present staff and/or the capability to assemble competent staff to either implement or improve upon a birth defects surveillance system and develop programs for prevention or improving access to health services and early intervention programs. If it is necessary to hire staff to conduct program activities, provide plans for identifying and hiring qualified applicants on a timely basis. Also, provide plans for how work on program activities will be conducted prior to hiring necessary staff.

c. To the extent possible, the applicant shall identify all current and potential personnel who will work on this cooperative agreement including qualifications and specific experience as it relates to the requirements set forth in this announcement.

5. Applicant's understanding of the public health impact of birth defects (5 points):

The extent to which the applicant has a clear, concise understanding of the requirements, objectives, and purpose of the cooperative agreement. The extent to which the application reflects an understanding of the public health impact of birth defects in their State and the purpose and complexities of birth defects surveillance as it relates to their State.

6. Human Subjects Review (not scored):

Does the application adequately address the requirements of title 45 CFR part 46 for the protection of human subjects? (Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks are so inadequate as to make the entire application unacceptable.)

7. Budget justification and adequacy of facilities (not scored):

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of the cooperative agreement funds. The applicant shall describe and indicate the availability of facilities and equipment necessary to carry out this project.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The interim progress report will serve as your non-competing continuation application and must include the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Proposed Activity Objectives.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, *see* Attachment II of the program announcement as posted on the CDC website.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC website, Internet address *http://www.cdc.gov*. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341–4146. Telephone: 770–488–2700.

For business management and budget assistance, contact: Sheryl L. Heard, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, Announcement 03019, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: (770) 488–2723. E-mail address: *slh3@cdc.gov*.

For business management and budget assistance in the territories, contact: Charlotte Flitcraft, Grants Management Officer, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146. Telephone: (770) 488–2632. E-mail address: *caf5@cdc.gov*.

For program technical assistance, contact: Larry D. Edmonds, Project Officer, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention, 4770 Buford Highway, NE., Atlanta, GA 30341–3724. Telephone: (770) 488–7171. E-mail address: *lde2@cdc.gov*.

Dated: March 3, 2003.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–5584 Filed 3–7–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Publication of OIG Special Fraud Alert on Telemarketing by Durable Medical Equipment Suppliers; Correction

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice; correction.

SUMMARY: This document sets forth a correction to the OIG **Federal Register** notice published on March 4, 2003 (68 FR 10254) addressing our recently-issued Special Fraud Alert. Specifically, the Special Fraud Alert addressed the statutory provision prohibiting durable medical equipment suppliers from making unsolicited telephone calls to Medicare beneficiaries regarding the furnishing of a covered item. An inadvertent error appeared on the heading line in section II of that document regarding the final issuance date of the notice. Accordingly, we are correcting that issuance date to assure technical correctness of that document.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, Office of Counsel to the Inspector General, (202) 619–0089.

SUPPLEMENTARY INFORMATION: In our publication of the OIG Special Fraud Alert on Telemarketing by Durable Medical Equipment Suppliers, an inadvertent error appeared on the heading for section II on page 10255 regarding the final issuance date of the Special Fraud Alert. The heading incorrectly indicated the issuance date as January 2003. The correct issuance date of this Special Fraud Alert should read as March 2003.

Dated: March 4, 2003.

Joel Schaer,

OIG Regulations Officer.

[FR Doc. 03–5631 Filed 3–7–03; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Fiscal Year (FY) 2003 Funding Opportunities Substance Abuse and Mental Health Services Administration

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability for Grants to Adopt/Expand Effective Adolescent Alcohol and Drug Abuse Treatment (Short Title: Effective Adolescent Treatment).

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2003 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Request for Applications (RFA), including Part I, Grants to Adopt/Expand Effective Adolescent Alcohol and Drug Abuse Treatment (TI 03–007) (Short Title: Effective Adolescent Treatment), and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. Funds FY 2003	Est. number of awards	Project period
Grants to Adopt/Expand Effective Adolescent Alcohol and Drug Abuse Treatment.	May 12, 2003	$7 million	28–35	3 years.

The actual amount available for the award may vary depending on unanticipated program requirements and the number and quantity of applications received. FY 2003 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 108–7 This program is authorized under Section 514 of the Public Health Service Act. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: The National Clearinghouse for Alcohol and Drug Information (NCADI): (800) 789–2647 or (800–487–4889 TDD).

The PHS 5161–1 application form and the full text of the grant announcement are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.* (Click on ''Grant Opportunities'')

When requesting an application kit, the applicant must specify the particular announcement number for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) is accepting applications for fiscal year (FY) 2003 funds for grants to increase the provision and effectiveness of alcohol and drug abuse treatment for adolescents by adoption/expansion of Motivational Enhancement Therapy/ Cognitive Behavioral Therapy—5 sessions (MET/CBT 5).

Eligibility: Public and domestic private non-profit entities are eligible to apply, including units of State and local government, Native Alaskan entities, Indian tribes and tribal organizations, and community organizations, including faith based organizations.

Since SAMHSA/CSAT believes that only existing, experienced, and appropriately credentialed providers with demonstrated infrastructure and expertise will be able to provide required services quickly and effectively, all treatment providers participating in the proposed project must meet three criteria.

- All direct providers of substance abuse treatment services involved in the proposed project must have been providing treatment services for adolescents for a minimum of two years prior to the date of this application.

• If the applicant organization is not a direct provider of substance abuse treatment services, the applicant must document a commitment from one or more experienced, licensed, adolescent treatment providers to participate in the proposed project. A listing of all substance abuse treatment providers included in the proposed project must also be included.

• All direct providers of substance abuse services involved in the proposed project must be in compliance all applicable local, city, county and State requirements for licensing, accreditation, and certification, and must supply documentation of this. If licensure, accreditation, and/or certification are not required by the local, city, county, and State, this must also be documented.

Applications will be screened by SAMHSA prior to review. Applications that do not meet the following eligibility requirements will not be reviewed:

• Non-profit status.

• Licensure/Accreditation/Certification requirements.

• Two years of experience in providing treatment services for adolescents.

Availability of Funds: It is expected that approximately $7 million will be available for twenty-eight (28) to thirty-five (35) awards in FY 2003. The average annual award will be $200,000 to $250,000 in total costs (direct and indirect). Applications with proposed Federal budgets that exceed $250,000 will be returned without review.

Period of Support: Awards may be requested for up to 3 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criterion. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.243.

Program Contact: For questions on program issues, contact: Randolph Muck, Division of Services Improvement, CSAT/SAMHSA, Rockwall II, Room 7–214, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6574 [e-mail] *rmuck@samhsa.gov.*

For questions on grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: *shudak@samhsa.gov.*

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2003 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2003 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials or on SAMHSA's website under ''Assistance with Grant Applications''. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 4, 2003.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 03–5527 Filed 3–7–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4818–N–02]

Notice of Proposed Information Collection for Public Comment: Survey of Manufactured (Mobile) Home Placements

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 9, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding

this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Robert A. Knight, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708–1060, Ext. 5893 (this is not a toll-free number), (or via the Internet at *Robert_A._Knight@hud.gov*) or Michael Davis, U.S. Census Bureau, Manufacturing and Construction Division, Room 2126, FOB 4, Washington, DC 20233–6900, at (301) 763–1605 (or via the Internet at *Michael.Davis@.census.gov*).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information 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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. This notice is requesting a revision of a currently approved collection.

This Notice also lists the following information:

Title of Proposal: Survey of Manufactured (Mobile) Home Placements.

OMB Control Number: 2528–0029.

Description of the need for the information and proposed use: The Survey of Manufactured (Mobile) Home Placements collects data on the characteristics of newly manufactured homes placed for residential use including number, sales price, location, and other selected characteristics. HUD uses the statistics to respond to a Congressional mandate in the Housing and Community Development Act of 1980, 42 U.S.C. 5424 note, which requires HUD to collect and report manufactured home sales and price information for the nation, census regions, states, and selected metropolitan areas and to monitor whether new manufactured homes are being placed on owned rather than rented lots. HUD also used these data to monitor total housing production and its affordability.

Agency Form Numbers: C–MH–9A.

Members of affected public: Business firms or other for-profit institutions.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents: 3,000.

Estimate Responses per Respondent: 2.

Time per respondent: 30 minutes.

Total hours to respond: 3,000.

Respondent's Obligation: Voluntary.

Status of the proposed information collection: Pending OMB approval.

Authority: Title 42 U.S.C. 5424 note, Title 13 U.S.C. Section 8(b), and Title 12, U.S.C., Section 1701z–1.

Dated: February 28, 2003.

Christopher D. Lord,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 03–5529 Filed 3–7–03; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Chewacla Creek Safe Harbor Agreement, Lee County, AL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the landowners and cooperators (Applicants) identified in the **SUPPLEMENTARY INFORMATION** section of this Notice have applied to the Fish and Wildlife Service (Service) for enhancement of survival permits pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended. The permit applications include a proposed Safe Harbor Agreement (Agreement) for the endangered ovate clubshell mussel (Pleurobema perovatum) and southern clubshell mussel (Pleurobema decisum), and the threatened fine-lined pocketbook mussel (Lampsilis altilis), for a period of 30 years.

We (the Service) announce the opening of a 30-day comment period and request comments from the public on the Applicants' enhancement of survival permit applications, the accompanying proposed Agreement, and the Environmental Assessment. The Environmental Assessment identifies and describes five alternatives. All comments we receive, including names and addresses, will become part of the administrative record and may be released to the public. For further information and instructions on reviewing and commenting on this application, see the **ADDRESSES** section, below.

DATES: Written comments should be received on or before April 9, 2003.

ADDRESSES: You may obtain a copy of the information available by contacting the Service's Regional Safe Harbor Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345, or Field Supervisor, U.S. Fish and Wildlife Service, 1208–B Main St., Daphne, Alabama 36526. Alternatively, you may set up an appointment to view these documents at either location during normal business hours. Written data or comments should be submitted to the Atlanta, Georgia, Regional Office. Requests for the documentation must be in writing to be processed, and comments must be written to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Gooch, (telephone: 404/679–7124; facsimile: 404/679–7081), or Mr. Darren LeBlanc, (telephone: 251/441–5859; facsimile: 251/441–6222).

SUPPLEMENTARY INFORMATION:

Background

The Applicants for the Chewacla Creek Safe Harbor Agreement including the following landowners and cooperators:

Landowners:

Alabama Department of Conservation and Natural Resources, Montgomery, Alabama.

Bob and Fannie Harris, LLC, Silver Spring, Maryland.

John W. Pace III, Mobile, Alabama.

Phillips Family Partnership, Ltd., Auburn, Alabama.

Water Works Board of the City of Auburn, Alabama.

Martin Marietta Materials, Inc., Shorter, Alabama, 36075.

Cooperator:

The City of Auburn, Alabama.

Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefitting species listed under the Endangered

Species Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property use restrictions if their efforts attract listed species to their property or increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

We have worked with the Applicants to design and implement conservation measures intended to benefit the above-listed mussels in Chewacla Creek. Under the Agreement, the Applicants will undertake the following actions: (1) Repair of existing and new subsidence features within ten feet of Chewacla Creek within the enrolled property boundaries; (2) Restore a more natural flow to Chewacla Creek downstream of Lake Ogletree by pumping quarry water into Lake Ogletree with a minimum guaranteed flow release from the dam into Chewacla Creek; (3) Monitor stream flow, water quality, and bioassessment parameters.

The subsidence features in and immediately adjacent to the Chewacla Creek act to funnel water into the ground causing a portion of the creek to become intermittent (dewatered) during most of the year. The lack of constant stream flow in the dewatered section of Chewacla Creek, downstream of the Pretty Hole to Martin Marietta's outfall 2, has made that section of the creek habitat unavailable to the ovate clubshell, southern clubshell and fine-lined pocketbook. It has also physically and genetically isolated the population of fine-lined pocketbook mussel which occurs upstream of the dewatered section. The proposed conservation measures, repair of subsidence features located within and immediately adjacent to the creek and restoration of a consistent stream flow, would increase the quantity and quality of available habitat for the covered species. Without the proposed Agreement, it would not be possible for the Applicants to undertake the proposed conservation measures and receive regulatory assurances from the Endangered Species Act.

Consistent with the Safe Harbor Policy and implementing regulations, we propose to issue permits to the Applicants authorizing them to incidentally take these endangered and threatened species, which occur on the enrolled lands, as a result of lawful activities on enrolled lands, as long as baseline conditions are maintained and terms of the Agreement are implemented. Future activities of the Applicants could result in a return to the baseline condition of Chewacla Creek. However, the Applicants have stated that this is not anticipated, and, further, that the Applicants are not undertaking this Agreement for the purpose of obtaining such regulatory assurances.

We provide this notice pursuant to section 10(c) of the Endangered Species Act and pursuant to implementing regulations for the National Environmental Policy Act (40 CFR 1506.6). We will evaluate the proposed Agreement, associated documents, and comments submitted thereon to determine whether the requirements of section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations have been met. If we determine that the requirements are met, we will issue an enhancement of survival permit under section 10(a)(1)(A) of the Endangered Species Act to the Applicants in accordance with the terms of the Agreement and specific terms and conditions of the authorizing permit. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: February 20, 2003.

J. Mitch King,

Acting Regional Director.

[FR Doc. 03–5575 Filed 3–7–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–24 1A]

RIN 1004–AD42

Grazing Administration—Exclusive of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement for the proposed Amendments of the Bureau of Land Management's grazing administration regulations and announcement of public meetings; correction.

SUMMARY: The Bureau of Land Management (BLM) in this document corrects one internet address and removes reference to another internet address to which the public cannot get access that appear in the notice of intent to prepare an environmental impact statement for proposed amendments to BLM's Grazing Administration Regulations, published in the **Federal Register** of March 3, 2003.

FOR FURTHER INFORMATION CONTACT: Ted Hudson, 202–452–5042.

Correction

In notice FR Doc. 03–4934, beginning on page 10030 in the issue of March 3, 2003, make the following corrections:

1. In the Addresses section, on page 10031 in the 1st column, correct the internet address immediately following the subheading ''Direct Internet response'' to read: *''http://www.blm.gov/nhp/news/regulatory/index.htm''.*

2. In the Supplementary Information section, on page 10032, in the 1st column, correct the final paragraph of the notice by revising it to read:

''Additional information about BLM's Rangeland, Soils, Water, and Air Program is available at any State Office or field office of the Bureau of Land Management.''

Dated: March 5, 2003.

Jim Hughes,

Deputy Director, Bureau of Land Management.

[FR Doc. 03–5717 Filed 3–7–03; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–023–03–1310–PB–018L–241A]

National Petroleum Reserve-Alaska Research and Monitoring Advisory Team Public Meeting Cancellation

AGENCY: Northern Field Office, Bureau of Land Management, Fairbanks, Alaska.

ACTION: Notice of public meeting cancellation.

SUMMARY: A joint public meeting of the National Petroleum Reserve-Alaska (NPR–A) Research and Monitoring Advisory Team and the NPR–A Subsistence Advisory Panel to be held in Barrow, Alaska, on March 18–19, 2003, has been cancelled.

DATES: The public meeting was to be held at the Iñupiat Heritage Center in Barrow, Alaska, on March 18–19, 2003.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the NPR–A Research and Monitoring Advisory Team may be obtained from Herb Brownell, Arctic Team Manager, BLM Northern Field Office, 1150 University Avenue, Fairbanks, Alaska 99709–3844. Mr. Brownell may be reached at (907) 474–2333 or at 1–800–437–7021, x2333, or at *Herb_Brownell@ak.blm.gov.*

Dated: March 3, 2003.

Robert W. Schneider,

Field Manager, Northern Field Office, Bureau of Land Management.

[FR Doc. 03–5580 Filed 3–7–03; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–00–1430–EU; AZA–31774FD]

Termination of Segregation; Opening Order; Arizona, Correction

AGENCY: Bureau of Land Management, Interior.

Correction: In the correction notice issued in Volume 68 Number 39 beginning on page 9096 in the issue dated February 27, 2003, make the following correction: On page 9096, the heading, Notice of Realty Action; ''Recreation and Public Purposes (R&PP) Act Classification;'' should read as set forth above.

Dated: March 4, 2003.

MarLynn Spears,

Acting Field Manager, Phoenix Field Office.

[FR Doc. 03–5578 Filed 3–7–03; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OCP International Partnership Association, Inc.

Notice is hereby given that, on February 6, 2003, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OCP International Partnership Association, Inc. (''OCP–IP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Accent s.r.l., Vimercate, Italy; Acculent Corp., Colorado Springs, CO; Advanced Art Architectures, Irvine, CA; Artisan Components, Inc., Sunnyvale, CA; Amphion Semiconductor Ltd., Belfast, Northern Ireland, United Kingdom; Broadcom Corp., Irvine, CA; CAST, Inc., Woodcliff Lake, NJ; Denali Software, Inc., Palo Alto, CA; Duolog Technologies, Dublin, Ireland; Entropic Communications, Inc., San Diego, CA; Esterel Technologies, Elancourt, France; MIPS Technologies, Inc., Mountain View, CA; Nokia, Keilalahdentie, Finland; Paradigm Works, Inc., Andover, MA; Prosilog S A, Paris, France; Qthink, San Diego, CA; Silicon & Software Systems, Ltd., Dublin, Ireland; Silicon Designs International, Inc., San Diego, CA; Siroyan Limited, Reading, Berkshire, United Kingdom; Sonics, Inc., Mountain View, CA; Texas Instruments, Inc., Dallas, TX; TNI–Valiosys, Caen, France; Tower Semiconductor Ltd., Migdal Haemek, Israel; TranSwitch Corporation, Shelton, CT; United Microelectronics Corp. (UMC), Hsinchu, Taiwan, R.O.C.; The Virtual Component Exchange (VCX), Livingstone, Scotland, United Kingdom; Verisity Design, Inc., Mountain View, CA; Virtual IP Group, Inc., Sunnyvale, CA; Virtual Silicon Technology, Inc., Sunnyvale, CA; and YogiTech Spas, Pisa, Italy have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OCP–IP intends to file additional written notification disclosing all changes in membership.

On May 10, 2002, OCP–IP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the act on June 18, 2002 (67 FR 41483).

The last notification was filed with the Department on July 8, 2002. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 9, 2002 (67 FR 51869).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–5603 Filed 3–7–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OJJDP)–1374]

Office of Juvenile Justice and Delinquency Prevention; Notice of Meeting of the Coalition of Juvenile Justice

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is announcing the meeting of the Coalition for Juvenile Justice. The purpose of this meeting is to discuss and adopt recommendations from members regarding the committee's responsibility to advise the OJJDP Administrator, the President, and the Congress about state perspectives on the operation of the OJJDP and federal legislation pertaining to juvenile justice and delinquency prevention.

This meeting will be open to the public.

DATES: The meeting dates are:

1. Wednesday, April 2, 2003, from 8:30 a.m. until 5:30 p.m. (e.t.),
2. Thursday, April 3, 2003, from 8 a.m. until 5:30 p.m. (e.t.),
3. Friday, April 4, 2003, from 8 a.m. until 5 p.m. (e.t.),
4. Saturday, April 5, 2003, from 8 a.m. until 5 p.m. (e.t.),
5. Sunday, April 6, 2003, from 8 a.m. until 12 p.m. (e.t.).

ADDRESSES: All meetings will be held at the Wyndham Washington, 1400 M Street, NW., Washington, DC, 20005; telephone: 202–429–1700; fax: 202–728–0530.

FOR FURTHER INFORMATION CONTACT: For information about how to attend this meeting (or to submit written questions (optional), contact Freida Thomas, 810 7th Street, NW., Washington, DC 20531; Telephone: 202–307–5924 (This is not a toll-free number); Fax: 202–307–2819; E-mail: *Freida@ojp.usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Coalition of Juvenile Justice, established pursuant to section 9 of the Federal Advisory Committee Act, 5 (U.S.C. App. II), is meeting to carry out its advisory functions under section 5601 of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C., as amended.

Dated: March 5, 2003.

William L. Woodruff,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 03–5593 Filed 3–7–03; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment

assistance for workers (TA-W) issued during the period of February, 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

None.

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A)(I.C.) (Increased imports) and (a)(2)(B)(II.B) (No shift in production of a foreign country) have not been met.

TA–W–50,489; Corning, Inc., Photonic Technologies Div., Painted Post, NY

TA–W–50,403; Badger Pattern Works, Inc., New Berlin, WI

TA–W–50,379; B and D Resources, Robinson, IL

TA–W–50,256; E.J. Snyder and Co., Inc., Albemarle, NC

TA–W–50,292; Gorham/Lenox, Inc., Operations Div., Smithfield, RI

TA–W–50,297; Progressive Die and Automation, Grad Rapids, MI

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–50,406; Walkers Auto Electric, Vancouver, WA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,632; Tecknit, Inc., a Div. of TWP, Inc., Cranford, NJ: May 1, 2001.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA–W–50,918; Northfield Acquisition Co. d/b/a Sheldahl, Circuitry Assembly Department, Northfield, MN: February 13, 2002.

TA–W–50,120; Titanium Metals Corp., Also Known as Timet, Henderson, NV: November 12, 2001.

TA–W–50,527; Generation 2 Worldwide LLC, Dothan, AL: January 8, 2002.

TA–W–50,582; Wright Products Corp., Rice Lake, WI: January 16, 2001.

TA–W–50,599; Pacific Mountainsmith, LLC, Golden, CO: January 10, 2002.

TA–W–50,542; Wards Cove Packing Co., Seattle, WA and A; Alitak Cannery, Alitak, AK, B; Ekuk Cannery, Dillingham, AK, C; Excursion Inlet Plant Cannery, Excursion Inlet, AK, D; Red Salmon Cannery, Naknek, AK, E; South Naknek, AK, F; Wards Cove Cannery, Ketchikan, AK, G; E.C., Phillips & Son, Ketchikan, AK, H; Resurrection Bay Seafoods, Seward, AK, I; Egegik Fish Camp, Egegik, AK, J; E.C. Phillips & Son, Craig Operations, Ketchikan, AK, K; Haines Fish Camp, Haines, AK: January 10, 2002.

TA–W–50,617; BP Solar, LLC, Thin Film Manufacturing, Fairfield, CA: January 18, 2002.

TA–W–50,690; General Mills, Inc., Dennison Facility, Dennison, Texas: January 24, 2002.

TA—W–50,729; Rockshox, Inc., a Subsidiary of SRAM Corp., Including Leased Workers of Kelly Services, Colorado Springs, CO: December 20, 2001.

TA–W–50,805 &A; Bassett Furniture Industries, Inc., Macon, GA and Dublin, GA: February 4, 2002.

TA–W–50,813; General Binding Corp., GBC Films Group, DeForest, WI: January 31, 2002.

TA–W–50,872 & A; Leslie Fay Marketing, Inc., Laflin, PA and Pittston, PA: January 30, 2002.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–50,881; Volex, Inc., Chula Vista Facility, Chula Vista, CA: February 4, 2002.

TA–W–50,335; Windless, Inc., Altoona, PA: December 2, 2001.

TA–W–50,545; Weavexx, Inc., Wake Forest Plant, Wake Forest, NC: January 7, 2002.

TA–W–50,591; Minnotte Machining Corp., Fairmont, WV: January 13, 2002.

TA–W–50,616; Mentor Component Technologies, Including Leased Workers at Kelly Services and Adecco, Montor, OH: January 10, 2002.

TA–W–50,632; Trans Air Manufacturing, Inc., Iowa Installation Facility, Mount Pleasant, IA: January 14, 2002.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from

the subject firm to Canada or Mexico during the relevant period.

None.

Affirmative Determinations NAFTA–TAA

None.

I hereby certify that the aforementioned determinations were issued during the months of February 2003.

Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 28, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–5556 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February, 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–42,310; Inteplast Group Ltd, Integrated Bagging Systems, Lolita, TX

TA–W–41,882; Aermotor Pumps, Inc., Sta-Rite Industries, a Wholly Owned Subsidiary of Wisconsin Energy Corp., Conway, AR

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A)(I.C.) (increased imports) has not been met.

TA–W–50,059; Flowserve, Williamsport, PA

The investigation revealed that criterion (a)(2)(A) (I.C) (increased imports) and (a)(2)(B) (II.C1) (has shifted production to a country not under the free trade agreement with the U.S.) have not been met.

TA–W–50,448; Universal Instruments Corp., a Subsidiary of Dover Corp., Surface Mount Div., Conklin, NY

The investigation revealed that criterion (a)(2)(A) (I.B) (sales or production, or both did not decline) and (a)(2)(A) (II.B) (no shift in production to a foreign country) have not been met.

TA–W–50,516; Gina's, Inc., Brooklyn, NY

The investigation revealed that criterion (a)(2)(A) (I.A.) (no employment declines) has not been met.

TA–W–50,341; Cooper-Standard Automotive, NVH Division, El Dorado, AR

The investigation revealed that criterion (a)(2)(A) (I.C.) (Increased imports) and (a)(2)(B) (II.B) (No shift in production of a foreign country) have not been met.

TA–W–50,415; Times Fiber Communication, Inc., Chatham, VA

TA–W–50,530; PHB Tool and Die, Girard, PA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–50,571; Computer Sciences Corp., Technology Management Group, Falls Church, VA

TA–W–50,590; MSX International, Inc., Dearborn, MI

TA–W–50,676; Matrox Tech, Inc., Boca Raton, FL

TA–W–50,741; Consolidated Freightways Corp. of Delaware, Shoreview, MN

TA–W–50,809; Eastman Kodak Co., Skilled Resources Div., Rochester, NY

TA–W–50,767; Delta Air Lines, Inc., Technical Operations Center, Atlanta, GA

TA–W–50,811; Penske Truck Leasing Co., L.P., Brea, CA

TA–W–50,105; Ericsson, Inc., Base Station and Systems Development Div., Research Triangle Park, NC

TA–W–50,484; Hewlett Packard Co., Vancouver, WA

TA–W–50,532; Western Digital Corp., Rochester, MN

The investigation revealed that criteria (2) has not been met. The workers' firm (or subdivision) is not an upstream supplier or components for trade-affected companies.

TA–W–50,719; Menasha Packaging Co., LLC, Coloma, MI

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–42,251; Southwestern Glass Co., Inc., Van Buren, AR: October 1, 2001.

TA–W–42,336 & A; Power One, Boston, MA and Power One, International Power Devices, Andover, MA: October 15, 2001.

TA–W–42,192; Waukesha Electric Systems, Inc., Milpitas, CA September 12, 2001.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA–W–50,265; HBK Industries, Blackwood, NJ: December 3, 2001.

TA–W–50,344 & A,B; Rough and Ready Lumber Co., Cave Junction, OR, Rough and Ready Lumber Sales, Cave Junction, OR, Indian Hill LLC, Cave Junction, OR, Including Leased Workers of Barrett Business Services and Hire Calling, Cave Junction, OR: December 12, 2001

TA–W–50,454; FAI, Inc., Wisconsin Pattern Co., Racine, WI: December 18, 2001

TA–W–50,387; Pittsburgh Cut Flower Co., Pittsburgh, PA: December 12, 2001.

TA–W–50,533; Mastercraft Fabrics, LLC, Including Temporary Workers of Manpower, Personnel Services Unlimited, Coxe Personnel, Spindale, NC: January 2, 2002.

TA–W–50,652; The Carbide/Graphite Group, Inc., Pittsburgh, PA: January 8, 2002.
TA–W–50,692; Findlay Industries, Inc., Findlay, OH: January 24, 2002.
TA–W–50,515; PPC Macomb, Inc., Macomb, IL: January 7, 2002.
TA–W–50,870 & A; Freedom Plastics LLC, Joliet, IL and Sheffield, IL: January 10, 2002
TA–W–50,422; Altx, Inc., Watervaliet, NY: December 30, 2001.
TA–W–50,331; Suntec Industries, Inc., Rockford, IL: December 11, 2001.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–50,093; Kane Magnetics International, Inc., Kane, PA: November 6, 2001.
TA–W–50,431; General Electric Co., Lighting Div., Bucyrus Lamp Plant, Bucyrus, OH: November 20, 2001
TA–W–50,634; International Paper, Hopkinsville, KY: January 20, 2002.
TA–W–50,598; Blandin Paper Co., Grand Rapids, MI: January 15, 2002.
TA–W–50,235; Baker Enterprises, Inc., a Subsidiary of Besser Co., Alpena, MI: November 8, 2001.
TA–W–50,250; Polyone Corp., Compound Plant, Farmingdale, NJ: November 19, 2001.
TA–W–50,569; Datex-Ohmeda, Louisville, CO: January 14, 2002.
TA–W–50,435; Foster Wheeler Energy Corp., a Subsidiary of Foster Wheeler Corp., Dansville, NY: December 20, 2001.
TA–W–50,451; Berendsen Fluid Power, Houston, TX: December 16, 2001.
TA–W–50,368; The Flexaust Co., Inc., Appliance Div., El Paso, TX: December 7, 2001.

The following certification has been issued. The requirement of upstream supplier to trade certified primary firm has been met.

TA–W–50,355; Southwest Silica Flux, Hanover, NM: December 1, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchaper D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06396; Aermotor Pumps, Inc., Sta-Rite Industries, a Wholly Owned Subsidiary of Wisconsin Energy Corp., Conway, AR
NAFTA–TAA–07633; Southwestern Glass Co., Inc., Van Buren, AR

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–07556; Waukesha Electric Systems, Inc., Milpitas, CA: August 8, 2001.
NAFTA–TAA–07627; &A; Power One, Boston, MA and Power One, International Power Devices, Andover, MA: October 15, 2001.
NAFTA–TAA–06425; Fort Dearborn Co., Coldwater, MI: July 11, 2001.
NAFTA–TAA–06533; SPX, Valves and Controls Div., Sartell, MN: August 14, 2001.

I hereby certify that the aforementioned determinations were issued during the months of February 2003. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 26, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–5551 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,700]

20th Century Machine, Armada, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 28, 2003 in response to a worker petition filed by a company official on behalf of workers at 20th Century Machine, Armada, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 21st day of February, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5549 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,566]

Barrett Business Services, Inc., Easton, MD; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 15, 2003, in response to a worker petition filed by the State of Maryland on behalf of workers at Barrett Business Services, Inc., Easton, Maryland.

The petitioning group of workers is covered by an active certification originally issued on October 10, 2002, and amended on February 5, 2003 (TA–41,976), which remains in effect.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 5th day of February, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5558 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,482]

Black & Decker, Power Tools Division, Easton, MD; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 6, 2003 in response to a worker petition filed by a local One-Stop Operator, U.S. Workforce Investment Board, on behalf of workers at Black & Decker, Power Tools Division, Easton, Maryland.

The petitioning group of workers is covered by an active certification issued on October 10, 2002, and amended on February 13, 2003, which remains in effect (TA–W–41,976). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 13th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5545 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,282]

Cusolar Industries Incorporated, Chesterfield, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 9, 2002 in response to a petition filed on December 9, 2002 on behalf of workers at Cusolar Industries, Inc., Chesterfield, Michigan.

The Department has been unable to locate company officials of the subject firm or to obtain the information necessary to reach a determination on worker eligibility. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 31st day of January 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5554 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,277]

Eaton Corporation, Rochester Hills, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 28, 2002 in response to a petition filed on behalf of workers at Eaton Corporation, Rochester Hills, Michigan.

The petitioners have requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 13th day of February, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5541 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,858 and TA–W–50,858A]

Freedom Plastic, LLC, Sheffield, IL; Freedom Plastic, LLC, Joliet, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 11, 2003 in response to a worker petition filed by a company official on behalf of workers at Freedom Plastics, LLC, Sheffield, Illinois (TA–W–50,858) and Freedom Plastics, LLC, Joliet, Illinois (TA–W–50,858A).

The petitioning group of workers is covered by an earlier petition filed on February 10, 2003 (TA–W–50,871) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC, this 14th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5550 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,252]

General Mills, Bakeries and Food Service, Hillsdale, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 4, 2002 in response to a worker petition filed by a company official and Bakery, Confectionery, Tobacco Workers & Grain Millers Union on behalf of workers at General Mills, Bakeries and Food Services, Hillsdale, Michigan.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 11th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5553 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,473]

Southern Georgia Cap Company dba Georgia Headwear and Apparel, Waycross, GA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 6, 2003 in response to a worker petition filed by a company official on behalf of workers at Southern Georgia Cap Company, doing business as Georgia Headwear and Apparel, Waycross, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no useful purpose and the investigation has been terminated.

Signed at Washington, DC, this 14th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5544 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,504]

Hamilton Sundstrand-Denver, Mechanical Operations Division, Denver, CO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 7, 2003 in response to a petition filed by a company official on behalf of workers at Hamilton Sundstrand-Denver, Mechanical Operations Division, Denver, Colorado.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no purpose and the investigation has been terminated.

Signed at Washington, DC, this 11th day of February, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5557 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,411]

The Holmes Group Rival Division Flowood Plant, Jackson, MS; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 2, 2003 in response to a worker petition filed by a company official on behalf of workers at The Holmes Group, Rival Division, Flowood Plant, Jackson, Mississippi.

The petitioning group of workers is included in a petition investigation, TA–W–50,280, for which a determination has not yet been issued.

Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 13th day of February 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5543 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,491]

Kulicke & Soffa—K&S, Austin, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 6, 2003, in response to a petition filed on behalf of workers at K&S Kulicke & Soffa, Austin, Texas.

This investigation revealed that the petitioner submitting the petition is not a duly authorized representative. The petition has therefore been deemed invalid. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 13th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5546 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,696]

Lustar Dyeing and Finishing, Ashville, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 28, 2003 in response to a worker petition filed by a company official on behalf of workers at Lustar Dyeing and Finishing, Ashville, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 13th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5548 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,550]

Maine Brand Manufacturing, Inc., Littleton, ME; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 14, 2003, in response to a petition filed by a company official on behalf of workers at Maine Brand Manufacturing, Inc., Littleton, Maine.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed in Washington, DC this 14th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5547 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,313]

Mike Dent Enterprises, Burns, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 12, 2002 in response to a worker petition filed by a company official on behalf of workers at Mike Dent Enterprises, Burns, Oregon.

All workers were separated from the subject firm more than one year before the date of the petition. Section 223(b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 11th day of February 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5555 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,607]

Nortel Networks, GSM E3 Department, Research Triangle Park, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 22, 2003 in response to a worker petition filed on behalf of workers at Nortel Networks, GSM E3 Department, Research Triangle Park, North Carolina.

The petitioning group of workers is covered by an earlier petition filed on January 7, 2003 (TA–W–50,507) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 6th day of February, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5560 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,350]

Partex Apparel Manufacturing, Inc., Medley, FL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 1, 2002 in response to a worker petition filed by a company official on behalf of workers at Partex Apparel Manufacturing, Inc., Medley, Florida.

The petitioner has requested that this petition be withdrawn. Consequently, further investigation would serve no purpose and the investigation has been terminated.

Signed at Washington, DC this 11th day of February 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5552 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,577]

Trade Wind Apparel, Inc., Commerce, GA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 16, 2003, in response to a petition filed by a company official on behalf of workers at Trade Wind Apparel, Inc., Commerce, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed in Washington, DC, this 11th day of February, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5559 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,245]

Wolverne Worldwide, Inc., Kirksville, MO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 4, 2002 in response to a worker petition which was filed on behalf of workers at Wolverine Worldwide, Inc., Kirksville, Missouri.

An active certification covering the petitioning group of workers is already in effect (TA–W–37,937, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 31st day of January 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–5542 Filed 3–7–03; 8:45 am]

BILLING CODE 4510–30–P

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, March 20, 2003, and Friday, March 21, 2003, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 9 a.m. on March 20, and at 9 a.m. on March 21.

Topics for discussion include: Medicare payment for prescription drugs under part B; volume of physician services and related physician payment issues; hospital financial performance; incentives to improve quality; alternatives to administered pricing; geographic variation; workplan and analysis of supplemental coverage in state-level markets; long-term care hospital patient characteristics; examining differences between hospital-based and free-standing skilled nursing facilities; overview of the post-acute care episode database; dialysis quality and cost; and the supply of geriatricians.

Agendas will be e-mailed on March 13, 2003. The final agenda will be available on the Commission's Web site (*www.MedPAC.gov*).

ADDRESSES: MedPAC's address is: 601 New Jersey Avenue, NW., Suite 9000, Washington, DC 20001. The telephone number is (202) 220–3700.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 220–3700.

Mark E. Miller

Executive Director.

[FR Doc. 03–5608 Filed 3–7–03; 8:45 am]

BILLING CODE 6820–BW–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–029]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC).

DATES: Wednesday, March 19, 2003, 8:30 a.m. to 2:45 p.m; and Thursday, March 20, 2003, 8:30 a.m. to 12:45 p.m.

ADDRESSES: John C. Stennis Space Center, NASA, Building 1005, Conference Room, Stennis Space Center, MS 39529–6000.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Code IC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–0732.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Proceedings of the NAC will be shown live via video feed in the overflow Room 107, Building 1100. The agenda for the meeting is as follows:

- Flight of Columbia.
- NASA Planning for Orbital Space Plane.
- NASA's Earth Science Program.
- NASA's Education Initiative.
- ISS communications strategy.
- Committee Reports.
- Discussion of Findings and Recommendations.

Attendees should report to Building 3101, South Reception Center, Stennis Space Center, where they will be asked to comply with NASA security requirements, including the presentation of a valid picture ID before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; greencard/visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of visitor. To expedite admittance, attendees can provide identifying information in advance by contacting NASA Stennis Space Center Security Office via e-mail at *SSC.Security.Office@ssc.nasa.gov* or by telephone at 228–688–3580. Visitors will not be permitted to drive on Stennis Space Center; however, NASA will provide attendees with transportation from the South Reception Center to the NAC meeting. Visitors will be escorted at all times. The remote location of Stennis Space Center makes leaving the Center for lunch impractical, so visitors are encouraged to bring their lunch. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

June W. Edwards

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–5639 Filed 3–7–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL LABOR RELATIONS BOARD

Announcement of Meeting of Board Members; Announcement No. 09–2003

March 5, 2003.

Meeting No: 09–2003.

Time of Meeting: 11 a.m.

Place of Meeting: 11th Floor, 1099 Fourteenth St., NW., Washington, DC 20570.

Status of Meeting: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices; and 9(B)) (Disclosure would significantly frustrate implementation of a proposed Agency action * * *).

Meeting Agenda: Internal Administrative Matters.

Inquiries concerning this matter should be directed to: Lester A. Heltzer, Acting Executive Secretary, Washington, DC 20570, *Telephone:* (202) 273–1067.

Lester A. Heltzer,

Acting Executive Secretary.

[FR Doc. 03–5795 Filed 3–06–03; 3:14 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* New collection.

2. *The title of the information collection:* Requests to Non-Agreement States for Information, as authorized by section 274(a) of the Atomic Energy Act.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* One-time or as needed.

5. *Who will be required or asked to report:* The 18 States that have not signed section 274(b) Agreements with NRC (Non-Agreement States).

6. *An estimate of the number of annual responses:* NRC expects to receive no more than 18 responses per occasional request or approximately 18 responses per year.

7. *The estimated number of annual respondents:* 18 Non-Agreement States.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 135 hours (18 responses per year × 7.5 hours) per response.

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Occasionally, requests will be made of the Non-Agreement States for information similar to that requested from the Agreement States. Requests will be made on a one-time or as-needed basis, *e.g.*, to respond to a specific incident, to gather information on licensing and inspection practices and other technical statistical information. These information requests will primarily refer to naturally occurring and accelerator-produced radioactive materials which may be subject to State regulations since they do not come under the purview of the Atomic Energy Act, as amended. The reason for requesting such information is that the information can assist the Commission in its considerations and decisions involving Atomic Energy Act materials programs in an effort to make the national nuclear materials programs more uniform and consistent.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 9, 2003. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–XXXX), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 415–7233.

Dated in Rockville, Maryland, this 3rd day of March, 2003.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–5605 Filed 3–7–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Application for License to Export Nuclear Equipment and Material.

3. *The form number if applicable:* NRC Form 7.

4. *How often the collection is required:* On occasion; for each separate request for a specific export license and for exports of incidental radioactive material using existing general licenses.

5. *Who will be required or asked to report:* Any person in the U.S. who wishes to export: (a) Nuclear equipment and material subject to the requirements of a specific license, (b) radioactive waste subject to the requirements of a specific license, and (c) incidental radioactive material that is a contaminant of shipments of more than 100 kilograms of non-waste material using existing NRC general licenses.

6. *An estimate of the number of annual responses:* 70.

7. *The estimated number of annual respondents:* 70.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 190.8 rounded to 191 hours.

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Any person in the U.S. wishing to export nuclear material and equipment requiring a specific authorization or radioactive waste requiring a specific authorization ordinarily should file an application for a license on NRC Form 7, except that certain submittals should be filed by letter. The application will be reviewed by the NRC and by the Executive Branch, and if applicable statutory, regulatory, and policy considerations are satisfied, the NRC will issue a license authorizing the export.

A completed NRC Form 7 must also be filed by any person in the U.S. wishing to use existing NRC general licenses for the export of incidental radioactive material before the export takes place (if the total amount of the shipment containing the incidental radioactive material exceeds 100 kilograms). The form is reviewed by the NRC to ensure that the Agency is informed before the fact of these kinds of shipments and to allow NRC to inform other interested parties, as appropriate, including import control authorities in interested foreign countries.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 9, 2003. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0127), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated in Rockville, Maryland, this 3rd day of March, 2003.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–5606 Filed 3–7–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–438 and 50–439]

In the Matters of Tennessee Valley Authority (Bellefonte Nuclear Plant, Units 1 and 2); Order

I

The Tennessee Valley Authority (TVA, or the applicant) is the current holder of Construction Permit Nos. CPPR–122 and CPPR–123, issued by the Atomic Energy Commission on December 12, 1974, for construction of the Bellefonte Nuclear Plant, Units 1 and 2. These facilities are currently in deferral status as described in the U.S. Nuclear Regulatory Commission's (NRC's) Generic Letter 87–15 at the applicant's site in Jackson County, Alabama, on a peninsula at Tennessee River Mile 392 on the west shore of Guntersville Reservoir, about 6 miles east-northeast of Scottsboro, Alabama.

On July 11, 2001, TVA filed a request pursuant to 10 CFR 50.55(b) for extensions of the expiration dates for Construction Permit Nos. CPPR–122 AND CPPR–123. Construction activities at the Bellefonte site had been deferred in 1988 due, in part, to a lower-than-expected electrical load forecast within the TVA service area. At the present time, Bellefonte Unit 1 is about 88 percent complete and Bellefonte Unit 2 is about 58 percent complete. On March 23, 1993, TVA notified the NRC that it planned to resume completion activities 120 days from the date of their letter. However, as a result of the delay from the inactivity during the construction deferral and a need to conduct an Integrated Resource Planning process to consider the lowest cost options for providing an adequate supply of electricity to TVA's customers pursuant to the provisions of the Energy Policy Act of 1992, TVA was unable to complete the construction of the two units before the original expiration dates, July 1, 1994, for Unit 1 and July 1, 1996, for Unit 2. In response to a request from TVA dated April 19, 1994, the NRC extended the construction permit expiration dates for Bellefonte Units 1 and 2 to October 1, 2001, and October 1, 2004, respectively, in a letter dated June 27, 1994. That letter transmitted an Order signed by William T. Russell and a Safety Evaluation prepared by the NRC staff.

In the current July 11, 2001, TVA request for extending the Bellefonte construction permit expiration dates, TVA stated that the extension of the Bellefonte construction permits will help TVA to maintain a full scope of

competitive energy production choices. TVA's integrated resource plan, Energy Vision 2020, identified the need for a flexible range of options and alternatives to meet, among other things, the Tennessee Valley region's new base-load power supply needs through the year 2020. Recent record-breaking energy demands in the Tennessee Valley have reinforced TVA's obligation to provide ample safe, economic, reliable, and environmentally responsible sources of electric power. Fulfilling this responsibility, TVA seeks to maintain a robust and flexible range of generating options. These uncertainties, and the delay due to the extended construction inactivity at the site, provide good cause for extending the construction permits for Bellefonte Nuclear Plant, Units 1 and 2.

The NRC notes that there is renewed interest in completing at least Bellefonte Unit 1, possibly with financial assistance from outside parties. Recent NRC inspections have also verified that TVA is appropriately maintaining the Bellefonte units in a condition for continuation of construction and ultimate licensing for operation.

II

The NRC staff has concluded that good cause has been shown for the delays, the extensions are sought for a reasonable period, and this action involves no significant hazards consideration. The basis for these conclusions is given in the staff's Safety Evaluation.

The NRC staff has prepared an Environmental Assessment and Finding of No Significant Impact, which was published in the **Federal Register** on January 24, 2003 (68 FR 3571). Pursuant to 10 CFR 51.32, the Commission has determined that extending the construction completion dates will have no significant impact on the environment.

For further details with respect to the proposed action, see the licensee's letter dated July 11, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

III

It is hereby ordered that the latest construction completion date for Construction Permit No. CPPR–122 is extended to October 1, 2011, and the latest construction completion date for Construction Permit No. CPPR–123 is extended to October 1, 2014.

For the Nuclear Regulatory Commission.

Dated in Rockville, Maryland this 4th day of March, 2003.

Richard W. Borchardt,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 03–5607 Filed 3–7–03; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: Forms RI 38–117, 38–118, and 37–22

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995 and 5 CFR 1320), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for reclearance of a revised information collection. RI 38–117, Rollover Election, is used to collect information from each payee affected by a change in the tax code (Pub. L. 107–16) so that OPM can make payment in accordance with the wishes of the payee. RI 38–118, Rollover Information, explains the election. RI 37–22, Special Tax Notice Regarding Rollovers, provides more detailed information.

Approximately 1,500 RI 38–117 forms will be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual burden is 750 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov.* Please include your mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349A, Washington, DC 20415–3450. and Stuart Shapiro, OPM Desk Officer, Office of Information & Regulatory Affairs, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

For Information regarding administrative coordination— contact: Cyrus S. Benson, Team Leader, Desktop Publishing & Printing Team, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–5539 Filed 3–7–03; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions, granting authority to make appointments under Schedule C in the excepted service as required by 5 CFR 6.1 and 213.103.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedule C between between January 1, 2003 and January 31, 2003. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule C

Appalachian Regional Commission

Confidential Policy Advisor to the Federal Co-Chairman. Effective January 16, 2003.

Broadcasting Board of Governors

Special Assistant to the Chairman, Broadcasting Board of Governors. Effective January 21, 2003.

Special Assistant to the Chairman, Broadcasting Board of Governors. Effective January 23, 2003.

Commission on Civil Rights

Special Assistant to the Commissioner. Effective January 17, 2003.

Consumer Product Safety Commission

Special Assistant (Legal) to the Commissioner. Effective January 22, 2003.

Department of Agriculture

Director of Constituent Affairs to the Deputy Chief of Staff. Effective January 3, 2003.

Director of Web Design to the Deputy Chief of Staff. Effective January 3, 2003.

Special Assistant for the Office of Homeland Security to the Secretary. Effective January 7, 2003.

Special Assistant to the Under Secretary for Resources, Education and Economics. Effective January 9, 2003.

Confidential Assistant to the White House Liaison. Effective January 31, 2003.

Department of Commerce

Confidential Assistant to the Director of Scheduling. Effective January 10, 2003.

Confidential Assistant to the Deputy Assistant Secretary for Transportation and Machinery. Effective January 16, 2003.

Confidential Assistant to the Under Secretary for Export Administration. Effective January 21, 2003.

Director, Office of Public Affairs to the Under Secretary for International Trade. Effective January 21, 2003.

Department of Defense

Staff Assistant to the Deputy Secretary of Defense (Eurasia). Effective January 9, 2003.

Director of Assessments to the Deputy Under Secretary of Defense (International Technology). Effective January 13, 2003.

Department of Education

Special Assistant to the Deputy Under Secretary for Innovations and Improvement. Effective January 2, 2003.

Special Assistant to the Chief of Staff. Effective January 3, 2003.

Special Assistant to the Deputy Assistant Secretary for Innovation and Improvement. Effective January 3, 2003.

Confidential Assistant to the Deputy Under Secretary for Innovation and Improvement. Effective January 3, 2003.

Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective January 15, 2003.

Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective January 15, 2003.

Special Assistant to the Associate Deputy Under Secretary. Effective January 16, 2003.

Special Assistant to the Chief of Staff. Effective January 30, 2003.

Department of Energy

Special Assistant to the Secretary of Defense. Effective January 7, 2003.

Trip Coordinator to the Director, Scheduling and Advance. Effective January 13, 2003.

Associate Deputy Assistant Secretary to the Deputy Assistant Secretary for Environment and Science. Effective January 22, 2003.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 24, 2003.

Senior Policy Advisor to the Assistant Secretary for International Affairs. Effective January 24, 2003.

Special Assistant to the Director of Economic Impact and Diversity. Effective January 27, 2003.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 28, 2003.

Executive Assistant to the Assistant Secretary for Fossil Energy. Effective January 28, 2003.

Policy Advisor to the Assistant Secretary for Fossil Energy. Effective January 28, 2003.

Senior Policy Advisor to the Director, Office of Civilian Radioactive Waste Management. Effective January 28, 2003.

Chief of Staff to the Assistant Secretary for Policy and International Affairs. Effective January 29, 2003.

Department of Health and Human Services

Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy). Effective January 3, 2003.

Secretary's Regional Representative, Philadelphia, PA to the Director of Intergovernmental Affairs. Effective January 15, 2003.

Deputy White House Liaison For Boards and Committees to the Chief of Staff. Effective January 27, 2003.

Department of Homeland Security Agency

Travel Aide to the Chief of Staff. Effective January 24, 2003.

White House Liaison to the Chief of Staff. Effective January 24, 2003.

Executive Assistant to the Deputy Secretary. Effective January 24, 2003.

Speechwriter to the Assistant Secretary for Public Affairs. Effective January 24, 2003.

Executive Assistant to the Chief of Staff. Effective January 24, 2003.

Assistant Press Secretary to the Assistant Secretary for Public Affairs. Effective January 24, 2003.

Executive Secretariat to the Under Secretary for Border and Transportation Security. Effective January 24, 2003.

Special Assistant to the Under Secretary for Border and Transportation Security. Effective January 24, 2003.

Executive Assistant to the Inspector General. Effective January 29, 2003.

Receptionist to the Secretary of Homeland Security. Effective January 29, 2003.

Executive Assistant to the Secretary of Homeland Security. Effective January 29, 2003.

Scheduler to the Secretary of Homeland Security. Effective January 31, 2003.

Department of Housing and Urban Development

Director of Executive Scheduling to the Assistant Secretary for Administration. Effective January 3, 2003.

Advance Coordinator to the Assistant Secretary for Administration. Effective January 7, 2003.

Staff Assistant to the Assistant Secretary for Congressional and Internal Relations. Effective January 9, 2003.

Staff Assistant to the Assistant Secretary for Congressional and Internal Relations. Effective January 9, 2003.

Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective January 15, 2003.

Special Assistant to the Deputy Secretary. Effective January 21, 2003.

Special Assistant to the Assistant Secretary for Community Planning and Development. Effective January 28, 2003.

Staff Assistant to the Assistant Deputy Secretary for Field Policy and Management. Effective January 28, 2003.

Department of the Interior

Press Secretary to the Director, Office of Communications. Effective January 3, 2003.

Hispanic Media Outreach Coordinator to the Director, Office of Communications. Effective January 7, 2003.

Special Assistant to the Director of Scheduling and Advance. Effective January 15, 2003.

Department of Justice

Principal Deputy Director and Press Secretary to the Director, Office of Public Affairs. Effective January 3, 2003.

Counsel to the Assistant Attorney General, Civil Rights Division. Effective January 21, 2003.

Counsel to the Assistant Attorney General to the General Attorney. Effective January 28, 2003.

Department of Labor

Special Assistant to the Secretary of Labor. Effective January 13, 2003.

Staff Assistant to the Wage and Hour Administrator. Effective January 21, 2003.

Special Assistant to the Deputy Under Secretary for International Affairs, Bureau of International Labor Affairs. Effective January 23, 2003.

Chief of Staff to the Assistant Secretary for Policy. Effective January 23, 2003.

Special Assistant to the Secretary of Labor. Effective January 23, 2003.

Staff Assistant to the Assistant Secretary for Public Affairs. Effective January 27, 2003.

Chief Economist to the Assistant Secretary for Policy. Effective January 28, 2003.

Special Assistant to the Assistant Secretary for Mine Safety and Health. Effective January 29, 2003.

Department of State

Senior Advisor to the Coordinator for International Information Programs. Effective January 2, 2003.

Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective January 6, 2003.

Public Affairs Specialist to the Assistant Secretary for International Organizational Affairs. Effective January 8, 2003.

Correspondence Specialist to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective January 10, 2003.

Special Advisor to the Assistant Secretary for International Organizational Affairs. Effective January 10, 2003.

Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective January 17, 2003.

Protocol Officer (Visits) to the Deputy Chief of Protocol. Effective January 24, 2003.

Department of the Treasury

Special Assistant to the Director of Strategic Planning, Scheduling and Advance. Effective January 2, 2003.

Senior Advisor to the Assistant Secretary\Deputy Secretary for International Affairs. Effective January 27, 2003.

Environmental Protection Agency

Associate Assistant Administrator to the Associate Administrator for Research and Development. Effective January 24, 2003. Federal Communications Commission

Deputy Director, Office of Media Relations to the Chief of Staff. Effective January 29, 2003.

Federal Emergency Management Agency

Policy Advisor to the Deputy Director, Federal Emergency Management Agency. Effective January 10, 2003.

Federal Housing Finance Board

Staff Assistant to the Chairman. Effective January 15, 2003. Federal Maritime Commission

Counsel to the Commissioner. Effective January 28, 2003.

Office of National Drug Control Policy

Special Assistant to the Director. Effective January 7, 2003. Office of Personnel Management

Special Assistant to the Director, Office of Communications. Effective January 6, 2003.

Special Assistant to the Director. Effective anuary 7, 2003.

White House Liaison to the Chief of Staff. Effective January 27, 2003.

Overseas Private Investment Corporation

Program Specialist to the President for Overseas Private Investment Corporation. Effective January 15, 2003.

President's Commission on White House Fellowships

Special Assistant (Office Automation) to the Director, Presidential Commission on White House Fellowships. Effective January 9, 2003.

Education and Special Projects Director to the Director, President's Commission on White House Fellowships. Effective January 23, 2003.

Small Business Administration

Special Assistant to the Chief of Staff. Effective January 21, 2003.

Special Assistant to the Deputy Administrator. Effective January 23, 2003.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., P.218

Kay Coles James,

Office of Personnel Management, Director.

[FR Doc. 03–5538 Filed 3–7–03; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act; Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 10, 2003: Closed Meetings will be held on Tuesday, March 11, 2003 at 10 a.m., and on Wednesday, March 12, 2003 at 2:30 p.m.

Commissioner Goldschmid, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

The subject matter of the Closed Meeting scheduled for Tuesday, March 11, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature;
Institution and settlement of injunctive actions; and
Opinions.

The subject matter of the Closed Meeting scheduled for Wednesday, March 12, 2003 will be:

Formal orders of investigations;
Institution of administrative proceedings of an enforcement nature;
Institution of injunctive actions;
Adjudicatory matters;
Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: March 5, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–5769 Filed 3–6–03; 2:13 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47429; File No. SR–Amex–2003–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC To Increase to Five Hundred Contracts the Maximum Permissible Number of Equity and Index Option Contracts Executable Through Auto-Ex

March 3, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on February 10, 2003, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to increase to 500 contracts the maximum permissible number of equity and index option contracts in an order executable through its automatic execution system, Auto-Ex.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Amex 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

In 1985, the Exchange implemented the Auto-Ex system, which automatically executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entered into the Amex Order File (''AOF''). There are, however, limitations on the number of option contracts that can be entered into or executed by these systems. AOF, which handles limit orders routed to the specialist's book as well as orders routed to Auto-Ex, allows for the entry of orders of up to 2500 option contracts.[3] Auto-Ex, however, is only permitted to execute equity option orders and index option orders of up to 250 contracts.[4] As a result, market and marketable limit orders of more than 250 contracts are routed by AOF to the specialist's book.

The Exchange now proposes to increase to 500 contracts the maximum permissible number of equity and index option contracts in an order that can be executed through the Auto-Ex system. It is proposed that this increase to 500 contracts in permissible order size for Auto-Ex be implemented on a case-by-case basis for an individual option class or for all option classes when two floor governors or senior floor officials deem such an increase appropriate. Currently, the Amex posts applicable quote size parameters on its web page and represents that it will continue to do so. The Exchange represents that it has sufficient systems capacity necessary to accommodate implementation of the proposed increase.

The Exchange represents that the Commission, in its March 2002 Order permitting the Amex to expand the maximum Auto-Ex size to 250 contracts, was concerned at the time that an increase in the Auto-Ex order size could create greater risks for market participants. In particular, the Commission noted that a larger Auto-Ex size could subject market makers to greater financial risk due to the automatic execution of such orders at the quoted price. The Amex subsequently adopted a rule[5] that would allow it to match the automatic execution sizes of other options exchanges provided the Exchange submits a filing pursuant to section 19(b)(3)(A) of the Act.[6] In April 2002, pursuant to Amex rule 933, Commentary .03 and section 19(b)(3)(A) of the Act, the Amex filed a notice of immediate effectiveness with the Commission and increased its Auto-Ex size for QQQ options to up to 2,000 contracts for the two near-term expiration months and 1,000 contracts for all other expiration months in order to match Primary Market Makers' size guarantees in QQQ options on the International Securities Exchange, Inc. (''ISE'').[7] Since April 29, 2002, the Exchange represents that it has established an Auto-Ex size of 1,000 contracts for all QQQ options series. The Exchange states that, to date, it is unaware of any increased risks to market participants and the marketplace as a result of the greater Auto-Ex size for QQQ options.

The Exchange also believes that the increased Auto-Ex size of up to 250 contracts for all other options classes at the Exchange has similarly not created greater financial risks or other known system difficulties. The Exchange has set the Auto-Ex order size to the 250-contract maximum in a number of actively-traded option classes that, the Exchange believes, are the classes with the greatest liquidity and trading interest.[8] For example, options in Microsoft Corporation (MSFT) and General Electric Co. (GE) have Auto-Ex sizes of 250 contracts. The Exchange states that market participants have further indicated that even larger sizes would provide greater benefits to their customers and proprietary trading strategies. The Exchange maintains that an increase in the permissible size of orders executable through Auto-Ex will provide more efficient executions due to the speed of execution obtained by Auto-Ex versus manual handling. The Exchange states that customers and other market participants are increasingly demanding that the Exchange automatically execute larger option order sizes that in the past would have received manual handling. The Exchange believes that an increase in the Auto-Ex size of up to 500 contracts will meet this demand of the marketplace.

The Exchange's Auto-Ex system provides that all customer and broker-dealer market and marketable limit orders within the appropriate size parameters are executed at the prevailing best bid or offer, with both the specialist and registered options traders (''ROTs'') as the contra-party to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44065 (March 12, 2001), 66 FR 15513 (March 19, 2001).

[4] *See* Securities Exchange Act Release No. 45628 (March 22, 2002), 67 FR 15262 (March 29, 2002) (''March 2002 Order''). The Amex notes that the Auto-Ex guarantee size for Nasdaq-100 Tracking Stock (''QQQ'') options is up to 2,000 contracts for the two near-term expiration months and 1,000 contracts for all other expiration months. *See* Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002).

[5] *See* Amex rule 933, Commentary .03; *see also* Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] *See* Securities Exchange Act Release No. 45828 (April 25, 2002), 67 FR 22140 (May 2, 2002). The Amex rule change with respect to maximum Auto-Ex size for the QQQ options was submitted as a change effective on filing pursuant to section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A).

[8] The Exchange states that, as of February 7, 2003, it had established a maximum 250-contract Auto-Ex size for the following options classes: (1) Altria Group, Inc. (MO); (2) Advanced Micro Devices Inc. (AMD); (3) Applied Materials (AMST); (4) ARIBA, Inc. (ARBA); (5) Brocade Communication Systems (BRCD); (6) Capital One Financial Corporation (COF); (7) Exxon Mobile Corporation (XOM); (8) General Electric Co. (GE); (9) Home Depot Inc. (HD); (10) Intel Corporation (INTC); (11) Johnson & Johnson Company (JNJ); (12) Microsoft Corporation (MSFT); (13) Motorola, Inc. (MOT); (14) Oracle Corporation (ORCL); (15) Qlogic Corporation (QLGC); (16) Qualcomm Corporation (QCOM); (17) Texas Instruments (TXN); (18) The Coca-Cola Co. (KO); and (19) United Parcel Services, Inc. (UPS).

the transaction. Auto-Ex trades are automatically allocated on a rotating basis to the specialist and to each ROT that has signed on to Auto-Ex.[9] If an Auto-Ex trade is greater than 10 contracts, the Auto-Ex system divides the execution into lots of 10 or fewer contracts and allocates a lot to each Auto-Ex participant.[10] Accordingly, for actively-traded option classes in large trading crowds, the Auto-Ex allocation of executed contracts into lots of 10 contracts operates so that an Auto-Ex size of 250 contracts is spread out among several ROTs, thereby significantly reducing the potential financial risk that a single ROT may incur. The Exchange believes that an increase of the Auto-Ex eligible size to 500 will not significantly increase the financial risks of ROTs for such actively-traded option classes.

The Exchange believes that market participants desire, and will support, an increase in Auto-Ex eligible sizes of up to 500 contracts. The Exchange represents that, as of April 29, 2002, it has established an Auto-Ex size of 1,000 contracts for all QQQ options series. The Amex believes that the proposed increase in Auto-Ex eligible size for all other options is necessary in order for the Exchange to address market demands and for the purpose of competing effectively with other options exchanges that may not be so restricted.

The Amex notes that the Chicago Board Options Exchange, Inc. (''CBOE'') has received regulatory approval, with respect to option classes that disseminate quotations with size, to automatically execute orders in such options through its RAES system up to the disseminated size, which may be larger than 250 contracts.[11] Furthermore, the Amex notes that the ISE automatically executes a customer order for the disseminated quote size once such order hits the available option quote.[12] As a result, the disseminated size for a particular option quote is the actual size of an order that will be automatically executed. Accordingly, the Amex believes that, based on competitive considerations, an increase in the maximum Auto-Ex eligible size will provide customers with increased opportunities for better and more efficient executions.

The Exchange represents that Auto-Ex has been extremely successful in enhancing execution and operational efficiencies during emergency situations and during other, non-emergency situations for certain option classes. The Exchange believes that automatic executions of orders for up to 500 contracts will allow for the quick, efficient execution of public customer orders, as well as broker-dealer orders on a case-by-case basis consistent with the Exchange's recent ability to provide automatic executions of broker-dealer transactions.[13]

2. Statutory Basis

The proposed rule change is consistent with section 6(b)[14] of the Act, in general, and furthers the objectives of section 6(b)(5)[15] of the Act, in particular, in that it is 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

The Commission invites interested persons 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 Amex. All submissions should refer to File No. SR–Amex–2003–08 and should be submitted by March 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5568 Filed 3–7–03; 8:45 am]

BILLING CODE 8010–01–P

[9] At the start of each trading day, the order in which trades are allocated to the specialist and traders signed on to Auto-Ex is randomly determined.

[10] For example, an option class that allows up to 50 contracts to be executed through Auto-Ex would have a trade of 25 contracts divided into lots of 10, 10 and 5. *See* Securities Exchange Act Release No. 47229 (January 22, 2003), 68 FR 5060 (January 31, 2003) (File No. SR–Amex–00–30).

[11] *See* Securities and Exchange Act Release No. 45676 (March 29, 2002), 67 FR 16478 (April 5, 2002) (CBOE File No. 2001–70); *see also* CBOE rule 6.8 (c)(v) and Commentary .09 to CBOE rule 6.8.

[12] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000). The ISE operates an electronic marketplace where orders and quotes are entered into a central order book. Trades are then executed automatically when orders and quotes match.

[13] *See* Securities Exchange Act Release No. 46479 (September 10, 2002) 67 FR 58654 (September 17, 2002).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47432; File No. SR–Amex–2003–09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC, Relating to the Adoption of a Per Contract Licensing Fee for the iShares Goldman Sachs Corporate Bond Fund

March 3, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on February

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

19, 2003, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to modify its options fee schedule by adopting a per contract license fee in connection with specialist and registered options traders transactions in options on the iShares Goldman Sachs Corporate Bond Fund. The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Amex 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 the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange has entered into numerous agreements with issuers and owners of indexes for the purpose of trading options on certain exchange-traded funds (''ETFs''). This requirement to pay an index license fee to third parties is a condition to the listing and trading of these ETF options. In many cases, the Exchange is required to pay a significant licensing fee to issuers or index owners that may not be reimbursed. In an effort to recoup the costs associated with index licenses, the Exchange has previously established a per contract licensing fee for specialists and registered options traders (''ROTs'') that is collected on every transaction in options on the Nasdaq-100 Index Tracking Stock (QQQ), the Nasdaq-100 Index (NDX), the Mini-NDX (MNX) and on the S&P 100 iShares (OEF).[3]

The purpose of the proposed fee is for the Exchange to recoup its costs in connection with the index license fee for the trading of options on the iShares Goldman Sachs Corporate Bond Fund (the ''Corporate Bond Fund''). The proposed licensing fee will be collected on every option transaction of the Corporate Bond Fund in which the specialist or ROT is a party. The Exchange proposes to charge $0.10 per contract side for options on the Corporate Bond Fund (LQD). Accordingly, the Exchange believes that requiring the payment of a per contract licensing fee by those specialists units and ROTs that are the primary beneficiaries of the Exchange's index license agreements is justified and consistent with the rules of the Exchange and the Act. In addition, passing the license fee (on a per contract basis) along to the specialist allocated to the Corporate Bond Fund option and the ROT trading such product is efficient and consistent with the intent of the Exchange to pass on its non-reimbursed costs to those market participants that are the primary beneficiaries.

The Amex notes that in recent years it has increased a number of member fees to better align Exchange fees with the actual cost of delivering services and reduce Exchange subsidies of the services.[4] Implementation of this proposal is consistent with the reduction and/or elimination of these subsidies.

The Exchange submits that the proposed license fee will provide additional revenue and recoup its costs associated with the trading of Corporate Bond Fund options. In addition, the Amex believes that this fee will help to allocate to those specialists and ROTs transacting in Corporate Bond Fund options, a fair share of the related costs of offering such options. Accordingly, the Exchange believes that the proposed fee is reasonable.

(2) Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)[5] of the Act in general and furthers the objectives of section 6(b)(4)[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee or other charge imposed by the Exchange, has become effective immediately pursuant to section 19(b)(3)(A) of the Act[7] and subparagraph (f)(2) of rule 19b–4 thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–

[3] *See* Securities Exchange Act Release No. 45163 (December 18, 2001), 66 FR 66958 (December 27, 2001).

[4] *See* Securities Exchange Act Release Nos. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002) and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

2003–09 and should be submitted by March 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5569 Filed 3–7–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47436; File No. SR–NASD–2003–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend a Pilot Program Regarding the Regulatory Fee and the Trading Activity Fee

March 4, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2003, the National Association of Securities Dealers, Inc. (''NASD'') 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 NASD. The NASD filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD proposes to extend the pilot program for the Trading Activity Fee (''TAF'') through April 1, 2003. The TAF pilot program is currently in effect, and is set to expire on March 1, 2003.[6] NASD has requested that the Commission approve SR–NASD–2002–148,[7] so that the TAF will be made permanent before the expiration of the TAF pilot program on April 1, 2003. If the Commission does not approve SR–NASD–2002–148, the trading fee component of the member regulatory pricing structure will revert to Section 8 of Schedule A to the NASD By-Laws, as amended. The NASD is making no substantive changes to the pilot program, other than extending the expiration date through April 1, 2003.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Association 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

On July 24, 2002, the NASD filed SR–NASD–2002–98, which proposed a new member regulatory pricing structuring, including a new TAF, to replace the existing trading fee contained in Section 8 of Schedule A to the NASD By-Laws.[8] The proposed rule change was effective upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2)[10] thereunder. SR–NASD–2002–98 is currently in effect. Assessments under the new TAF were effective as of October 1, 2002, payable January 15, 2003.[11] On October 18, 2002, the NASD established a sunset provision whereby the TAF established in SR–NASD–2002–98 would cease to exist after December 31, 2002. At the same time, the NASD filed SR–NASD–2002–148, which is substantially similar to SR–NASD–2002–98, but filed under Section 19(b)(1) of the Act, to allow for additional member comment. Upon expiration of SR–NASD–2002–98, the member regulatory pricing structure was to revert to Section 8 of Schedule A to the NASD By-Laws, as amended.

On December 24, 2002, the NASD extended the TAF pilot program through March 1, 2003. With the instant rule filing, the NASD is further extending the TAF pilot program through April 1, 2003, to allow additional time for the NASD to respond to comments to the original filing, and to allow the Commission more time to review issues presented by the permanent TAF proposed rule change (SR–NASD–2002–148). The NASD asks the Commission to approve SR–NASD–2002–148 before the expiration of the TAF pilot program on April 1, 2003, to make the TAF pilot permanent.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[12] in general, and with Section 15A(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received. Written comments, however, have been solicited on SR–NASD–2002–98, SR–NASD–2002–147, SR–NASD–2002–148, and SR–NASD–2002–182. The comments are not addressed herein, but are, as appropriate, discussed in connection with the respective rule filings.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

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[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NASD asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. 17 CFR 240.19b–4(f)(6).

[6] *See* Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002) (SR–NASD–2002–98). *See also* Securities Exchange Act Release No. 47112 (December 31, 2002), 68 FR 824 (January 7, 2003)(SR–NASD–2002–182).

[7] *See* Securities Exchange Act Release No. 46817 (November 12, 2002), 67 FR 69785 (November 19, 2002)(SR–NASD–2002–148).

[8] *See* Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002) (SR–NASD–2002–98). *See also,* Securities Exchange Act Release No. 46417 (August 23, 2002), 67 FR 55893 (August 30, 2002) (SR–NASD–2002–99). The NASD also published three *Notices to Members* describing the proposed changes and addressing interpretive questions posed by NASD members. *See Notices to Members 02–41* (July 2002), *02–63* (September 2002), and *02–75* (November 2002).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] Member firms were required to pay the TAF in accordance with the pilot program (for the first quarter starting October 1, 2002) by no later than January 15, 2003, and thereafter on a monthly basis.

[12] 15 U.S.C. 78o–3.

[13] 15 U.S.C. 78o–3(b)(5).

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The NASD has requested that the Commission waive the five-day pre-filing notice requirement and the 30-day operative delay. The Commission believes waiving the five-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to operate without interruption through April 1, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2003–26 and should be submitted by March 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5564 Filed 3–7–03; 8:45 am]

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[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47437; File No. SR–NASD–2003–21]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing a Pricing Schedule for the Use of Nasdaq Trading Applications' Tools Plus Product for Non-NASD Members

March 4, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 14, 2003, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to establish a pricing schedule for the use of Nasdaq Trading Applications' (''NTA'') Tools Plus product by persons that are not NASD members. Nasdaq will implement this rule change 30 days after the date of this filing. Because Nasdaq proposes to charge non-members the same prices for Tools Plus as it currently charges to members under NASD Rule 7050(e)(2), there is no change in rule language.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth below in Sections A, B, and C, 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

Nasdaq is proposing to establish a pricing schedule for the use of NTA's Tools Plus product by persons that are not NASD members. The proposed pricing schedule is identical to the one already established for NASD members by NASD Rule 7050(e)(2).[3] Tools Plus is a software product that provides subscribers with order management and routing, trade reporting, clearing, and regulatory compliance functionality. NTA was formerly Nasdaq Tools, Inc., a subsidiary of Nasdaq that was merged into Nasdaq in 2002.

In SR–NASD–2002–177, Nasdaq established a fee of $350 per terminal per month for Tools Plus terminals with reduced functionality for use by correspondent firms or floor brokers to route orders to specified broker-dealers with whom they have an established relationship.[4]

Unlike a full functionality Tools Plus terminal, the terminals would not contain functionality to accept order flow, to compile statistics on order execution, or to route orders to a wide range of market centers. This prior filing established prices for use of this product by NASD members, but did not cover non-members. Nasdaq believes, however, that the most likely customers for the floor broker terminal are regional securities exchanges, which may purchase such terminals for use by their members, rather than the floor brokers themselves. Accordingly, Nasdaq proposes to offer Tools Plus to non-members at the same prices at which it is offered to members.[5] Use of floor

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 47067 (December 20, 2002), 67 FR 79213 (December 27, 2002) (SR–NASD–2002–177); Securities Exchange Act Release No. 46972 (December 9, 2002), 67 FR 77301 (December 17, 2002) (SR–NASD–2002–165); and Securities Exchange Act Release No. 46973 (December 9, 2002), 67 FR 77305 (December 17, 2002) (SR–NASD–2002–164).

[4] *See* Securities Exchange Act Release No. 47067 (December 20, 2002), 67 FR 79213 (December 27, 2002) (SR–NASD–2002–177).

[5] Nasdaq does not currently offer Tools Plus to non-members, and it is unclear whether any demand for the product among non-members will

Continued

broker terminals would require payment not only of the monthly terminal charge of $350 per terminal, but also the other charges associated with Tools Plus, such as initial deposits, installation fees, connection and port charges, training fees, and hourly rates for customized programming. Finally, although Nasdaq does not currently foresee a demand for the use of full functionality terminals by non-members, the fee schedule for non-members also includes the prices for these terminals, in case such demand does develop.[6]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[7] in general, and with Section 15A(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change contained in this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Nasdaq gave the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD–2003–21 and should be submitted by March 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5565 Filed 3–7–03; 8:45 am]

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emerge. Telephone Conversation between John M. Yetter, Assistant General Counsel, Office of General Counsel, Nasdaq, and Susie Cho, Special Counsel, Division of Market Regulation (''Division''), Commission, on February 27, 2003.

[6] Nasdaq notes that a Tools Plus user cannot use a Tools Plus terminal to route orders to a given market center unless the user has a relationship with the market center that allows it to do so under the rules governing access to that market center. For example, a member of a regional securities exchange that was not an NASD member could not use a Tools Plus terminal to route orders to Nasdaq's SuperMontage system unless the regional exchange was itself a SuperMontage participant (in which case, the member of the exchange could route orders through the exchange, as provided in NASD Rule 4710(e)). Telephone Conversation between John M. Yetter, Assistant General Counsel, Office of General Counsel, Nasdaq, and Susie Cho, Special Counsel, Division, Commission, on March 3, 2003.

[7] 15 U.S.C. 78o–3.

[8] 15 U.S.C. 78o–3(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47433; File No. SR–NASD–2003–24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend the NASD Registration Rules

March 3, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on February 26, 2003, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I and II below, which items have been prepared by NASD. NASD has designated the proposed rule change as constituting a ''non-controversial'' rule change pursuant to rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

As part of its rule modernization initiative, NASD is proposing to make technical changes to the NASD registration rules and to update these rules. Below is the text of the proposed rule change. New text is in *italics*. Proposed deletions are in [brackets].

* * * * *

1000. Membership, Registration and Qualification Requirements

* * * * *

1020. Registration of Principals

1021. Registration Requirements

(a) All Principals Must Be Registered

All persons engaged or to be engaged in the investment banking or securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

business of a member who are to function as principals shall be registered as such with [the Association] *NASD* in the category of registration appropriate to the function to be performed as specified in rule 1022. Before their registration can become effective, they shall pass a Qualification Examination for Principals appropriate to the category of registration as specified by the Board of Governors. A member shall not maintain a principal registration with [the Association] *NASD* for any person (1) who is no longer active in the member's investment banking or securities business, (2) who is no longer functioning as a principal, or (3) where the sole purpose is to avoid the examination requirement prescribed in paragraph (c). A member shall not make application for the registration of any person as principal where there is no intent to employ such person in the member's investment banking or securities business. A member may, however, maintain or make application for the registration as a principal of a person who performs legal, compliance, internal audit, *back-office operations,* or similar responsibilities for the member or a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

(b) through (c) No change.

(d) Application for Principal Status

(1) Any person associated with a member as a Registered Representative whose duties are changed by the member so as to require registration in any principal classification shall be allowed a period of 90 calendar days following the change in his duties during which to pass the appropriate Qualification Examination for Principals. Upon elevation, the member shall submit to [the Association] *NASD* an [elevation form] *amended ''Uniform Application for Securities Industry Registration or Transfer''* [designated by the Board of Governors] and the applicable fees. In no event may a person function as a Principal beyond the initial 90 calendar day period following the change in his duties without having successfully passed the appropriate Qualification Examination.

(2) No Change.

[(3) If an applicant does not take the examination within the ninety calendar day period or if the applicant fails the examination, a new principal elevation form and examination fee shall be required.]

(e) Requirement of Two Registered Principals for [New Applicants for] Membership] *Members*

(1) An [applicant for membership in the Association] *NASD member*, except a sole proprietorship, shall have at least two officers or partners who are [qualified to become] registered as principals with respect to each aspect of the [applicant's] *member's* investment banking and securities business pursuant to the *applicable* provisions of rule 1022[(a), (d) and (e), whichever are applicable, before it shall be admitted to membership]. *This requirement applies to persons seeking admission as members and existing members.*

(2) through (3) No change.

1022. Categories of Principal Registration

(a) General Securities Principal

(1) through (2) No Change.

(3) Except as provided in rule 1021(c), a person who was registered with [the Association] *NASD* as a Principal [or a Financial Principal,] shall not be required to pass a Qualification Examination for General Securities Principal and shall be qualified as a General Securities Principal.

(4) A person registered solely as a General Securities Principal shall not be qualified to function as a Limited Principal—Financial and Operations; *Limited Principal—Registered Options and Security Futures; Limited Principal—General Securities Sales Supervisor; Municipal Securities Principal, or Municipal Fund Securities Limited Principal,* unless [he] *that person* is also qualified and registered as such [pursuant to paragraph (b)].

[(5) A person registered solely as a General Securities Principal shall not be qualified to function as a Registered Options Principal unless he is also qualified and registered as such pursuant to the provisions of paragraph (f).]

[(6) A person qualified solely as a General Securities Principal shall not be qualified to be registered as a Limited Principal—General Securities Sales Supervisor unless he is also qualified and registered as such pursuant to the provisions of paragraph (g)(1).]

(b) Limited Principal—Financial and Operations

(1) through (2) No change.

[(3) Except as provided in rule 1021(c), a person designated pursuant to the provisions of subparagraph (1) hereof shall not be required to take the Limited Principal—Financial and Operations Examination and shall be qualified for registration as a Limited Principal—Financial and Operations if:

(A) such person had been performing the functions of a Limited Principal—Financial and Operations as defined in subparagraph (2) hereof on or before September 1, 1972; or

(B) such person was registered with the Association as a Financial Principal.]

(4) Renumbered as (3).

(c) through (e) No change.

(f) *Limited Principal*—Registered Options and Security Futures [Principals]

No change to rule language.

(g) Limited Principal—General Securities Sales Supervisor

(1) No change.

(2) A person registered in this category solely on the basis of having passed the Qualification Examination for Limited Principal—General Securities Sales Supervisor shall NOT be qualified to:

(A) [be registered in any other category of principal registration] *function in a principal capacity with responsibility over any area of business activity not prescribed in subparagraph (1)*;

(B) through (C) No change.

(3) No change.

(h) Limited Principal—Government Securities

(1) All persons associated with a member not previously registered as a principal who are to function as government securities principals shall be registered as such with NASD.

(2) Each person associated with a member must be registered as a Limited Principal—Government Securities if such person is:

(A) Engaged in the management or supervision of the member's government securities business, including:

(i) Underwriting, trading or sales of government securities;

(ii) Financial advisory or consultant services for issuers in connection with the issuance of government securities;

(iii) Research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in (i) and (ii) above;

(iv) Activities other than those specifically described above that involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in (i) and (ii) above; or

(B) Responsible for supervision of:

(i) The processing and clearance activities with respect to government securities; or

(ii) The maintenance of records involving any of the activities described in paragraph (2)(A) above.

(3) Notification of Principal Status

A member shall promptly notify NASD when an individual not previously registered with the member as a principal assumes the duties of a principal on the form designated by the Board accompanied by the applicable fees.

IM–1022–1. *Limited Principal*—Registered Options and Security Futures [Principals]

No change to rule language.

* * * * *

1030. Registration of Representatives

1031. Registration Requirements

(a) All Representatives Must Be Registered

All persons engaged or to be engaged in the investment banking or securities business of a member who are to function as representatives shall be registered as such with [the Association] *NASD* in the category of registration appropriate to the function to be performed as specified in rule 1032. Before their registration can become effective, they shall pass a Qualification Examination for Representatives appropriate to the category of registration as specified by the Board of Governors. A member shall not maintain a representative registration with [the Association] *NASD* for any person (1) who is no longer active in the member's investment banking or securities business, (2) who is no longer functioning as a representative, or (3) where the sole purpose is to avoid the examination requirement prescribed in paragraph (c). A member shall not make application for the registration of any person as representative where there is no intent to employ such person in the member's investment banking or securities business. A member may, however, maintain or make application for the registration as a representative of a person who performs legal, compliance, internal audit, *back-office operations,* or similar responsibilities for the member, or a person who performs administrative support functions for registered personnel, or a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

(b) through (c) no change.

1032. Categories of Representative Registration

(a) General Securities Representative

(1) No change.

(2) Except as provided in rule 1031(c):

[(A) Any person who was registered with the Association as a Representative prior to September 1, 1974, shall be qualified to be registered with the Association as a General Securities Representative.]

[(B) A person who applied for registration as a Representative prior to September 1, 1974, and who became registered as a Representative prior to April 1, 1975, by virtue of having passed the Qualification Examination for Representatives (Test Series 1) shall be qualified to be registered as a General Securities Representative.]

[(C) A person who applied for registration as a Representative on or after September 1, 1974, or who registered as a Representative on or after April 1, 1975, by virtue of having passed the Qualification Examination for Registered Representatives (Test Series 1) shall be qualified to be registered only as a Limited Representative—Investment Company and Variable Contracts Products and as a Limited Representative—Direct Participation Programs as defined in paragraph (b) and (c) hereof.]

[(D) A person who was registered as a Registered Representative after September 1, 1974, by virtue of having passed the General Securities Representative Examination (Test Series 7) shall be qualified to be registered as a General Securities Representative.]

(E) Renumbered as (A)

[(F) A person who was registered as a Registered Representative for Sale of Variable Contracts Only shall be qualified to be registered as a Limited Representative—Investment Company and Variable Contracts Products.]

[(G)](*B*) A person [registered and in good standing with] *who is authorized or approved to conduct business in accordance with the requirements of* The [Securities and Futures] *Financial Services* Authority and having passed the Modified General Securities Representative Qualification Examination [for United Kingdom Representatives] shall be qualified to be registered as a General Securities Representative except that such person's activities in the investment banking or securities business may not involve the solicitation, purchase and/or sale of municipal securities as defined in section 3(a)(29) of the Act.

(H) through (I) renumbered as (C) through (D).

(3) No change.

(b) through (e) no change.

(f) Limited Representative—Equity Trader

(1) No change.

(2) Before registration as a Limited Representative—Equity Trader as defined in subparagraph (1) hereof may become effective, an applicant must:

(A) No change.

(B) pass an appropriate Qualification Examination for Limited Representative—Equity Trader. [Any person who was performing any of the activities described in paragraph (f)(1) above on or prior to May 1, 1998, and who has filed an application to take this examination by August 31, 1998, must pass the examination by May 1, 2000. Any person who is eligible for this extended qualification period and who fails this examination during the 24 month time period commencing on May 1, 1998, and ending on May 1, 2000, must wait 30 days from the date of failure to take the examination again. Any person, other than a person who is eligible for the extended qualification period, who files an application to take this qualification examination after May 1, 1998, must pass this examination before conducting such activities as described in paragraph (f)(1) above. In no event may a person who is eligible for the extended qualification period function as an Equity Trader beyond the 24-month period without having successfully passed the appropriate qualification examination.]

(g) Limited Representative—Government Securities

(1) through (2) no change.

[(3) A person who has been performing the functions of a Limited Representative—Government Securities on or before April 1, 1996, may register as such without first meeting the requirement of subparagraph (1)(B) above unless:

(A) Such person is currently subject to a statutory disqualification as defined in section 3(a)(39) of the Act or

(B) During the past 10 years before the effective date of that requirement was the subject of a suspension or fine of $5,000 or more by the Association, the Securities and Exchange Commission, the Commodity Futures Trading Commission, state securities commission, foreign financial regulatory authority, or any other regulatory organization responsible for the investment banking or securities business.]

(h) No change.

* * * * *

1070. Qualification Examinations and Waiver of Requirements

(a) through (b) No Change.

(c) Examination results shall be reported to member firms [on a pass/fail basis only] and may be accompanied by an analysis of the candidate's performance on the examination. Passing scores assigned to each examination series shall be determined by the Board of Governors, or its designee.

(d) [An applicant cannot receive assistance while taking the examination. Each applicant shall certify to the Board of Governors that no assistance was given to or received by him during the examination.]

[(e)] Pursuant to the rule 9600 Series, [the Association] *NASD* may, in exceptional cases and where good cause is shown, waive the applicable Qualification Examination and accept other standards as evidence of an applicant's qualifications for registration. Advanced age[,] or physical infirmity [or experience in fields ancillary to the investment banking or securities business] will not individually of themselves constitute sufficient grounds to waive a Qualification Examination. *Experience in fields ancillary to the investment banking or securities business may constitute sufficient grounds to waive a Qualification Examination.*

(f) Renumbered as (e)

* * * * *

1080. Confidentiality of Examinations

[The Association] *NASD* considers all of its Qualification Examinations to be highly confidential. The removal from an examination center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such Qualification Examination, whether of a present or past series, or any other use which would compromise the effectiveness of the Examinations and the use in any manner and at any time of the questions or answers to the Examinations are prohibited and are deemed to be a violation of rule 2110. *An applicant cannot receive assistance while taking the examination. Each applicant shall certify to the Board that no assistance was given to or received by him during the examination.*

* * * * *

1100. Foreign Associates

(a) No Change.

(b) Prior to the time the exemption provided for in paragraph (a) hereof may become effective, the member desiring to employ any such person must file with [the Association] *NASD* a [form designated ''Application for Classification as a Foreign Associate''] ''*Uniform Application for Securities Industry Registration or Transfer*'' for each such person and must certify that such person meets the criteria of paragraph (a), as well as that:

(1) through (2) no change.

(c) No change.

[1110. Registration of Government Securities Principals and Representatives]

[1111. Registration of Principals]

[All persons associated with a member not previously registered as a principal who are to function as government securities principals shall be registered as such with the Association.]

[(a) Definition of Government Securities Principal]

[Persons associated with a member who are:]

[(1) engaged in the management or supervision of the member's government securities business, including:]

[(A) underwriting, trading or sales of government securities;]

[(B) financial advisory or consultant services for issuers in connection with the issuance of government securities;]

[(C) research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in (A) and (B) above;]

[(D) activities other than those specifically mentioned that involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in (A) and (B) above; or]

[(2) are responsible for supervision of:]

[(A) the processing and clearance activities with respect to government securities; or]

[(B) the maintenance of records involving any of the activities described in paragraph (a)(1) above;]

[are designated as principals.]

[(b) Notification of Principal Status]

[A member shall promptly notify the Association of the assumption by an individual not previously registered with the member as a principal on the form designated by the Board of Governors accompanied by the applicable fees.]

* * * * *

[1113. Persons Exempt From Registration

Persons associated with a member whose functions are exclusively clerical or ministerial are not required to register with the Association.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of the NASD's rule modernization initiative, NASD has identified certain registration rules that are antiquated and need to be updated to reflect changes in the regulatory landscape. Many of these registration rules impose requirements that no longer serve a valid investor protection goal. The proposed changes, which primarily are technical in nature, are intended to clarify and clean-up existing rules to reduce burdens on the industry caused by outdated registration requirements.

Rules 1021 and 1031 (Principal and Representative Registration Requirements)

Rules 1021(a) and 1031(a) state that persons engaged in a member's investment banking or securities business who are functioning as principals or representatives must be registered with NASD in the appropriate registration category. These rules prohibit a member from registering a person as principal or representative where the member does not intend to employ the person in its investment banking or securities business. Rules 1021(a) and 1031(a) provide a narrow exception to this general prohibition by permitting a member to maintain the registration of a principal or representative who performs legal, compliance, internal audit, or similar responsibilities. NASD believes that principals or representatives who perform back-office operations,

including, but not limited to, cashiering, accounting, settling, and the record keeping of customers' cash or margin accounts, also should be included under this limited exception. Accordingly, NASD is proposing to add the term ''back-office operations'' before the terms ''or similar responsibilities'' in rules 1021(a) and 1031(a). Rule 1021(d)(1) states that a person who is currently a registered representative may function as a principal for 90 calendar days before he or she is required to pass the appropriate qualification examination for principal. This rule requires that a member submit an ''elevation form'' for a representative who has been elevated to principal. NASD no longer uses an ''elevation form.'' Rather, NASD now requires members to submit an amended ''Uniform Application for Securities Industry Registration or Transfer'' (Form U–4). NASD is proposing to amend the rule to reflect this change.

Rule 1021(d)(3) suggests that an applicant who does not take the examination within 90 days or fails the examination can submit a new form and continue to function as a principal until qualified. This is inconsistent with rule 1021(d)(1), which states that in no event may a person function as a principal beyond the initial 90-day period. Therefore, NASD is proposing to delete rule 1021(d)(3).

Rule 1021(e) requires applicants for NASD membership to have at least two principals with respect to each aspect of the applicant's investment banking and securities business. NASD has interpreted rule 1021(e) to generally require all members, including new applicants, to have at least two principals with respect to each aspect of the member's investment banking and securities business. Therefore, NASD is proposing to amend rule 1021(e) to clarify that this requirement applies to existing members as well as new applicants.

Rules 1022 and 1032 (Principal and Representative Registration Categories)

Rule 1022(a)(3) states that a person who was registered with NASD as a principal or financial principal is not required to pass a qualification examination for general securities principal to be qualified as a principal. The term ''financial principal'' refers to an examination that is no longer administered and thus should be deleted from rule 1022(a)(3).

Rules 1022(a)(4), (5), and (6) provide that a person registered solely as a general securities principal is not automatically qualified to function in certain limited principal capacities. NASD is proposing to combine these rules to eliminate certain redundancies in the language. Further, NASD is proposing to clarify that a person registered solely as a general securities principal is not automatically qualified to function as a municipal securities principal or municipal fund securities limited principal.

Rule 1022(b)(3) provides an exception from the limited principal—financial and operations examination for those persons who were performing these functions before September 1, 1972, and those persons who were registered as a financial principal. NASD is proposing to delete rule 1022(b)(3) because the grandfather clause and the reference to ''financial principal'' relate to changes made in the 1970s.

For consistency with the other headings under rule 1022, NASD is proposing to amend the headings for rule 1022(f) and IM–1022–1 to state: ''Limited Principal–Registered Options and Security Futures.''

Rule 1022(g)(2)(A) provides that a limited principal'general securities sales supervisor cannot be qualified to be registered in any other principal registration category. NASD believes that rule 1022(g)(2)(A) is inaccurate. Accordingly, NASD is proposing to replace the current language in rule 1022(g)(2)(A) to state that a person registered solely as a Limited Principal—General Securities Sales Supervisor shall not be qualified to function in a principal capacity with responsibility over any of the areas of business not described in that rule. This will clarify that such persons may be registered in other categories, if applicable.

Rules 1032(a)(2)(A)–(D) and 1032(a)(2)(F) relate to the transition from the Series 1 to the Series 7, which took place in the 1970's. NASD is proposing to delete rules 1032(a)(2)(A)–(D) and 1032(a)(2)(F) because these sections are no longer relevant to a vast majority of our members and NASD could provide waivers if necessary. Rule 1032(a)(2)(G) provides that persons registered and in good standing with the Securities and Futures Authority (''SFA'') and who have passed the Modified General Securities Representative Qualification Examination for United Kingdom Representatives are qualified to be registered as general securities representatives, with certain restrictions. Under the previous regulatory framework in the United Kingdom, certain persons engaged in the securities and derivatives business were required to register with the SFA before they could engage in such business. The Financial Services Authority (''FSA'') has consolidated the regulatory duties that were carried out by the previous regulatory bodies, including the SFA. The FSA is an independent non-governmental body with statutory powers under United Kingdom legislation to regulate the financial services industry in the United Kingdom. Under the FSA structure, persons that plan to perform specified functions, known as regulated activities or controlled functions, must be either authorized or approved by the FSA before they can carry out these functions. Therefore, NASD is proposing to revise the language in rule 1032(a)(2)(G) to reflect the FSA's new authorization and approval process.

Rule 1032(f)(2)(B) sets forth the grace periods for passing the equity trader examination. For instance, registered representatives who were eligible for the two-year grace period were given until October 1, 2000, to pass the examination. Because the grace period deadlines have passed, NASD is proposing to delete the periods specified under rule 1032(f)(2)(B).

Rule 1032(g)(3) provides a grandfathering provision for persons who were performing the functions of a government securities limited representative on or before April 1, 1996. NASD believes that it is no longer necessary to keep this section because most persons who were eligible for grandfathering have been processed and, if necessary, the staff may provide waivers to new applicants. Accordingly, NASD is proposing to eliminate rule 1032(g)(3) in its entirety.

Rule 1070 (Qualification Examination and Waiver of Requirements)

Rule 1070(c) provides that qualification examination results will be reported to members on a pass/fail basis only. NASD is proposing to delete the phrase ''on a pass/fail basis only'' because NASD provides more than just pass/fail information to members.

Rule 1070(d) prohibits an applicant from receiving assistance while taking an examination. Rule 1080 requires that examinations be kept confidential. NASD is proposing to combine the language in rule 1070(d) and rule 1080 because these sections cover similar topics. Consequently, NASD is proposing to incorporate rule 1070(d) into rule 1080 and delete rule 1070(d).

Rule 1070(e) provides that experience in fields ancillary to investment banking or securities business will not in and of itself constitute sufficient grounds for waiving an examination. NASD is proposing to amend rule 1070(e) to clarify that although age or physical

infirmity will not individually of themselves constitute sufficient grounds to waive an examination, experience in an ancillary field may be sufficient grounds to waive an examination.

Rule 1100 (Foreign Associates)

Rule 1100(b) requires that members employing foreign associates file an ''Application for Classification as a Foreign Associate.'' NASD no longer uses this application. Thus, NASD is proposing to replace the terms ''Application for Classification as a Foreign Associate'' with the terms ''Uniform Application for Securities Industry Registration or Transfer,'' which is the current application.

Rule 1111 (Registration of Government Securities Principals)

Rule 1111 relates to the registration requirements for government securities principals. Because this rule relates to principal registration requirements, NASD is proposing to move this rule to the rule 1020 Series and renumber it as rule 1022(h). The heading for rule 1022(h) will be ''Limited Principal—Government Securities.'' Rule 1022(h) will not include a subsection on examination because there is no required examination for this registration category. Non-substantive changes also were made to this provision to clarify its application.

Rule 1113 (Persons Exempt From Registration)

Both rules 1060(a)(1) and 1113 state that associated persons whose functions are solely and exclusively clerical or ministerial are exempt from registration. NASD is proposing to delete rule 1113 because it duplicates rule 1060(a)(1).

Finally, NASD is adopting a new corporate structure and is seeking the merger of NASD Regulation and NASD Dispute Resolution into NASD, with the merger becoming effective upon the Commission's authorization of the operation of Nasdaq other than as a facility of NASD. To underscore this new corporate structure and renewed regulatory focus, NASD generally does not refer to itself using its full corporate name, ''the Association'' or ''the NASD.'' Instead NASD uses ''NASD'' unless otherwise appropriate for corporate or regulatory reasons. Accordingly, NASD has replaced several references to ''the Association'' and ''the NASD'' in the text of the proposed rule change with ''NASD.''

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[4] which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change also is consistent with the provisions of sections 15A(b)(3)[5] and 15A(g)(3) of the Act,[6] which, among other things, authorize NASD to prescribe standards of training, experience, and competence for persons associated with NASD members. NASD believes that the proposed rule change clarifies NASD registration obligations and provides consistency throughout these rules and will assist members and their associated persons in complying with these rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by NASD as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A) of the Act[7] and rule 19b–4(f)(6) thereunder.[8] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of this filing; and NASD provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date,[9] the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[10] and rule 19b–4(f)(6) thereunder.[11]

NASD has requested that the Commission waive the 30-day pre-operative waiting period, which would make the proposed rule operative immediately. The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day pre-operative period in this case because the proposed rule change is highly technical in nature. For these reasons, the Commission waives the 30-day pre-operative period and designates that the proposal become operative immediately.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be

[4] 15 U.S.C. 78o–3(b)(6).

[5] 15 U.S.C. 78o–3(b)(3).

[6] 15 U.S.C. 78o–3(g)(3).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] NASD initially filed the proposed rule change on December 30, 2002 for full notice and comment in accordance with section 19(b)(2) of the Act. *See* SR–NASD–2002–185. NASD subsequently withdrew SR–NASD–2002–185 and refiled the proposed rule change as a ''non-controversial'' filing pursuant to section 19(b)(3)(A) of the Act and rule 19b–4(f)(6) thereunder because the proposed rule change is highly technical in nature. Rule 19b–4(f)(6)(iii) under the Act requires the self-regulatory organization to provide the Commission written notice of its intent to file the proposed rule change at least five business days before doing so (or such shorter time as designated by the Commission). The Commission finds that NASD satisfied the five-day pre-filing requirement by filing SR–NASD–2002–185.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–03 and should be submitted by March 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5570 Filed 3–7–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47434; File No. SR–NASD–2002–112]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc., To Amend NASD Rule 3070 To Require Members To File Copies of Criminal and Civil Complaints and Arbitration Claims With NASD

March 3, 2003.

I. Introduction

On August 15, 2002, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''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] to amend Rule 3070 of its rules to require members promptly to file copies with NASD of certain criminal and civil complaints and arbitration claims against a member or a person associated with a member. NASD amended the proposed rule change on December 9, 2002.[3] Notice of the proposed rule change and Amendment No. 1 thereto was published for comment in the **Federal Register** on December 27, 2002.[4]

The Commission received five comment letters regarding the proposal.[5] On February 12, 2003, NASD filed a response to the comment letters.[6] This order approves the proposed rule change as amended by Amendment No. 1.

II. Description of the Proposal

The proposed rule change amends NASD Rule 3070 to require members to file promptly with NASD copies of certain criminal and civil complaints and arbitration claims against the member or a person associated with the member. The purpose of the rule proposal is to improve the quality and flow of information to NASD with respect to allegations of broker misconduct, so that NASD can enhance investor protection efforts by promptly taking appropriate regulatory action to address the specific alleged misconduct and to prevent similar or related misconduct in the future.

Specifically, the proposed rule change requires members to file with NASD copies of (1) any criminal complaints filed against the member or plea agreements entered into by the member that are covered by the rule; (2) any securities or commodities-related private civil complaints filed against the member; (3) any arbitration claim against the member (except those claims that have already been filed with NASD Dispute Resolution, in which case NASD obtains copies of such claims directly from NASD Dispute Resolution); and (4) any criminal complaint or plea agreement, private civil complaint or arbitration claim against an associated person that is reportable under question 14 on Form U–4, irrespective of any dollar threshold requirements that question imposes for notification (except those arbitration claims that have already been filed with NASD Dispute Resolution). To avoid duplicative filing, the rule proposal also provides that members need not separately produce the above-referenced documents if they have already been the subject of a request by NASD's Registration and Disclosure staff. These amendments are discussed in greater detail in the Commission's notice soliciting public comment on this proposal.[7]

III. Summary of Comments

The Commission received five comment letters on the proposed rule change.[8] Although four of the commenters generally supported NASD's desire to obtain and collect information regarding broker misconduct, they each contended that the proposal was unduly burdensome for members and offered alternative suggestions for achieving NASD's stated objectives.[9] The fifth comment letter was written in response to the SIA Letter and in support of the proposed rule change.[10] World Group and A.G. Edwards stated that NASD would be unduly burdened by the volume of documents it would receive compared to the amount of new relevant information. MetLife and the SIA stated that the proposal was inconsistent with NASD's rule modernization initiative, which seeks to streamline NASD rules by maximizing regulatory efficiency while imposing the least regulatory burden.[11]

In its response to commenters, NASD focused only on comments made in connection with this proposal. The World Group, MetLife and A.G. Edwards Letters also addressed a change in NASD's policy regarding letters NASD issues when a determination is made to close an investigation without disciplinary action (referred to as ''close-out letters''). While notice of the policy change with respect to close-out letters was contained in the same *Notice to Members* 02–53 that announced that NASD had filed with the SEC its proposal to amend Rule 3070, that policy change is not part of this rule filing. Accordingly, this order does not address the policy change with respect to close-out letters.

NASD disagrees that the proposal would impose duplicative filing requirements on members or be unduly

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrice Gliniecki, Vice President and Deputy General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated December 6, 2002, and enclosures (''Amendment No. 1''). Amendment No. 1 replaced the original rule filing in its entirety.

[4] *See* Securities Exchange Act Release No. 47060 (December 20, 2002), 67 FR 79203.

[5] *See* letter from Kevin L. Palmer, Legal Department, World Group Securities, Inc. (''World Group''), to Jonathan G. Katz, Secretary, Commission, dated September 19, 2002 (''World Group Letter'') (World Group commented on NASD *Notice to Members* 02–53 concerning the proposed amendment to NASD Rule 3070 prior to the Commission's publication of the proposed rule filing); letter from Marc A. Cohn, Assistant Vice President, Metropolitan Life Insurance Company (''MetLife''), to Jonathan G. Katz, Secretary, Commission, dated December 27, 2002 (''MetLife Letter''); letter from Stephen G. Sneeringer, Senior Vice President & Counsel, A.G. Edwards & Sons, Inc. (''A.G. Edwards''), to Jonathan G. Katz, Secretary, Commission, dated January 17, 2002 (''A.G. Edwards Letter''), letter from Edward Turan, Chairman, Arbitration Committee, Securities Industry Association (''SIA'') and John Polanin, Jr., Chairman, Self-Regulation and Supervisory Practices Committee, SIA, to Jonathan G. Katz, Secretary, Commission, dated January 24, 2003 (''SIA Letter''), and letter from David A. Weintraub, Attorney at Law, David A. Weintraub, P.A. (''Weintraub''), to Jonathan G. Katz, Secretary, Commission, dated February 6, 2003 (''Weintraub Letter''). The comment letters are described in Section III, *infra.*

[6] *See* letter from Philip A. Shaikun, Assistant General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated February 11, 2003 (''NASD Response Letter''). The NASD Response Letter does not respond to the Weintraub Letter because the Weintraub Letter was received by the Commission after NASD filed the NASD Response Letter.

[7] *See supra,* note 4.

[8] *See supra,* note 5.

[9] *See* World Group Letter, MetLife Letter, A.G. Edwards Letter and SIA Letter.

[10] *See* Weintraub Letter.

[11] *See Special NASD Notice to Members* 01–35.

burdensome. NASD notes that members are not required under existing rules to routinely file with NASD the documents sought under the proposal. NASD believes that information contained in those complaints and arbitration claims will enhance its regulatory efforts and better protect investors through early detection of broker misconduct and identification of problem trends. As to the burden on NASD, NASD states that deference must be given to NASD's determination that, on balance, the value of information it will receive outweighs any additional work for the organization.

NASD states that the rule proposal minimizes the burden on members, including duplicative filing requirements: it specifically carves out any arbitration claims that are originally filed in the NASD Dispute Resolution forum and those documents that have already been requested by NASD's Registration and Disclosure staff (provided such documents are produced to Registration and Disclosure within 30 days of the request). Moreover, the rule requires only the filing of those complaints and claims most likely to contain information relevant to NASD's regulatory mission, excluding, for example, private civil litigation complaints or arbitration claims that do not involve securities or commodities-related conduct.

World Group stated that the current reporting system appears to be an effective means for monitoring the misconduct or alleged misconduct of brokers and representatives. They noted that NASD has spent significant resources on the development of Integrated National Surveillance and Information Technology Enhancements (INSITE) to aid in more effective firm examinations. World Group stated that it might be more efficient to amend Rule 3070 to require the reporting of the additional information required by the proposal in the current reporting system. NASD responded that it believes that the current reporting system fails to capture important information that could improve its regulatory efficacy.

MetLife stated that the proposal required the reporting of information that is reportable through electronic filings on Forms U–4, U–5, BD and Rule 3070 reports with certain exclusions for certain events based on dollar amounts. They stated that the current system is already fractured, redundant and burdensome in that the same incident may have to be reported twice on different mediums such as a Form U–4, U–5 or BD amendment and a Rule 3070 filing. They suggested that NASD streamline the current reporting system by requiring member firms to report events to NASD only once through a new electronic medium. NASD responded that while MetLife's general proposal to develop a new system is worth long-term consideration, its feasibility is uncertain and, in any event, it does not now provide a viable alternative to the current proposal.

A.G. Edwards stated that most of the information required to be reported in the proposal is already required to be reported by members on the CRD. A.G. Edwards suggested that NASD assume the responsibility to report to the CRD any required information based on its review of the complaints and arbitration claims. They thought this would relieve members from the regulatory burden of reporting these actions to the CRD and would relieve some of the questions that they believe have arisen in regard to the reliability of that reporting. NASD responded that its does not believe such steps are necessary or appropriate. NASD explained that the rule proposal requires different information for different regulatory purposes from that reported to the CRD, and NASD believes it has reasonably minimized the burden on members under the proposal.

The SIA stated that the rule should be limited to copies of retail customer lawsuits and arbitrations that allege sales practice violations in accordance with current Form U–4 and U–5 reporting requirements and dollar thresholds. The SIA stated that such an approach would be more resource-efficient and would produce more targeted reviews of complaints by NASD. NASD noted in its response that the SIA seeks to exclude from the proposal complaints in ''nearly all class actions; non-retail civil litigation, including product failure, and operational complaints, and small claims involving relatively small dollar amounts.'' [12] The proposal requires a member to file with NASD any criminal complaint or plea agreement, private civil complaint or arbitration claim against an associated person that is reportable under question 14 on Form U–4, irrespective of any dollar threshold requirements that question imposes for notification (except those arbitration claims that have already been filed with NASD Dispute Resolution).

The NASD Response Letter states the following in support of NASD's belief that the SIA proposal is too narrow in scope and could lead to confusion.[13] First, under the SIA formulation to limit the proposal to retail customer complaints and claims, NASD would not receive complaints alleging egregious conduct between members (such as collusive market making) or involving institutional customers (such as a kickback scheme in the distribution of initial public offerings). Such allegations of misconduct constitute relevant regulatory information, so NASD sees no sound policy reason to limit the subject matter of complaints to those involving retail customers. Since these and other allegations sometimes first appear in criminal proceedings, NASD believes it appropriate to maintain the requirement in the proposal to file copies of such documents.

Second, limiting the proposal to complaints and claims alleging sales practice violations would undermine a significant purpose of the rule proposal, namely to detect securities or commodities-related patterns of conduct or emerging trends that might warrant regulatory action. The regulatory intent would be frustrated if members were permitted to parse the language of a potential filing to determine whether its substance technically comprised a sales practice violation. Furthermore, litigation and arbitrations that related to securities or commodities conduct, but do not amount to a sales practice violation, nevertheless may prove to correlate to other conduct injurious to the investors and markets. These determinations can only be reached if NASD has access to data that has not been filtered by application of nuance to a legal term of art.

Third, with respect to associated persons, NASD believes it is important to receive copies of complaints and claims reportable under question 14 on Form U–4, even when they fall below specified dollar thresholds, because those actions can highlight patterns of conduct or emerging trends that might warrant regulatory actions.

The Weintraub Letter was written in response to the SIA Letter with regard to the reporting of customer complaints. The SIA stated that the rule should be limited to copies of retail customer lawsuits and arbitrations that allege sales practice violations in accordance with current Form U–4 and U–5 reporting requirements. The Weintraub Letter stated that whether a customer-initiated arbitration is reportable on the Form U–4 or not has absolutely no connection to the seriousness of the underlying allegations, or the need for regulatory scrutiny.

[12] *See* NASD Response Letter at 2, SIA Letter at 2.

[13] *See* NASD Response Letter at 2–3.

IV. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change, as amended by Amendment No. 1, is consistent with the Act and the rules and regulations promulgated thereunder applicable to a registered securities association and, in particular, with the requirements of Section 15A(b)(6).[14] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 15A(b)(6) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general, to protect investors and the public interest.[15]

The Commission believes that the proposed rule change will enhance NASD's regulatory efforts and investor protection mission. The proposal should improve NASD's ability to detect and prevent fraudulent and manipulative conduct and enable it to develop regulatory responses to problem areas at the earliest possible time. The Commission further believes the regulatory benefits of the proposed rule change outweigh the additional burden on members to file with NASD copies of the specified documents, and that the proposal minimizes that burden in that the rule requires only the filing of those complaints and claims most likely to reveal information that should assist NASD's regulatory mission.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-NASD–2002–112), as amended, be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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[14] 15 U.S.C. 78o–3(b)(6).

[15] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47441; File No. SR–NASD–2002–108]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 1, 2, and 3 to a Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Business Continuity Plans and Emergency Contact Information

March 4, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] the National Association of Securities Dealers, Inc. (''NASD''), on August 7, 2002, filed with the Securities and Exchange Commission (''Commission''), a proposed rule change to require its members to establish and maintain business continuity plans. The Commission published the proposed rule change in the **Federal Register** on September 9, 2002.[3] The Commission received three comments in response to the Original Notice. The NASD submitted amendments to the proposed rule change on December 12, 2002;[4] January 8, 2003;[5] and February 19, 2003.[6] The Commission is publishing this notice of Amendment Nos. 1, 2, and 3 to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to clarify that the proposed rule change, which would require member firms to create and maintain business continuity plans and to provide the NASD with certain information to be used in the event of future significant business disruptions, also would require members' business continuity plans to be reasonably designed to enable members to continue their business in the event of a significant business disruption. Below is the text of the proposed rule change, as amended. The base rule text is that proposed in the Original Notice. Language added by Amendments Nos. 1, 2 and 3 is italicized; language deleted by the amendments is in brackets.

* * * * *

3500. Emergency Preparedness

3510. Business Continuity Plans

(a) Each member must create and maintain a written business continuity plan identifying procedures [to be followed in the event of] *relating to* an emergency or significant business disruption. *Such procedures must be reasonably designed to enable the member to continue its business in the event of future significant business disruptions.* The business continuity plan must be made available promptly upon request to NASD staff.

(b) *Each member must update its plan in the event of any material change to the member's operations, structure, business, or location.* Each member must *also* conduct an annual review of its business continuity plan to determine whether any modifications are necessary in light of changes to the member's operations, structure, business, or location.

(c) The [requirements of] *elements that comprise* a business continuity plan are flexible and may be tailored to the size and needs of a member. Each plan, however, must at a minimum, address:

(1) Data back-up and recovery (hard copy and electronic);

(2) All mission critical systems;

(3) Financial and operational assessments;

(4) Alternate communications between customers and the member;

(5) Alternate communications between the member and its employees;

(6) Business constituent, bank, and counter-party impact;

(7) Regulatory reporting; and

(8) Communications with regulators.

Each member must address the above-listed categories to the extent applicable and necessary to enable the member to continue its business in the event of a future significant business disruption. If any of the above-listed categories is not applicable, the member's business continuity plan need not address the category. The member's business continuity plan, however, must document the rationale for not including such category in its plan. If a member relies on another entity for any one of the above-listed categories or any mission critical system, the member's business continuity plan must address this relationship.

(d) *Members must designate a member of senior management to*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 46444 (August 30, 2002), 67 FR 57257 (''Original Notice'').

[4] *See* letter from Brian J. Woldow, Office of General Counsel, NASD, to Katherine A. England, Division of Market Regulation, Commission, dated December 11, 2002 (''Amendment No. 1'').

[5] *See* letter from Brian J. Woldow, Office of General Counsel, NASD, to Katherine A. England, Division of Market Regulation, Commission, dated January 8, 2003 (''Amendment No. 2'').

[6] *See* letter from Brian J. Woldow, Office of General Counsel, NASD, to Katherine A. England, Division of Market Regulation, Commission, dated February 19, 2002 (''Amendment No. 3'').

approve the plan and he or she shall be responsible for conducting the required annual review. The member of senior management must also be a registered principal.

[d]*(e)* For purposes of this rule, the following terms shall have the meanings specified below:

(1) ''Mission critical system'' means any system that is necessary, depending on the nature of a member's business, to ensure prompt and accurate processing of securities transactions, including, but not limited to, order taking, order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, access to customer accounts and the delivery of funds and securities.

(2) ''Financial and operational assessment'' means a set of written procedures that allows a member to identify changes in its operational, financial, and credit risk exposures.

3520. Emergency Contact Information

(a) Each member shall report to NASD, via such electronic or other means as NASD may require, prescribed emergency contact information for the member. *Among other things, t*[T]he emergency contact information for the member includes designation of two emergency contact persons. Each emergency contact person shall be a member of senior management and a registered principal of the member.

(b) Each member must *promptly* update its emergency contact information, via such electronic or other means as NASD may require, in the event of any material change[, but at a minimum must review the information contained therein twice a year to ensure its accuracy].

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of Amendment No. 3 is to clarify that the language of proposed NASD Rule 3510 is intended to require not only that members conduct a planning process to create a written business continuity plan, but also that the plan resulting from this process be *reasonably designed* to enable members to continue their business in the event of a future significant business disruption.

As described in detail in the Original Notice, following the tragic events of September 11, 2001, and after an extensive survey of the business continuity practices of members, the NASD proposed two new rules, Rules 3510 and 3520. Proposed NASD Rule 3510 would require members to create and maintain business continuity plans. In developing this rule, the NASD recognized the diversity in size, structure, operations, and business of its members. Each member's plan would be required, at a minimum, to address eight areas specified in the proposed rule change, which the NASD believes are essential to a broker-dealer's business continuity plan.

Proposed NASD Rule 3510 also would require members to update their business continuity plans based on any material change to the member's operations, structure, business, or location. In addition, members would be required to conduct an annual review of their plans to determine whether any modifications are needed in light of any changes to the member's operations, structure, business, or location. Finally, members would be required to designate a member of senior management to approve the plan and conduct the annual review.

The NASD's experience in the aftermath of September 11th also confirmed that the NASD needs a fully reliable means of contacting firms in the event of an emergency. Proposed NASD Rule 3520 would require members to file and keep current with the NASD certain key information that would be of particular importance during significant business disruptions, including:

- Emergency contact information for key staff;
- Identification of two designated contact persons;
- Location of books and records (including back-up locations);
- Clearance and settlement information;
- Identification of key banking relationships; and
- Alternative communication plans for investors.

The purpose of Amendment No. 3 is to address concerns that a literal reading of proposed NASD Rule 3510, as set forth in the Original Notice, could suggest that the rule would require members only to create, maintain, and periodically review a business continuity plan, but would not require that members' plans be effective in enabling members to continue their business in the event of a future significant business disruption. The NASD did not intend to propose a rule of such limited scope. In this regard, in its description of the purpose of the proposed rule change, the NASD stated that ''[t]he purpose of the proposed rule change is to help to ensure that NASD members will be able to continue their business in the event of future significant business disruptions.'' The NASD believes that members should be obligated to develop a business continuity plan that is reasonably designed, in light of particular characteristics of the firm, to allow the firm to recover as early as practicable in the event of a future significant business disruption.

Therefore, the NASD is proposing to amend proposed NASD Rules 3510(a) and 3510(c) to clarify that the rule is intended to require not only that members conduct a planning process to create a written business plan, but also that the plan resulting from this process be reasonably designed to enable the member to continue its business in the event of future significant business disruptions. The NASD notes that the amended rule language is consistent with NASD rules in other areas where reasonableness standards have been adopted because the diversity of the NASD's membership made specific standards impracticable.[7] The NASD believes that, in light of the concerns regarding the clarity of the original proposed rule text, this amendment to the proposed rule change should be published for comment to ensure that interested persons are given notice of the clarification and an opportunity to comment thereon.

2. Statutory Basis

The NASD believes that the proposed rule change, as amended, is consistent with the provisions of section 15A(b)(6) of the Act,[8] which requires, among other

[7] *See, e.g.,* NASD Rules 3010 (Supervision) and 3011 (Anti-Money Laundering Compliance Program).

[8] 15 U.S.C. 78o–3(b)(6).

things, that the NASD's rules be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change, as amended, which would help to ensure that members are prepared for significant business disruptions, is consistent with those purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change, as amended, would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were received in response to *Notice to Members* 02–23 (April 2002) and the Original Notice. The NASD received 32 comment letters following publication of the *Notice to Members.* The NASD received three comment letters in response to the Original Notice. In response to these comment letters, the NASD identified the following issues that warranted amendments and/or further clarification.

Categories of a Member's Business Continuity Plan

Proposed NASD Rule 3510(c) would state that the ''requirements of a business continuity plan are flexible and may be tailored to the size and needs of a member.'' The rule would require that each plan must, at a minimum, address eight key categories.

These categories are: (1) Data back-up and recovery (hard copy and electronic); (2) all mission critical systems; (3) financial and operational assessments; (4) alternate communications between customers and the member; (5) alternate communications between the member and its employees; (6) business constituent, bank, and counter-party impact; (7) regulatory reporting; and (8) communications with regulators.

In the Original Notice, the NASD stated that ''each member's business continuity plan will only be required to address the eight listed categories * * * to the extent applicable and necessary.'' One commenter believed that NASD Rule 3510 should specifically state this interpretation directly in the rule text. In response, the NASD in Amendment No. 2 proposed to revise proposed Rule 3510(c) to include the following statement:

Each member must address the above-listed categories to the extent applicable and necessary to ensure the continuity of its business in the event of a future significant business disruption. If any of the above-listed categories is not applicable, the member's business continuity plan need not address the category. The member's business continuity plan, however, must document the rationale for not including such category in its plan. If a member relies on another entity for any one of the above-listed categories or any mission critical system, the member's business continuity plan must address this relationship.

The NASD believes that this proposed language would ensure that members understand that, if any of the categories are not applicable, the member would still be required to document the rationale for not including such category in its business continuity plan. For example, if a member's books and records are kept at its clearing firm, the member's plan would be required to address this fact as well as the relationship with (including the identity of) the clearing firm.

Requirement To Update Business Continuity Plans

Proposed NASD Rule 3510(b) would require that each member conduct an annual review of its business continuity plan to determine whether any modifications are necessary in light of changes to the member's operations, structure, business, or location. Some commenters believed that the yearly review requirement was inadequate. Although commenters cited different events that should trigger an update of a business continuity plan, most commenters who dissented believed that plans should be updated more frequently.

The NASD believes that, at a minimum, an annual review of the plan is necessary. In response to member and industry comment, the NASD in Amendment No. 1 revised the proposed rule language to expand upon this requirement and include the following language:

Each member must update its plan in the event of any material change to the member's operations, structure, business or location. Each member also must conduct an annual review of its plan to determine whether any modifications are necessary in light of changes to the member's operations, structure, business or location.

This added language emphasizes that members must promptly update their business continuity plans whenever there is a material change in a member's operations, structure, business, or location that affects the information set forth in the business continuity plan. This requirement would be in addition to the yearly review requirement.

Business Constituent, Bank, and Counter-Party Impact

One of the categories that members' business continuity plans would be required to address is ''business constituent, bank, and counter-party impact.'' Commenters sought clarification of this category. The NASD believes that, under this category, firms should have procedures that assess the impact that a significant business disruption has on business constituents (businesses with which a member firm has an on-going commercial relationship pertaining to the support of the member's operating activities), banks (lenders), and counter-parties (such as other broker-dealers or institutional customers). In addition, the NASD believes that members should provide for alternative actions or arrangements with respect to their contractual relationships with business constituents, banks, and counter-parties upon the occurrence of a material business disruption to either party.

Category of Books and Records Back-Up and Recovery

One of the categories that members' business continuity plans must address is ''books and records back-up and recovery (hard copy and electronic).'' One commenter requested clarification of whether the rule would create a requirement that members have both hard copy and electronic books and records. While proposed NASD Rule 3510 refers to the types of books and records that a firm might maintain, it does not mandate that members keep book and records (and back-up books and records) in both hard copy and electronic formats. To determine what records (and in what format) firms must retain, members should refer to Commission and NASD rules and interpretative materials specifically addressing record retention requirements, such as Rule 17a–4 under the Act [9] and NASD Rule 3110.

Application of Proposed Rule to Subsidiaries

In the Original Notice, the NASD stated that it believes that a subsidiary member firm may satisfy its obligations under the proposed rule by participating in a corporate-wide business continuity

[9] 17 CFR 240.17a–4.

plan of a parent corporation that addresses its subsidiary member firms. As a result, a subsidiary member firm could rely on the corporate-wide business continuity plan of its parent corporation, regardless of whether the parent corporation is a member or non-member. The Original Notice, however, stated that the parent corporation's business continuity plan would have to comply fully with proposed NASD Rule 3510 and address all requirements under the proposed rule. In addition, it noted that the parent and subsidiary corporations would both be required to comply with NASD rules on recordkeeping and supervision for purposes of proposed NASD Rule 3510, and that the parent corporation would be required to grant NASD access to its business continuity plan upon request.

One commenter believed that it would not be appropriate to subject non-member firms to these NASD requirements, nor would it be necessary. The NASD, however, believes that, if a member chooses to participate in a parent company's corporate-wide business continuity plan, the record-keeping of that plan and any supervision of the creation, execution, or updating of that plan must comply with NASD rules on record-keeping and supervision. Participating in a corporate-wide business continuity plan is merely an alternative and is intended to give firms greater flexibility in complying with the proposed rule.

Senior Management Approval

The NASD is proposing to amend the text of proposed NASD Rule 3510 to include new subsection (d) to conform the NASD's proposed rule with the NYSE's proposed business continuity rule.[10] The NASD agrees with the requirement set forth in the NYSE proposal that a member of senior management and a registered principal should approve a member's business continuity plan, including any updates to the plan, to ensure that the creation and maintenance of any plan is reviewed and approved by persons with appropriate expertise and seniority.

Emergency Contact Information

Proposed NASD Rule 3520 would require members to provide the NASD with emergency contact information and update any information upon the occurrence of a material change. One commenter suggested that the NASD take a proactive role in gathering emergency contact information. As stated in the Original Notice, the NASD believes that this duty should lie with the member firm because the member will be best able to identify when a material change has taken place. Nevertheless, the NASD in Amendment No. 1 proposed to revise proposed Rule 3520(b) to require members to promptly update any changes to their emergency contact information. In addition, the NASD is eliminating the semi-annual update requirement from the rule text. Rather, to be consistent with other contact information required by the NASD and periodic updates required by the NYSE, the NASD will issue future guidance on a periodic update requirement. The NASD also is amending proposed NASD Rule 3520(a) to include the phrase ''[a]mong other things'' to emphasize that the NASD is requiring other contact information in addition to designating two emergency contact persons.

[10] *See* Securities Exchange Act Release No. 46443 (August 30, 2002), 67 FR 57264 (September 9, 2002) (SR–NYSE–2002–35).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–108 and should be submitted by March 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[11] 17 CFR 200.3–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47435; File No. SR–NASD–2002–168]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Proposed Rule 2130 Concerning the Expungement of Customer Dispute Information From the Central Registration Depository System

March 4, 2003.

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 November 19, 2002, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. NASD amended the proposed rule change on January 28, 2003.[3] The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter, dated January 28, 2003, from Patrice M. Gliniecki, Vice President and Deputy General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission (''Amendment No. 1''). In Amendment No. 1, NASD modified the proposed rule text to clarify that the requirements of paragraph (b) are to apply only in such cases when the NASD has not otherwise waived such requirements. In addition, Amendment No. 1 added language to the Purpose section to clarify that, pursuant to the rule, the NASD will participate in such judicial proceedings and generally oppose expunging dispute information and also to clarify that the NASD retains the discretion not to oppose expungement. Amendment No. 1 also clarifies that application of the proposed rule will apply to customer dispute information only and not apply to other expungement directives (*e.g.*, related to certain criminal information and certain defamatory information). Finally, Amendment No. 1 explains that NASD Dispute Resolution will draft training materials for arbitrators regarding the standards upon which an arbitration award, directing expungement, may be confirmed by a court.

comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to adopt NASD Rule 2130 governing the expungement of customer dispute information from the Central Registration Depository (''CRD®'' or ''CRD system'') and various internal guidelines to be adopted by NASD regarding the handling of requests to expunge customer dispute information from the CRD System. Below is the text of the proposed rule change. Proposed rule language is in italics.

* * * * *

2130. Obtaining an Order of Expungement of Customer Dispute Information from the Central Registration Depository (CRD System)

(a) Members or associated persons seeking to expunge information from the CRD system arising from disputes with public customers must obtain an order from a court of competent jurisdiction directing such expungement or confirming an arbitration award containing expungement relief.

(b) Members or associated persons petitioning a court for expungement relief or seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents unless this requirement is waived pursuant to subparagraphs (1) or (2) below.

(1) Upon request, NASD may waive the obligation to name NASD as a party if NASD determines that the expungement relief is based on judicial or arbitral findings that:

(A) the claim, allegation or information is without factual basis;

(B) the complaint fails to state a claim upon which relief can be granted or is frivolous; or

(C) the information contained in the CRD system is defamatory in nature.

(2) If the expungement relief is based on judicial or arbitral findings other than those described above, NASD, in its sole discretion and under extraordinary circumstances, also may waive the obligation to name NASD as a party if it determines that:

(A) the expungement relief and accompanying findings on which it is based are meritorious; and

(B) the expungement would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish procedures for expunging customer dispute information from the CRD system. The proposed rule will require all directives to expunge customer dispute information from the CRD system to be confirmed by or ordered by a court of competent jurisdiction. The proposed rule includes any such directives that may be in: (1) Judicial proceedings seeking expungement (including proceedings seeking expungement relief resulting from settlements in disputes between public customers and member firms or their associated persons in which the parties agree to expungement of customer dispute information as part of the settlement); (2) arbitration awards rendered in disputes between public customers and member firms or their associated persons in which the parties agree to expunge customer dispute information as part of the settlement and then present the settlement to the arbitration panel for inclusion in a stipulated award; and (3) arbitration awards issued after a decision on the merits.[4]

The proposed rule also will require member firms and associated persons seeking expungement to name NASD as an additional party in any judicial proceeding seeking expungement relief or confirming an arbitration award containing expungement relief. Under the proposed rule, NASD will participate in such judicial proceedings and generally will oppose expunging dispute information in such judicial proceedings unless the arbitrators or the court have made specific findings that the subject matter of the claim or the information in the CRD system: (1) Is without factual basis (*i.e.*, is factually impossible or clearly erroneous); (2) fails to state a claim upon which relief can be granted or is frivolous; or (3) is defamatory in nature. NASD will retain discretion under the proposed rule not to oppose expungement relief in exceptional cases where the basis for the expungement does not fall within one of the three standards. NASD would exercise such discretion only if it determines that the expungement is meritorious and would have no material adverse effect on investor protection, the integrity of the CRD system or regulatory requirements.

The proposed rule will also permit member firms and associated persons to ask NASD to waive the requirement to name NASD as a party on the basis that the expungement order meets at least one of the standards for expungement articulated in the proposed rule. This will save members and NASD time and expense by enabling NASD to review the findings of the arbitrators or court and determine to waive participation in the judicial proceeding if NASD determines that the findings made by the arbitrators or the court meet at least one of the standards in the rule. If the expungement order fails to meet at least one of the standards in the rule, NASD will participate in the judicial proceeding and oppose the expungement.

Consistent with existing CRD policy, certain expungement directives will not be subject to the proposed rule. For example, NASD will continue to expunge certain information that is not customer dispute information, such as certain criminal information, pursuant to federal and state law. Also, NASD may execute, without a court order, an arbitration award rendered in a dispute between a member and a current or former associated person that contains an expungement directive in which the arbitration panel states that expungement relief is being granted based on the defamatory nature of the information.

The CRD system is an on-line registration and licensing system for the U.S. securities industry, state and Federal regulators, and self-regulatory organizations (''SROs''). The CRD system contains broker-dealer information filed on the Uniform Application for Broker-Dealer Registration (''Form BD'') and the Uniform Request for Withdrawal from Broker-Dealer Registration (''Form BDW'') and information on associated persons filed on the Uniform

[4] NASD Dispute Resolution will draft training materials for arbitrators and informational materials for parties regarding the standards under which customer dispute information may be expunged. No amendment to the Code of Arbitration Procedure is currently anticipated.

Application for Securities Industry Registration or Transfer (''Form U–4'') and the Uniform Termination Notice for Securities Industry Registration (''Form U–5''). The CRD system also contains information filed by regulators via the Uniform Disciplinary Action Reporting form (''Form U–6''). The CRD system contains administrative information (personal, organizational, employment history, registration and other information) and disclosure information (criminal matters, regulatory disciplinary actions, civil judicial actions, financial information, and information relating to customer disputes) filed on these forms. For purposes of this rule, ''customer dispute information'' includes customer complaints, arbitration claims, and court filings made by customers, and the arbitration awards or court judgments that may result from those claims or filings. This category of information contains allegations that a member or one or more of its associated persons has violated securities laws, regulations, or rules.

NASD operates the CRD system pursuant to policies developed jointly with the North American Securities Administrators Association (''NASAA''). NASD works with the SEC, NASAA, other members of the regulatory community, and member firms to establish policies and procedures reasonably designed to ensure that information submitted to and maintained on the CRD system is accurate and complete. These procedures, among other things, cover expungement of information from the CRD system in narrowly defined circumstances. NASAA and some states have taken the position that information in the CRD system is a record of any state that uses the information to make a licensing decision, and that state laws generally do not permit information to be expunged once it has been filed on the CRD system, absent a court order that explicitly directs expungement.

Since the inception of the CRD system in 1981, NASD generally has honored court-ordered expungements and, until January 1999, NASD also honored arbitrator-ordered expungements that were contained in final awards. In January 1999, after consultation with NASAA, NASD imposed a moratorium on arbitrator-ordered expungements from the CRD system.[5] Under the moratorium, which is still in effect, NASD will not expunge information from the CRD system based on a directive contained in an arbitration award rendered in a dispute between a public customer and a firm or its associated persons unless that award has been confirmed by a court of competent jurisdiction.[6]

Since imposing the moratorium, NASD has been considering how to craft an approach to expungement that would allow NASD, in its capacity as an SRO and as operator of the CRD system, effectively to challenge expungement directives that might diminish or impair the integrity of the system and to ensure the maintenance of essential information for regulators and investors.[7] Such an approach necessarily requires NASD to balance three competing interests: (1) The interests of NASD, the states, and other regulators in retaining broad access to customer dispute information to fulfill their regulatory responsibilities and investor protection obligations; (2) the interests of the brokerage community and others in a fair process that recognizes their stake in protecting their reputations and permits expungement from the CRD system when appropriate; and (3) the interests of investors in having access to accurate and meaningful information about brokers with whom they conduct, or may conduct, business.

NASD is cognizant of the importance of ensuring that the expungement policy does not have an overly broad chilling effect on the settlement process or inappropriately interfere with the arbitration process or arbitrators' authority to award appropriate remedies. NASD and other regulators participating in the CRD system agree that expungement is extraordinary relief, and that courts granting expungement relief under the existing rules and procedures may not fully consider all of the competing interests referenced above. NASD believes that the additional safeguards and procedures proposed herein will allow fact finders and NASD to consider all competing interests before directing or granting expungement of customer dispute information from the CRD system.

2. Statutory Basis

NASD believes that the proposed rule change, as amended, is consistent with the provisions of section 15A(b)(6) of the Act,[8] in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change, as amended, is designed to accomplish these ends by allowing fact finders and NASD to consider all competing interests before directing or granting expungement of customer dispute information.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change, as amended, would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In October 2001, NASD published Notice to Members 01–65 (''NtM 01–65'' or ''Notice'') requesting comment on the establishment of certain criteria that must be met, and procedures that must be followed, before NASD would expunge certain information from the CRD system pursuant to an expungement order. NtM 01–65 encouraged members, investors, registered representatives, and other interested persons to comment. NASD proposed in NtM 01–65 that the CRD system expunge customer dispute information only if certain criteria are met and certain protocols followed. Specifically, NASD requested comment on whether expungement of customer dispute information from the CRD system should generally be limited to cases where the expungement order is based on a finding by an arbitrator or a court that (1) The subject matter of a claim or information in the system involves a case of factual impossibility or ''clear error''; (2) the claim is without legal merit; or (3) the information contained in the CRD system is determined to be defamatory in nature.

NASD also sought comment on (1) Specific procedures that would be required to be followed depending on whether the finding that is made results from a contested proceeding or from a settled matter; (2) the adoption of a rule amending the Code of Arbitration

[5] The moratorium was announced in Notice to Members 99–09.

[6] Under existing CRD policy, and consistent with the 1999 moratorium, NASD may execute, without a court order, arbitration awards rendered in disputes between registered representatives and firms that contain expungement directives in which the arbitration panel states that expungement relief is being granted because of the defamatory nature of the information. These expungements are not covered by the moratorium and will not be covered by the proposed rules and policies.

[7] In July 1999, NASD issued Notice to Members 99–54 seeking comment on possible approaches to addressing arbitrator-ordered expungements of information from the CRD system.

[8] 15 U.S.C. 78o–3(b)(6).

Procedure to require a finding in an arbitration award of one or more of the expungement criteria discussed in the Notice; and (3) the adoption of a rule or Interpretive Material that clearly articulates NASD's authority to pursue disciplinary action against a member or associated person who seeks to have information about an arbitration claim expunged after there has been an award rendered against that member or associated person by the arbitrators or seeks to expunge any arbitration award that does not contain an expungement order and a finding of at least one of the criteria set forth in the Notice. NtM 01–65 provided members and other interested parties with a checklist of four questions that they could use to respond to the request for comment in addition to, or in lieu of, sending written comments. NASD noted that the checklist did not cover all aspects of the proposal, and it encouraged commenters to provide written comments, as necessary. NASD extended the comment period from November 24, 2001 to December 31, 2001. NASD received a total of 579 responses to the Notice.

Forty of the 579 responses to NtM 01–65 consisted solely of written comments. A significant percentage of the remaining 539 commenters identified themselves as registered representatives associated with NASD member firms, and these commenters overwhelmingly opposed the imposition of any additional substantive or procedural obligations before expungement of customer dispute information could be effected. Commenters responded to the four questions as follows: [9]

Question 1 asked: ''Should [NASD] adopt a rule that would require members to provide notice to [NASD] and make [NASD] a party to the proceeding before seeking a court order directing expungement or confirming an arbitration award that contains an expungement directive?'' Forty commenters answered ''yes,'' 495 commenters answered ''no,'' and four commenters did not answer this question.

Question 2 asked: ''Should [NASD] establish specific standards that must be met before it will execute orders directing it to expunge customer dispute information from the CRD system? Are the standards identified in the Notice (*i.e.*, factually impossible/clear error; without legal merit; and defamatory in nature) appropriate?'' Fifty-one commenters answered ''yes,'' 483 commenters answered ''no,'' and five commenters did not answer this question.

Question 3 asked: ''Should [NASD] execute arbitrators'' directives to expunge customer dispute information from the CRD system if (1) arbitrators make specific findings in stipulated or consent awards; (2) arbitrators expressly include those findings in an award; and (3) a party confirms the award in a court of competent jurisdiction?'' Eighty-eight commenters answered ''yes,'' 441 commenters answered ''no,'' and 10 commenters did not answer this question.

Question 4 asked: ''Should [NASD] adopt a rule or Interpretive Material that would explicitly articulate [NASD's] authority to pursue disciplinary actions for violations of just and equitable principles of trade against a member or associated person who seeks to have information about an arbitration claim expunged after there has been an award rendered against that member by the arbitrators or seeks to expunge any arbitration award that does not contain an expungement order and a finding of at least one of the criteria described in the Notice?'' Forty-eight commenters answered ''yes,'' 483 commenters answered ''no,'' and eight commenters did not answer this question.

Of the 40 commenters who responded by letter, 25 were NASD members or persons associated with NASD members.[10] NASAA, the Securities Industry Association (''SIA''), the Public Investors Arbitration Bar Association (''PIABA''), the National Association of Investment Professionals (''NAIP'') also commented, as did a number of non-industry persons who have an interest in the arbitration process. There was a wide variance in these comments, ranging from approval of some or all of the proposed procedures to total disapproval. Among the concerns raised by commenters were: the proposed procedures requiring court confirmation would be burdensome and costly; mandatory court confirmation and naming NASD as a party would undermine the arbitration process; the proposed procedures would create a conflict of interest between firms and representatives in settlements because the firm might wish to settle a case, regardless of its merits, thereby precluding the representative from obtaining an expungement; and the proposed criteria for expungement were too vague and/or too restrictive.

Some of these commenters recommended new requirements in the arbitration process to handle expungement requests. For example, it was suggested that arbitrators be required to decide claims of defamation based on the law of the state in which the party claiming defamation maintains his/her/its principal office, or in accordance with the terms of an agreement between the parties. Another suggestion was to require claimants to attest that they are bringing the claim in good faith and to give arbitrators the authority to award sanctions against claimants who bring claims in bad faith or without a reasonable basis. Some commenters suggested that a party submitting a stipulated award containing a recommendation for expungement to a court for confirmation should attach an affidavit setting forth facts constituting ''factual impossibility'' and/or ''clear error.''

Based on the comments to NtM 01–65, NASD is proposing to retain the core substantive requirements of the expungement program described in NtM 01–65, but is also proposing certain modifications to the program proposed in the Notice. NASD recognizes that any expungement program requires a balancing of competing interests. NASD believes that the proposed rule will: help to ensure that information submitted to and maintained on the CRD system is accurate and complete; give regulators the broad access to customer dispute information that they need to fulfill their regulatory responsibilities; give individuals in the brokerage community a fair process that protects their reputations and permits expungement from the CRD system when appropriate; and gives investors access to accurate information about brokers with whom they conduct, or may conduct, business.

NASD has incorporated the following modifications based on its review of the comments. NASD proposes to modify the three broad categories proposed in NtM 01–65: ''without factual basis,'' ''without legal merit,'' and ''defamatory in nature.'' The ''without factual basis'' standard would include, as identified in the Notice, the ''factually impossible'' and ''clear error'' standards. Of the three categories proposed, the ''without legal merit'' standard drew the most comments, ranging from claims that it is too narrow, too broad, or too vague. To address those comments, NASD proposes to change the ''without legal merit'' standard to a standard of ''failure to state a claim upon which relief can be granted'' or ''frivolous.'' NASD

[9] Some commenters submitted duplicate responses to the questions; NASD considered these as one vote per question. For those commenters who changed their answers to the questions in a second response, NASD considered only the second response. NASD staff also notes that not all commenters responded to each question.

[10] A number of commenters did not identify any affiliation.

proposes to retain the ''defamatory in nature'' standard proposed in NtM 01–65. Although this standard was the subject of many comments, it has been used successfully in the arbitration forum in registered representative/member firm arbitrations, and NASD believes that it is appropriate as proposed.

NASD proposed in NtM 01–65 to limit expungement relief in stipulated awards to cases involving ''factual impossibility'' or ''clear error'' on the basis that persons in those circumstances should be able to avail themselves of the settlement opportunity outside of arbitration, and then request that an arbitrator issue an award that incorporates the stipulated settlement and includes expungement relief for certain named parties. In excluding the other two grounds for expungement from its initial proposal, NASD noted that it believed that it was unlikely that claimant or claimant's counsel would agree that the claim or information at issue was lacking in legal merit or was defamatory in nature. In response to comments, NASD proposes to modify the original proposal to allow expungement relief in stipulated awards (or on the basis of a settlement) based on all three grounds, with a uniform requirement that there be specific judicial or arbitral findings in all such cases. In connection with making the required arbitral findings in such cases, NASD will explore the use of telephonic versus in-person hearings, as well as the option of making a decision based on briefs and affidavits from the parties and relevant third parties.

In response to commenters' concerns about the burdens and costs in naming NASD as an additional party in any judicial proceeding seeking expungement relief or confirming an arbitration award containing expungement relief and serving NASD with the appropriate court papers, NASD proposes to retain these requirements, but it further proposes to permit parties to ask NASD to waive the requirement that it be made a party upon a showing that the expungement relief being requested is within the established standards. This will save members and NASD time and expense by enabling NASD to review the findings of the arbitrators or court and determine to waive participation in the judicial proceeding if the findings meet at least one of the standards in the rule. If the expungement order fails to meet at least one of the standards in the rule, NASD will participate in the judicial proceeding and oppose the expungement. NASD also proposes to retain discretion not to oppose expungement relief in exceptional cases where the basis for the expungement does not fall within one of the three standards. NASD would exercise such discretion only if it determines that the expungement is meritorious and would have no material adverse effect on investor protection, the integrity of the CRD system, or regulatory requirements.

After reviewing the comments, NASD also determined not to adopt a rule or Interpretive Material that would explicitly articulate NASD's authority to pursue disciplinary actions for violations of just and equitable principles of trade against a member or associated person who seeks to have information about an arbitration claim expunged after there has been an award rendered against that member by the arbitrators or seeks to expunge any arbitration award that does not contain an expungement order and a finding of at least one of the criteria described in the Notice. NASD believes that it currently has authority under Rule 2110 to bring a disciplinary action against NASD members and their associated persons who contravene the standards set forth in NASD's proposed rule and policies. NASD will revisit this issue in the future should it appear that such a rule is necessary.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, as amended, or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–168 and should be submitted by March 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5602 Filed 3–7–03; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.3–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47418; File No. SR–ODD–2003–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Proposed Supplement To Amend the Options Disclosure Document Regarding Options on Fund Shares, Settlement Prices for Index Options, and the Exemption of Standardized Options from the Provisions of the Securities Act of 1933; and Amendment to the Options Disclosure Document Front Cover Page To Identify the Markets in Which Options Are Traded

February 27, 2003.

On February 25, 2003, the Options Clearing Corporation (''OCC'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 (''Act''),[1] five definitive copies of a Supplement to its options disclosure document (''ODD''), which amends the ODD to describe, among other things, the risks and characteristics of trading in options, and, in particular, options on fund shares, settlement prices for index options, and the exemption of standardized options from the provisions of the Securities Act of 1933.[2] The ODD would also be amended to update its front inside cover page so

[1] 17 CFR 240.9b–1.

[2] *See* letter from Jean M. Cawley, First Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, dated February 24, 2003.

that it contains a current list of the U.S. exchanges that trade options issued by the OCC.

The ODD currently contains general disclosures on the characteristics and risks of trading standardized options. The Commission has approved options exchange proposals to list and trade options on particular fund shares based on fixed-income securities.[3] To accommodate options on these particular types of funds, the Commission also approved an OCC proposal to replace the terms ''stock fund options'' and ''stock fund shares'' with the terms ''fund options'' and ''fund shares'' respectively, and also eliminated all references to ''stock'' or ''equity'' within the definitions to these terms.[4] To provide a description of options on these particular types of fund shares based on fixed-income securities, the proposed Supplement amends the ODD to state that the term ''fund shares'' may include non-equity securities.

The Commission has also approved an OCC rule proposal that gives the OCC the ability to fix settlement prices for OCC-cleared index options where appropriate in the case of market disruptions.[5] The proposed Supplement amends the ODD to incorporate a description of this change.

In addition, the Commission recently exempted standardized options issued by a registered clearing agency and traded on a registered national securities exchange or association from the provisions of the Securities Act of 1933,[6] except for the antifraud provisions of Section 17A of the Securities Act of 1933.[7] As a result, standardized options covered by the ODD are no longer required to be registered under the Securities Act of 1933, an OCC registration statement will no longer be available for inspection at the OCC's office, and copies of an OCC prospectus for standardized options will no longer be available from the OCC or the U.S. options markets. The proposed Supplement amends the ODD to incorporate descriptions of these changes.

Finally, the ODD would also be amended to update its front inside cover page so that it contains a current list of the U.S. exchanges that trade options issued by the OCC. Specifically, the list would be amended to delete reference to the New York Stock Exchange, Inc. (''NYSE'') (which no longer trades standardized options issued by the OCC) and its corporate address, and to add The International Securities Exchange, Inc. (''ISE'') (which currently trades standardized options issued by the OCC) and its corporate address.

The Commission has reviewed the proposed ODD Supplement and finds that it complies with Rule 9b–1 under the Act.[8] The Supplement is intended to be read in conjunction with the more general ODD, which, as described above, discusses the characteristics and risks of options generally. The Supplement provides additional information describing options on fund shares and the types of securities that can underlie them, the OCC's ability to fix settlement prices for OCC-cleared index options where appropriate in the case of market disruptions, and the implications resulting from the exemption of standardized options from the provisions of the Securities Act of 1933.

Finally, the Commission has reviewed the proposed changes that update the front inside cover page of the ODD. Specifically, the Commission finds that it accurately identifies the markets in which options are currently traded pursuant to Rule 9b–1(c)(4) under the Act.[9]

Rule 9b–1 under the Act[10] provides that an options market must file five copies of an amendment or supplement to the ODD with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of information disclosed and the public interest and protection of investors.[11] In addition, five definitive copies shall be filed with the Commission not later than the date the amendment or Supplement, or the amended options disclosure document, is furnished to customers. The Commission has reviewed the Supplement and amendment, and finds them consistent with the protection of investors and in the public interest to allow the distribution of these documents as of the date of this order.

It is therefore ordered, pursuant to Rule 9b–1 under the Act,[12] that the proposed Supplement (SR–ODD–2003–01) regarding options on fund shares, settlement prices for index options, and the exemption of standardized options from the provisions of the Securities Act of 1933, as well as the proposed amendment to the Options Disclosure Document front cover page to identify the markets in which options are currently traded are approved. The Commission has also determined that definitive copies can be furnished to customers as of the date of this order.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5566 Filed 3–7–03; 8:45 am]

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[3] *See* Securities Exchange Act Release Nos. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (approving File No. SR–Amex–2001–35); and 46435 (August 29, 2002), 67 FR 57046 (September 6, 2002) (approving File No. SR–CBOE–2002–47).

[4] *See* Securities Exchange Act Release No. 46914 (November 26, 2002), 67 FR 72261 (December 4, 2002) (approving File No. SR–OCC–2002–22).

[5] *See* Securities Exchange Act Release No. 46561 (September 26, 2002), 67 FR 61943 (October 2, 2002) (approving File No. SR–OCC–2002–09).

[6] *See* Securities Exchange Act Release No. 47082 (December 23, 2002), 68 FR 188 (January 2, 2003) (adopting File No. S7–29–02 creating an exemption for standardized options from provisions of the Securities Act of 1933 and from the registration requirements of the Act).

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 240.9b–1.

[9] 17 CFR 240.9b–1(c)(4).

[10] 17 CFR 240.9b–1.

[11] This provision is intended to permit the Commission either to accelerate or extend the time period in which definitive copies of a disclosure document may be distributed to the public.

[12] 17 CFR 240.9b–1.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47428; File No. SR–PCX–2003–05]

Self-Regulatory Organizations; Notice of Withdrawal of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Linkage Fee Charges

March 3, 2003.

On January 31, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') submitted to 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] to provide for fees for certain options intermarket linkage orders. The proposed rule change was published in the **Federal Register** on February 13, 2003.[3] No comment letters were received on the proposal. On February 27, 2003, the Exchange withdrew the proposed rule change.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 47330 (February 6, 2003), 68 FR 7405.

[4] *See* letter from Mai Shiver, Senior Attorney, Regulatory Policy, PCX, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated February 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5567 Filed 3–7–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47430; File No. SR–PCX–2002–09]

Self Regulatory Organizations; Order Approving a Proposed Rule Change by the Pacific Exchange, Inc. To Confer or Delegate Jurisdiction for Certain Auto-Ex Determinations From the Options Floor Trading Committee to Two Floor Officials

March 3, 2003.

On February 11, 2002, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] the Pacific Exchange, Inc. (''PCX'') filed a proposed rule change with the Securities and Exchange Commission to amend PCX Rule 6.87 to confer or delegate jurisdiction for making certain day-to-day decisions with respect to the PCX's Automatic Execution System (''Auto-Ex'') from the PCX's Options Floor Trading Committee (''OFTC'') to two floor officials. On December 31, 2002, the PCX filed Amendment No. 1 to the proposed rule change, which replaced the original filing in its entirety. The proposed rule change, as amended, was published for comment in the **Federal Register** on January 17, 2003.[3] The Commission received no comments on the proposal.

The Commission believes that the proposed rule change will enhance efficiency because it will allow the PCX the flexibility to grant exemptive relief and to make *ad hoc* decisions with respect to certain Auto-Ex matters without convening the full OFTC. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, particularly Section 6 of the Act[4] and the rules and regulations thereunder.[5]

The Commission also finds that the proposed rule change will promote just and equitable principles of trade consistent with Section 6(b)(5) of the Act.[6]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–PCX–2002–09) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–5571 Filed 3–7–03; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 47165 (January 10, 2003), 68 FR 2612 (January 17, 2003).

[4] 15 U.S.C. 78f.

[5] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9U34]

State of Rhode Island (And Contiguous Counties in Connecticut)

Kent County and the contiguous counties of Bristol, Newport, Providence and Washington in the State of Rhode Island; and New London and Windham Counties in the State of Connecticut constitute an economic injury disaster loan area as a result of a fire that occurred on February 20, 2003 in West Warwick, Rhode Island. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on *December 3, 2003* at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd, South 3rd Floor, Niagara Falls, NY 14303.

The interest rate for eligible small businesses and small agricultural cooperatives is 3.189 percent.

The numbers assigned for economic injury for this disaster are 9U3400 for Rhode Island; and 9U3500 for Connecticut.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: March 3, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–5611 Filed 3–7–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region 1—Maine District Advisory Council; Public Meeting

The U.S. Small Business Administration Region 1 Advisory Council, located in the geographical area of Augusta, Maine will hold a public meeting at 10 a.m. April 8, 2003 at 68 Sewall Street, Room 510, Augusta, Maine to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Mary McAleney, District Director, U.S. Small Business Administration, 68 Sewall Street, Room 512, Augusta, Maine 04330, by e-mail or fax at *mary.mcaleney.@sba.gov* or (207) 622–8277. Fax no later than Friday, March 14, 2003. For more information please contact Mary McAleney at (207) 622–8386.

Candace Stoltz,

Director Advisory Councils.

[FR Doc. 03–5526 Filed 3–7–03; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

The Ticket to Work and Work Incentives Advisory Panel Teleconferences

AGENCY: Social Security Administration (SSA).

ACTION: Notice of teleconferences.

DATES: Wednesday, March 19, 2003 and Wednesday, March 26, 2003.

Teleconferences: Wednesday, March 19, 2003, 1 p.m. to 3 p.m. Eastern time and Wednesday, March 26, 2003, 2 p.m. to 3 p.m. Eastern time.

Ticket to Work and Work Incentives Advisory Panel Conference

Call-in number: 877–546–1568.
Pass code: PANEL.
Leader/Host: Sarah Wiggins Mitchell.

SUPPLEMENTARY INFORMATION:

Type of meeting: These teleconference meetings are open to the public. The interested public is invited to participate by calling into the teleconference at the number listed above. Public testimony will not be taken.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces these teleconference meetings of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of

Public Law 106–170 establishes the Panel to advise the President, the Congress and the Commissioner of SSA on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA). The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Agenda: The Panel will deliberate on the implementation of TWWIIA and conduct Panel business. The Panel will be discussing its Annual Report to Congress and follow up items from their February Quarterly meeting, including a discussion of SSA's plan for improving its employment support infrastructure.

The agenda for the meetings will be posted on the Internet at *http://www.ssa.gov/work/panel/* one week prior to the teleconference or can be received in advance electronically or by fax upon request.

Contact Information: Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the Ticket to Work and Work Incentives Advisory Panel staff by:

- Mail addressed to Ticket to Work and Work Incentives Advisory Panel Staff, Social Security Administration, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024;
- Telephone contact with Kristen Breland at (202) 358–6430;
- Fax at (202) 358–6440; or
- E-mail to *TWWIIAPanel@ssa.gov*

Dated: March 3, 2003.

Carol Brenner,

Designated Federal Officer.

[FR Doc. 03–5530 Filed 3–7–03; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF SPECIAL COUNSEL

Proposed Information Collection Activities; Request for Comment

AGENCY: Office of Special Counsel.

ACTION: Notice.

SUMMARY: The U.S. Office of Special Counsel (OSC), in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35) and implementing regulations at 5 CFR Part 1320, plans to request approval from the Office of Management and Budget (OMB) for use of two previously approved information collections: (1) Form OSC–11, Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity; and (2) Form OSC–12, Disclosure of Information. Both forms to be submitted include minor technical edits previously approved by OMB; form OSC–11 (complaint form) also includes revisions to three consent statements in the form. These collections of information are described in OSC regulations at 5 CFR 1800.1 and 1800.2. The current OMB approval for these collections of information expires on August 31, 2003.

Current and former Federal employees, employee representatives, other Federal agencies, and the general public are invited to comment on these information collections. Comments are invited on: (a) whether the proposed collections of information are necessary for the proper performance of OSC's functions, including whether the information will have practical utility; (b) the accuracy of OSC's estimate of the burden of the proposed collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments should be received on or before May 9, 2003.

ADDRESSES: Kathryn Stackhouse, Legal Counsel and Policy Division, U.S. Office of Special Counsel, 1730 M Street, NW, Suite 300, Washington, DC 20036–4505.

FOR FURTHER INFORMATION CONTACT: Kathryn Stackhouse, Legal Counsel and Policy Division, at the address shown above; by telephone at (202) 653–8971; or by facsimile at (202) 653–5151. The collections of information to be submitted to OMB will be available for review on OSC's Web site (at *http://www.osc.gov*) as of the date of this notice.

SUPPLEMENTARY INFORMATION: Comment is requested on the following two collections of information:

1.Title of Collection: Complaint of Possible Prohibited Personnel or Other Prohibited Activity (Agency Form Number: OSC–11; OMB Control Number 3255–0002)

Type of Information Collection: Approval of a previously approved collection of information that expires on August 31, 2003. The proposed information collection format includes changes as follows: (1) minor technical edits previously approved by OMB since the last formal clearance under the PRA; and (2) minor revisions to three consent statements in part 3 of form OSC–11 (complaint form), to make the scope and/or meaning of the statements clearer.

Affected public: Current and former Federal employees, applicants for Federal employment, and their representatives.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Respondents: 1771.

Frequency: On occasion.

Estimated Average Burden Per Respondent: 1.25 hours.

Estimated Annual Burden: 2214 hours.

Abstract: The complaint form is required for use by current and former Federal employees and applicants for Federal employment, under 5 CFR 1800.1, to submit allegations of possible prohibited personnel practices or other prohibited activity for investigation and possible prosecution by OSC, except for allegations involving the Hatch Act, which may be submitted by providing the information described at 5 CFR 1800.1. Currently the complaint form is available by contacting OSC at 800–872–9855, or from OSC's Web site at *http://www.osc.gov*. The form may be printed from the web site, filled out, signed, and then mailed or faxed to OSC's Complaints Examining Unit. By October 21, 2003, OSC plans to provide the capability to electronically file a complaint form, pursuant to the Government Paperwork Elimination Act (GPEA), Pub. L. 105–277.

2. Title of Collection: Disclosure of Information (Agency Form Number: OSC–12; OMB Control Number 3255–0002).

Type of Information Collection: Approval of a previously approved collection of information that expires on August 31, 2003. The proposed information collection format includes minor modifications to the existing forms made since the last formal clearance under the PRA.

Affected public: Current and former Federal employees, applicants for Federal employment, and their representatives.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Respondents: 475.

Frequency: On occasion.

Estimated Average Burden Per Respondent: 1 hour.

Estimated Annual Burden: 475 hours.

Abstract: This optional whistleblower disclosure form, and the format provided in 5 CFR 1800.2, are for use by current and former Federal employees and applicants for Federal employment

to disclose (for OSC review and possible referral to the agency involved) a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Currently, this form is available by contacting OSC at 800–572–2249, or from OSC's Web site at *http://www.osc.gov*. The form may be printed from the web site, filled out, signed, and then mailed or faxed to OSC's Disclosure Unit. By October 21, 2003, OSC plans to provide the capability to electronically file a disclosure form, pursuant to the Government Paperwork Elimination Act (GPEA), Pub. L. 105–277.

Dated: March 4, 2003.

Timothy Hannapel,

Deputy Special Counsel.

[FR Doc. 03–5586 Filed 3–7–03; 8:45 am]

BILLING CODE 7405–01–S

DEPARTMENT OF STATE

[Public Notice 4294]

Culturally Significant Objects Imported for Exhibition Determinations: ''Transmitting the Forms of Divinity: Early Buddhist Art From Korea and Japan''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Transmitting the Forms of Divinity: Early Buddhist Art from Korea and Japan,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Japan Society Gallery from on or about April 7, 2003 until June 22, 2003, and at possible additional venues yet to be determined, is in the national interest. Public notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact the Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: February 28, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–5610 Filed 3–7–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Nevada County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Nevada County, California.

FOR FURTHER INFORMATION CONTACT: Maiser Khaled, Chief, District Operations—North, Federal Highway Administration, California Division, 980 North Street, Suite 400, Sacramento, California 95814, Telephone: (916) 498–5020, or Jeffrey M. Loudon, Chief Environmental Management, M–1 Branch, California Department of Transportation, District 3, PO Box 911, Marysville, CA 95901–0911, (530) 741–4598.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an Environmental Impact Statement (EIS) for a proposed upgrade of State Route (SR) 49 in Nevada County, California. The proposed project would construct a four-lane conventional highway with a continuous median/left-turn lane, from Wolf/Combie Road (KP 3.5) to the end of the freeway south of McKnight Way near Grass Valley (KP 21.40). It is also proposed to review the continuation of the freeway section south to Crestview Drive (KP 20.8), a distance of approximately 0.6 km, because of the possible future construction of an interchange.

Improvements to the corridor are considered necessary to improve safety, provide for existing and projected traffic demand, and potentially reduce operational problems and accident rates. Alternatives under consideration include (1) taking no action, (2) constructing a four-lane facility that follows the existing alignment utilizing a 4.2 m median, (3) a range of alternatives including bicycle, mass transit, and Transportation Systems Management alternatives (*e.g.,* congestion pricing and demand management).

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. In addition, a public workshop will be held, with public notice being given of the time and location. The draft EIS will be available for public and agency review and comment prior to the workshop. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 4, 2003.

Maiser Khaled,

Chief, District Operations—North Sacramento, California.

[FR Doc. 03–5573 Filed 3–7–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34318]

Union Pacific Railroad Company—Trackage Rights Exemption—Midwest Generation, LLC

Midwest Generation, LLC (Midwest), pursuant to a written trackage rights agreement entered into between Midwest and Union Pacific Railroad Company (UP), has agreed to grant local trackage rights to UP over Midwest's entire line of railroad, approximately 4,007 feet long in Will County, IL, extending from Midwest's power plant in Joliet, IL, to a connection with nearby track owned by UP.[1]

[1] Construction of the track at issue (Midwest's entire line) was authorized by the Board in *Midwest*

Continued

The transaction was scheduled to be consummated on March 1, 2003. The earliest the transaction could have been consummated was February 28, 2003, the effective date of the exemption (7 days after the exemption was filed).

The purpose of the proposed trackage rights is to enable UP to deliver coal to Midwest's plant without interchanging its traffic to Illinois Central Railroad Company.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34318, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Robert T. Opal, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: March 3, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–5447 Filed 3–7–03; 8:45 am]

BILLING CODE 4915–00–P

Generation, LLC—Exemption From 49 U.S.C. 10901—For Construction in Will County, IL, STB Finance Docket No. 34060, *et al.,* (STB served Oct. 4, 2002). UP indicates that part of the construction for the proposed trackage rights was recently completed and part will be constructed in the future.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 3, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 9, 2003 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1536.

Regulation Project Number: REG–209823–96 Final.

Type of Review: Extension.

Title: Guidance Regarding Charitable Reminder Trusts and Special Valuation Rules for Transfers of Interests in Trusts.

Description: The recordkeeping requirement in the regulation provides taxpayers with an alternative method for complying with Congressional intent regarding charitable remainder trusts. The recordkeeping alternative may be less burdensome for taxpayers.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 150.

Estimated Burden Hours Per Recordkeeper: 30 minutes.

Estimated Total Recordkeeping Burden: 75 hours.

Clearance Officer: Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 03–5609 Filed 3–7–03; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 68, No. 46

Monday, March 10, 2003

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 HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 162

[CMS–0003–F and CMS–0005–F]

RINs 0938–AK64 and 0938–AK76

Health Insurance Reform: Modifications to Electronic Data Transaction Standards and Code Sets

Correction

In rule document 03–3876 beginning on page 8381 in the issue of Thursday, February 20, 2003, make the following corrections:

1. On page 8396, in the second column, the part head is corrected to read as follows: **PART 162—ADMINISTRATIVE REQUIREMENTS**.

§162.1102 [Corrected]

2. On page 8397, in the third column, in §162.1102, paragraph (b) should read, ''For the period on and after October 16, 2003''.

3. On page 8398, in the first column, in the same section, the heading for paragraph (b)(3) should read, '' *Professional health care claims*''.

4. On the same page, in the same column, in the same section, in paragraph (b)(4), in the fifth line, after ''004010X096'' add the following text ''and Addenda to Health Care Claim: Institutional, Volumes 1 and 2, Version 4010, October 2002, Washington Publishing Company, 004010X096A1.''

§162.1202 [Corrected]

5. On page 8398, in §162.1202, in the first column, paragraphs (b)(1) and (2) should read be removed.

[FR Doc. C3–3876 Filed 3–7–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
March 10, 2003

Part II

Department of Housing and Urban Development

24 CFR Part 3285

Manufactured Housing Installation Program: Standards, Training, Licensing, and Inspection; Advance Notice of Proposed Rulemaking

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3285

[Docket No. FR–4812–A–01]

RIN 2502–AH97

Manufactured Housing Installation Program: Standards, Training, Licensing, and Inspection; Advance Notice of Proposed Rulemaking

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document requests comments on issues related to the development of a national manufactured housing installation program. By December 2005, HUD is required to establish and implement an installation program that includes installation standards; the training and licensing of manufactured home installers; and inspection of the installation of manufactured homes. HUD's program will be implemented in states that do not have their own qualifying installation program.

DATES: *Comment Due Date:* April 24, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this advance notice of proposed rulemaking to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Office of Manufactured Housing Programs, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–6401 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (''the Act'') (42 U.S.C. 5401–5426) is intended to protect the quality, safety, durability, and affordability of manufactured homes. The Act was amended in December 2000 (title VI, Pub. L. 106–659, 114 Stat. 2997, approved December 27, 2000), in part to require the Secretary to establish and implement two new national manufactured housing programs, one for installation and one for dispute resolution.

This notice requests public input on what HUD should consider as it develops a proposed rule to establish the installation program. When the subsequent proposed rule is published, the public will also have an opportunity to comment on the elements of HUD's specific proposals. An advance notice of proposed rulemaking soliciting comments on the dispute resolution program is being published separately in today's **Federal Register**. The public is invited to submit comments separately in response to that notice, and should refer to the docket number and title of that notice in any such response.

Installation Program

Section 605 of the Act (42 U.S.C. 5404) requires the Secretary to establish and implement a manufactured housing installation program by December 27, 2005. The components of the program must include: (1) Installation standards; (2) the training and licensing of manufactured home installers; and (3) inspection of the installation of manufactured homes. HUD's program will be implemented in any state that does not have its own installation program established by state law that includes these three components. Further, a state's installation standards must provide protection that equals or exceeds the protection provided by the standards adopted by HUD for its national program.

HUD's installation standards will be developed and established after it receives draft model standards proposed by the Manufactured Housing Consensus Committee (''the MHCC''). The MHCC is an advisory committee that was also established by the December 2000 amendments to the Act. After HUD receives the MHCC draft installation standards, HUD will publish for public comment proposed model installation standards. Because the MHCC will first address the content of draft installation standards, most of the questions in today's advance notice of proposed rulemaking focus on the other components of HUD's installation program. Comments received that relate to the development of installation standards will be shared with the MHCC as it works to develop draft installation standards for submittal to HUD.

Request for Comments

Commenters are invited to comment on the specific topics suggested below, or on any other matter or concern relevant to the development of an installation program as described above. HUD requests that comments on the following issues reference the number of the issue described, and that other comments be separately identified in the commenter's response:

General Questions

1. How should consumers be made aware of the existence of, and their rights under, the installation, licensing, training, and inspection program?

2. How will HUD obtain funding for its installation, licensing, training, and inspection program? Should HUD charge licensing, training, and inspection fees in order to support its installation program? If so, how should fees be determined? Who will be required to pay the fees?

3. In situations where one part of a state's program meets the Act's required criteria, but is deemed insufficient in another part (*e.g.*, the state's licensing program meets or exceeds the federal requirements, but its training program lacks certain required elements), could there be a partial acceptance of that state's program, or would HUD's program preempt the entire state program?

4. How should state licensing, training, and inspection programs be funded? Should adequate funding be a criterion for HUD approval?

5. Should it be mandatory for states with approved installation programs to permit installations by HUD-licensed installers?

6. Should HUD consider an approach that both certifies installers and provides for accreditation of trainers?

7. Are there ways in which the licensing and training could be facilitated through electronic means?

8. What factors should the Secretary consider when determining whether to apply the new installation requirements to existing, as well as to new, home installations?

Installation Standards

9. HUD preempts state and local manufactured home construction and safety standards. How should an installation standard be differentiated from a construction and safety standard, so that local, state, and federal enforcement personnel will understand the scope of their jurisdiction? (*i.e.*, how

should ''installation'' be defined to distinguish installation from ''construction''?)

10. Should all Alternative Construction (AC) approvals that affect installations be resubmitted to determine if AC approval is still necessary after new installation standards become effective? Should HUD expand the AC process to permit deviations from the new installation standards?

11. What should be the procedure or mechanism for determining that a state's installation standards provide protection that equals or exceeds the protection provided to residents of manufactured homes by the model installation standards adopted by HUD?

12. Section 605(c)(3)(A)(ii) of the Act (42 U.S.C. 5404(c)(3)(A)(ii)) also permits installation standards that provide protection that equals or exceeds the protection provided to residents of manufactured homes by the installation designs and instructions required to be provided by manufacturers, if HUD determines that such designs and instructions provide protection at least equivalent to the model installation standards adopted by HUD. In addition, section 605(a) of the Act (42 U.S.C. 5404(a)) provides that design approval primary inspection agencies (DAPIAs) will be required to approve all manufacturer designs and instructions, but only if they provide equal or greater protection than the protection provided by the model standards. What should be the procedure or mechanism for a determination by HUD that a manufacturer's installation designs and instructions for any home it produces meets the level of protection provided by the model standards?

13. What factors should HUD take into consideration when reviewing proprietary installation systems under the new installation standards?

Licensing Installers

14. As stated earlier, HUD's program will be implemented in each state that does not have its own qualified installation program. How should HUD determine whether a state licensing program is a bona fide program that meets the requirements of the Act?

15. How much experience installing manufactured homes should installers have before becoming eligible for installation licenses? Should HUD, as do many states, establish a minimum age for installers?

16. Some state programs allow unlicensed personnel working under licensed installers to perform installations, as long as the unlicensed personnel are working under the licensed installers' direct supervision. Other states require everyone who performs installation work to obtain a license. Should HUD require all individuals who perform installations to obtain a license or should HUD allow unlicensed individuals to perform installation work as long as they work under the direction of licensed installers?

17. Some states provide different levels of licensing. For example, Level One would allow licensees to level ground and place piers to support a manufactured home; Level Two would additionally permit licensees to make structural repairs, alterations, and modifications; Level Three holders would be allowed to perform the functions included in Levels One and Two plus service and repair natural gas piping and appliances, change and adjust orifices, and service and repair plumbing and electrical systems. Should HUD adopt a multilevel licensing system? Or should HUD develop one general license under which licensees may perform any or all of these functions?

18. For what amount of time should licenses be valid? Should all licenses expire on a specific day, *e.g.*, the last day of the month, no matter when they were obtained?

19. Should HUD grant temporary licenses to installers while they await licensing? If so, for how long should temporary licensing be valid? What restrictions should be placed on the scope of a temporary license?

20. How much insurance coverage should HUD require installers to maintain? What should that insurance cover?

21. Should HUD require licensees to be bonded, as well as insured? If so, what would be a reasonable amount of security?

22. Should HUD use contractors to perform licensing functions? If so, what qualifications in terms of background or experience should outside contractors have?

23. What should be the procedures and the grounds for revoking, suspending, or denying licenses?

24. Should HUD differentiate in the installation regulations between independent installers and manufacturers that perform their own installations?

Training Installers

25. As stated earlier, HUD's program will be implemented in each state that does not have its own qualified installation program. How should HUD determine whether a state training program is a bona fide program that meets the requirements of the Act?

26. In the event that HUD decides that installers may utilize unlicensed installers working under the licensed installers' supervision, should HUD require that the unlicensed workers receive training before being allowed to perform installations? If so, how much training should HUD require that they take?

27. What procedures should HUD establish for approving organizations that provide training or continuing education? Under what circumstances should HUD deny or withdraw approval of courses or their sponsors?

28. For what length of time should HUD's approval of courses and trainers be valid? What process should HUD implement for the renewal of course and trainer approval?

29. How many hours of training should HUD require in order for an individual or installation company to obtain a license? Should installers also take an examination as a condition of obtaining licenses? Should HUD require continuing education in order for installers to maintain or renew their licenses? If so, how many hours?

30. What would be the recommended content, duration, and organization of training and continuing education courses that contribute to the general competence of installers?

31. Should HUD use contractors to perform training functions? If so, what qualifications in terms of background or experience should contractors have?

32. Should HUD approve training programs sponsored by manufactured home manufacturers, retailers, installers, and other firms in the manufactured housing industry? If so, what process and criteria should HUD use in order to approve their programs?

Inspection of Installation

33. Should the installation of every new and used manufactured home be inspected? If not, what process should HUD use in order to determine which installations should be inspected? What should be the scope of an inspection?

34. Who would be responsible for arranging for a required inspection of the installation? When and how would the purchaser be notified of the requirements for an inspection of the installation?

35. Can a purchaser waive the right to an inspection of the installation, given that the statute provides that ''rights afforded manufactured home purchasers * * * may not be waived, and any provision of a contract or agreement * * * to the contrary shall be void''? (Section 622; 42 U.S.C. 5421.)

36. Who would be qualified to perform installation inspections? Are there any potential conflicts of interest or similar concerns that should disqualify any person or entity from performing installation inspections? If so, please explain.

37. What standards and qualifications should HUD require installation inspectors to meet? How many years of experience should they have in order to perform inspections?

38. What should be the result of a failure to pass the inspection of an installation? How should the consumer's interest in purchasing an acceptable home for timely placement on site be assured? Should retailers be required to disclose clearly any limits on their responsibility for proper installation? If so, how?

39. In the event that an installation has been improperly performed, should HUD require the original installer to perform the necessary corrective work? If so, within what amount of time should the corrections need to be completed? Within how many days of the correction work should the installation be reinspected?

40. How will HUD ensure that a home has been installed in accordance with the installation standards? Should self-certification and attachment of a certifying label by an installer be required? If so, should certification labels indicate whether the installation was performed in accordance with federal or state requirements?

41. Should there be increased performance reviews of an installer who has a history of installations that do not meet minimum requirements of the installation program?

42. Should a homeowner be allowed to install his or her own home? If so, what requirements should apply?

Authority: 42 U.S.C. 3535(d), 5404, and 5424.

Dated: March 3, 2003.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 03–5646 Filed 3–5–03; 3:35 pm]

BILLING CODE 4210–27–P

Federal Register

Monday,
March 10, 2003

Part III

Department of Housing and Urban Development

24 CFR Part 3286

Manufactured Housing Dispute Resolution Program; Advance Notice of Proposed Rulemaking

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3286

[Docket No. FR–4813–A–01]

RIN 2502–AH98

Manufactured Housing Dispute Resolution Program; Advance Notice of Proposed Rulemaking

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document requests comments on issues related to the development of the manufactured housing dispute resolution program. Under the Manufactured Housing Improvement Act, HUD is required to establish a program for the timely resolution of disputes among manufacturers, retailers, and installers of manufactured homes regarding responsibility for defects in manufactured homes; and the issuance of appropriate orders for the correction or repair of defects in manufactured homes.

DATES: *Comment Due Date:* April 24, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this advance notice of proposed rulemaking to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile comments are not accepted. A copy of each communication submitted will be available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the above referenced address.

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Office of Manufactured Housing Programs, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–6401 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act) (42 U.S.C. 5401–5426) is intended to protect the quality, safety, durability, and affordability of manufactured homes. The Act was amended on December 27, 2000, by Public Law 106–569, in part to require the Secretary to establish and implement two new national manufactured housing programs, one for installation and one for dispute resolution.

This notice requests public input on what HUD should consider as it develops a proposed rule to establish the dispute resolution program. When the subsequent proposed rule is published, the public will also have an opportunity to comment on the elements of HUD's specific proposals. An advance notice of proposed rulemaking soliciting comments on the installation program is being published separately in today's **Federal Register.** The public is invited to submit comments separately in response to that notice, and should refer to the docket number and title of that notice in any such response.

Dispute Resolution Program

Section 623(c)(12) of the Act (42 U.S.C. 5422(c)(12)) provides for ''a dispute resolution program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured homes regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured homes that are reported during the 1-year period beginning on the date of installation.'' Any states submitting a state plan after December 26, 2005, must provide for such a dispute resolution program as part of the state plan. Additionally, section 623(g) of the Act (42 U.S.C. 5422 (g)) calls for HUD to implement, beginning in December 2005, a dispute resolution program that meets the above requirements in any state that does not establish a program that complies with the Act.

Dispute Resolution Background

In preparation for designing its dispute resolution program, HUD has examined manufactured housing dispute resolution programs established in various states. HUD has also examined a wide variety of dispute resolution models. A brief description of a few of the models examined follows below:

1. Arbitration—An adjudicative process in which a decisionmaker or a panel of decisionmakers makes a ruling after hearing arguments. In this process, the parties are usually represented by attorneys.

2. Mediation—A process that uses a neutral, or mediator, to facilitate discussion between the disputing parties. The primary goal of mediation is to have the parties reach a mutually agreeable solution to their dispute. The mediator acts as a guide through the process and helps the parties focus on the issues, but has no final decisionmaking authority.

3. Mediation-Arbitration (Med-Arb)—A process that combines elements of mediation and arbitration. In this process, the parties attempt to reach resolution through mediation. However, if mediation fails, the parties must submit the remaining issues to arbitration.

4. Mediation-then-Arbitration (Med-then-Arb)—A process similar to Med-Arb, however, in this process a different neutral party is used during the mediation and arbitration phases.

5. Neutral Evaluation—A process that allows a neutral to assess the merits of a case and recommend settlement options.

6. Minitrial—A process designed for business disputes. In a minitrial, attorneys argue their clients' cases before a panel of business officials from the respective organizations involved in the disputes. The business officials must have settlement authority so that they can negotiate a settlement after the case presentations.

7. Negotiation—A process by which parties work out an agreement without any third party intervention.

Request for Comments

There are a number of issues that arise in connection with the creation and implementation of the mandated federal and state dispute resolution programs. The purpose of this Advance Notice Proposed Rulemaking is to allow HUD to gather ideas concerning how the federal dispute resolution program should be structured and how HUD should approve the state programs for operation. Even though HUD requests comments and suggestions on all issues related to the establishment and creation of the federal and state dispute resolution programs, the following issues are of particular interest:

State Program Standards

1. What process should be used to determine whether the proposed state programs meet the Act's requirements? Is proof of adequate funding of a state's program necessary for approval?

2. How will the state programs be funded? Is there a difference for funding purposes between a dispute resolution program that is a part of an approved state plan and a program that is not?

Can accepted states establish additional fees to cover the cost of their programs?

3. What type of oversight should HUD exercise over the state programs to ensure that the programs continue to meet statutory requirements? Should HUD conduct periodic reviews of the state programs to ensure that their programs still meet the Act's standards? If so, how often?

4. If HUD determines that state programs meet statutory requirements, how long should that determination be in effect? How should HUD provide notice that a state's program will be acceptable and HUD's program will not be used in the state?

Federal Program Structure

5. What type of dispute resolution program should be instituted in order to achieve the Act's goal of protecting the quality, durability, safety, and affordability of manufactured homes? Should HUD model its program after one of the widely recognized dispute resolution programs *e.g.* arbitration, mediation, a hybrid of the two, or some other method? Please articulate your reasons.

6. Should HUD's dispute resolution program be modeled after a preexisting state run dispute resolution program? If so, identify the state model that should be followed and indicate the reasons why. What changes would be needed to make the state program fully compliant with the purposes and requirements of the Act?

7. Should HUD incorporate an adversarial component (*e.g.*, parties are represented by attorneys) into its dispute resolution program?

Federal Program Complaint Process

8. Who should be permitted to lodge a complaint? Who are the parties eligible to participate in the dispute resolution process? How can a consumer initiate the dispute resolution process? Who should incur the costs associated with filing and addressing a complaint? How should the dispute resolution initiation process be structured? What type of information and documentation should the complainant provide in order to initiate an action?

9. Should HUD involve consumers in a process that involves manufacturers, retailers, and installers?

10. Should time limits be established for presenting evidence or reaching a decision or resolution? If so, how long?

11. Should the decisionmaker or any other authority be permitted to dismiss a complaint if it is deemed not credible, or frivolous? What criteria or filtering process should be established to eliminate complaints that lack merit?

12. Once a complaint has been reported, what process should be used if a complainant elects to withdraw the complaint? If the complainant withdraws the complaint, may the decisionmaker still issue a corrective order?

13. How will the parties be notified that a complaint has been reported (such as by registered letter, etc.)? How much advance notice will be given to the parties before they must appear before the decisionmaker? What kinds of information should HUD provide to the parties in a notice?

14. Should any persons, decisionmakers, or HUD be permitted to join together several complaints involving common issues?

Federal Program Mechanics

15. Should the decisionmaker's corrective orders be final or should there be an appellate process? If there is an appellate process, how should it be structured?

16. If one party does not wish to participate in the resolution of a dispute through the program, should there be a default decision? If so, is there a need to provide protections against nuisance filings?

17. Should the decisionmaker be required to have knowledge of the manufactured housing industry? How much experience, if any, should the decisionmaker be required to have and what type? If the decisionmaker is required to have experience, how will this experience be measured? If no prior industry experience is necessary, should the decisionmaker be given training related to the industry? If yes, who should provide the training and how should it be funded?

18. Under what circumstances and how should a decisionmaker be removed from a case?

19. Who should be approved to serve as a decisionmaker? Should anyone be disqualified from serving as a decisionmarker based on conflicts of interest or other concerns? Should complaints and corrective orders be made public?

Federal Program Evidence Standards

20. What kinds of evidence should be accepted during the dispute resolution process? Should the presentation of evidence be conducted via oral testimony or in writing? If evidence is presented in writing, should there still be an opportunity for oral testimony? If there is an oral hearing, how much time should each party be given to present its evidence? Should cross-examination be permitted if there is an oral hearing?

21. Should the decisionmaker be permitted to conduct outside investigations or be limited to the specific facts of the complaint? Should the decisionmaker be permitted to consider extraneous information, such as the past behaviors of the parties? Should the decisionmaker be permitted to conduct on-site visits?

22. Should the decisionmaker have the authority to compel testimony?

23. Should the contents of the hearing be recorded or transcribed? If so, who should be responsible for verifying the accuracy of the records or transcripts? Who should incur the cost of reporting and/or transcription? Where should the records from a proceeding be kept? If there is a record-retention requirement, how long should the records be maintained?

Defects

24. What types of events constitute the reporting of a defect within the 1-year period for initiating a dispute resolution process?

25. What will define the date of installation as prescribed by the Act? Should there be any limit on the kinds of defects subject to resolution through such procedure?

26. What should the decisionmaker do if she or he deems a situation is likely to cause imminent peril to the public health, safety, or welfare? Should the decisionmaker be permitted to issue an interim order to provide temporary relief pending a final decision? Should the decisionmaker be required to report the defect immediately to HUD?

Federal Program Corrective Action Process

27. How long will a party subject to an order have to take corrective measures? Should the decisionmaker have the authority to grant additional time to make corrections?

28. Who should determine whether the corrections are acceptable? If the decisionmaker has to conduct a final review to ensure that the corrections have been made, which party should incur the cost? Should the decisionmaker notify the parties after corrections have been found to be acceptable?

29. What should the penalty be if a party fails to comply with a corrective order?

30. What should be the scope of the corrective orders? Should a corrective order be limited to the affected home? Should parties be allowed to make corrections to a home involved in a

dispute before the decisionmaker issues an order?

General Questions

31. How should consumers be made aware of the existence of the federal and state programs (*e.g.*, by use of consumer manuals, posting a notice in each home, etc.)?

32. Are consumers and other parties limited in the types of disputes that can be raised? If so, how are they limited?

33. Should contractors be used to assist HUD in carrying out its new responsibilities for dispute resolution under the Manufactured Housing Improvement Act?

Authority: 42 U.S.C. 3535(d), 5422, and 5424.

Dated: February 25, 2003.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 03–5647 Filed 3–5–03; 3:35 pm]

BILLING CODE 4210–27–P

Federal Register

Monday,
March 10, 2003

Part IV

The President

Executive Order 13288—Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe

Federal Register
Vol. 68, No. 46
Monday, March 10, 2003

Presidential Documents

Title 3—

The President

Executive Order 13288 of March 6, 2003

Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code,

I, GEORGE W. BUSH, President of the United States of America, have determined that the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions, contributing to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation in that country, and to political and economic instability in the southern African region, constitute an unusual and extraordinary threat to the foreign policy of the United States, and I hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)), and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) the persons listed in the Annex to this order; and

(b) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any of the persons listed in the Annex to this order.

Sec. 2. (a) Any transaction or dealing by a United States person or within the United States in property or interests in property blocked pursuant to this order is prohibited, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of any person listed in the Annex to this order or who is the subject of a determination under subsection 1(b) of this order.

(b) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(c) Any conspiracy formed to violate the prohibitions set forth in this order is prohibited.

Sec. 3. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) The term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United

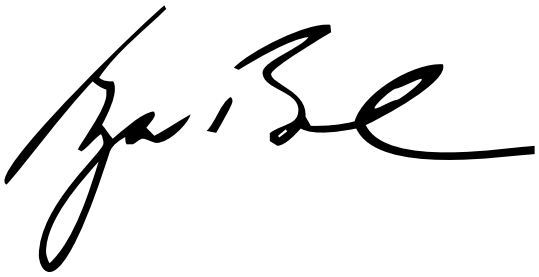
States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 5. This order is not intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or any other person.

Sec. 6. (a) This order is effective at 12:01 eastern standard time on March 7, 2003; and

(b) This order shall be transmitted to the Congress and published in the **Federal Register**.



THE WHITE HOUSE,
March 6, 2003.

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ANNEX

1. Robert Gabriel MUGABE [President of Zimbabwe, born 21 Feb. 1924]

2. Flora BUKA [Minister of State for Land Reform, born 25 Feb. 1968]

3. George CHARAMBA [Permanent Secretary, Ministry of Information, born 4 Apr. 1963]

4. Fortune CHARUMBIRA [Deputy Minister for Local Government, Public Works, and National Housing, born 10 June 1962]

5. Aeneas CHIGWEDERE [Minister of Education, Sports and Culture, born 25 Nov. 1939]

6. Augustine CHIHURI [Police Commissioner, born 10 Mar. 1953]

7. Enos CHIKOWORE [Politburo Secretary for Land and Resettlement, born 17 July 1942]

8. Patrick CHINAMASA [Minister of Justice, born 25 Jan. 1947]

9. Edward CHINDORI-CHININGA [Minister of Mines, born 14 Mar. 1955]

10. Constantine CHIWENGA [Lt. Gen., Commander of the Army, born 25 Aug. 1956]

11. Willard CHIWEWE [Senior Secretary, Ministry of Foreign Affairs, born 19 Mar. 1949]

12. Ignatius CHOMBO [Minister of Local Government, born 1 Aug. 1952]

13. Dumiso DABENGWA [Politburo Senior Committee Member, born 6 Dec. 1939]

14. Nicholas GOCHE [Minister of State for National Security, born 1 Aug. 1946]

15. Rugare GUMBO [Deputy Minister for Home Affairs, born 8 Mar. 1940]

16. Richard HOVE [Politburo Secretary for Economic Affairs, born 23 Sept. 1939]

17. David KARIMANZIRA [Politburo Secretary for Finance, born 25 May 1947]

18. Saviour KASUKUWERE [Deputy-Secretary for Youth Affairs, born 23 Oct. 1970]

19. Christopher KURUNERI [Deputy Minister, Finance and Economic Development, born 4 Apr. 1949]

20. Thenjiwe LESABE [Politburo Secretary for Women's Affairs, born 5 Jan. 1933]

21. Jaison MACHAYA [Deputy Minister for Mines and Mining Development, born 13 June 1952]

22. Joseph MADE [Minister of Agriculture, born 21 Nov. 1954]

23. Edna MADZONGWE [Deputy-Secretary for Production and Labor, born 11 July 1943]

24. Shuvai MAHOFA [Deputy Minister for Youth Development, Gender and Employment Creation, born 4 Apr. 1941]

25. Joshua MALINGA [Deputy-Secretary for Disabled and Disadvantaged, born 28 Apr. 1944]

26. Paul MANGWANA [Minister of State for State Enterprises and Parastatals, born 10 Aug. 1961]

27. Witness MANGWENDE [Minister of Transport and Communications, born 15 Aug. 1946]

28. Elliot MANYIKA [Minister of Youth Development, born 30 July 1955]

29. Kenneth MANYONDA [Deputy Minister for Industry and International Trade, born 10 Aug. 1934]

30. Reuben MARUMAHOKO [Deputy Minister for Energy and Power Development, born 4 Apr. 1948]

31. Angeline MASUKU [Politburo Secretary for Disabled and Disadvantaged Person's Welfare, born 14 Oct. 1936]

32. Sithokozile MATHUTHU [Deputy-Secretary for Transport and Social Welfare]

33. Amos Bernard Muvenga MIDZI [Minister for Energy and Development, born 4 July 1952]

34. Emmerson MNANGAGWA [Parliamentary Speaker, born 15 Sept. 1946]

35. Kembo MOHADI [Minister of Home Affairs, born 15 Nov. 1949]

36. Swithun MOMBESHORA [Minister of Higher Education, born 20 Aug. 1945]

37. Jonathan MOYO [Minister of Information, born 12 Jan. 1957]

38. July MOYO [Minister of Public Service, Labor and Social Welfare, born 7 May 1950]

39. Simon Khaya MOYO [Deputy-Secretary for Legal Affairs, born 1945]

40. Obert MPOFU [Deputy-Secretary for National Security, born 12 Oct. 1951]

41. Joseph MSIKA [Vice President, born 6 Dec. 1923]

42. Olivia MUCHENA [Minister of State for Science and Technology Development, born 18 Aug. 1946]

43. Opah MUCHINGURI [Politburo Secretary for Gender and Culture, born 14 Dec. 1958]

44. Stan MUDENGE [Minister of Foreign Affairs, born 17 Dec. 1948]

45. Grace MUGABE [born 23 July 1965]

46. Sabina MUGABE [Politburo Senior Committee Member, born 14 Oct. 1934]

47. Joyce MUJURU [Minister of Rural Resources and Water, born 15 Apr. 1955]

48. Solomon MUJURU [Politburo Senior Committee Member, born 1 May 1949]

49. Samuel MUMBENGEGWI [Minister of Industry and International Trade, born 20 July 1945]

50. Herbert MURERWA [Minister of Finance, born 31 July 1941]

51. Christopher MUSHOHWE [Deputy Minister, Transport and Communications, born 6 Feb. 1954]

52. Didymus MUTASA [Politburo Secretary for External Relations, born 27 July 1935]

53. Kenneth MUTIWEKUZIVA [Deputy Minister for Small and Medium Enterprise Development, born 27 May 1948]

54. Simon Vengesai MUZENDA [Vice President, born 28 Oct. 1922]

55. Tsitsi MUZENDA [Politburo Senior Committee Member, born 28 Aug. 1922]

56. Elisha MUZONZINI [Director of the Central Intelligence Organization, born 24 June 1957]

57. Abedinico NCUBE [Deputy Minister, Foreign Affairs, born 13 March 1954]

58. Naison NDLOVU [Politburo Secretary for Production and Labor, born 22 Oct. 1930]

59. Sikhanyiso NDLOVU [Deputy-Secretary for Commissariat, born 20 Sept. 1949]

60. Francis NHEMA [Minister of Environment and Tourism, born 17 Apr. 1959]

61. John NKOMO [Minister of State for Special Affairs, born 22 Aug. 1934]

62. Stephen NKOMO [Politburo Senior Committee Member, born 3 Oct. 1926]

63. Sithembiso NYONI [Minister of Small and Medium Enterprises Development, born 20 Sept. 1949]

64. David PARIRENYATWA [Minister of Health and Child Welfare, born 2 Aug. 1950]

65. Selina POTE [Deputy-Secretary for Gender and Culture]

66. Tinos RUSERE [Deputy Minister for Rural Resources and Water Development, born 10 May 1945]

67. Stanley SAKUPWANYA [Deputy-Secretary for Health and Child Welfare]

68. Sidney SEKERAMAYI [Minister of Defense, born 30 Mar. 1944]

69. Nathan SHAMUYARIRA [Politburo Secretary for Information and Publicity, born 29 Sept. 1928]

70. Perence SHIRI [Air Marshal (Air Force), born 11 Jan. 1955]

71. Isaiah SHUMBA [Deputy Minister, Education, Sports and Culture, born 3 Jan. 1949]

72. Absolom SIKOSANA [Politburo Secretary for Youth Affairs]

73. Solomon TAWENGWA [Deputy-Secretary for Finance, born 15 June 1940]

74. Josiah TUNGAMIRAI [Politburo Secretary for Empowerment and Indigenization, born 8 Oct. 1948]

75. Charles UTETE [Cabinet Secretary, born 30 Oct. 1938]

76. Paradzai ZIMONDI [Prisons chief, born 4 Mar. 1947]

77. Vitalis ZVINAVASHE [General, Commander of Zimbabwe Defense Forces, born 27 Sept. 1943]

Note: The bracketed identifying information with respect to each person listed in this Annex reflects information currently available and is provided solely to facilitate compliance with this order. Each individual listed in this Annex remains subject to the prohibitions of this order notwithstanding any change in title, position, or affiliation.

[FR Doc. 03–5848
Filed 3–7–03; 8:45 am]
Billing code 3195–01–P

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- Products containing recovered materials; published 2-7-03

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- Ohio; published 1-22-03
- Virginia; published 1-7-03
- Virginia; correction; published 2-26-03

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- Aluminum tris (O-ethylphosphonate); published 3-10-03

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- National Pollutant Discharge Elimination System—
  - Storm water discharges for oil and gas construction activity; published 3-10-03

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- Americans with Disabilities Act; implementation—
  - Telecommunications relay services; coin sent-paid calls; published 2-7-03
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  - Bell Operating Companies separate affiliate and related requirements; sunset; published 2-7-03

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- Michigan; published 1-29-03

Radio and television broadcasting:
- Broadcast and cable EEO rules and policies—
  - Revision; published 1-7-03

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- South Carolina; published 2-5-03

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- Puerto Rico; condominium development; FHA approval; published 2-7-03

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Mining products; testing, evaluation, and approval:
- Mobile battery-powered machines; plug and receptacle-type connectors; alternate locking devices; published 1-22-03

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- Proxy voting; published 2-7-03

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- Deductions and credits; disallowance for failure to file timely return; published 3-10-03

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Loan and purchase programs:
- Conservation Security Program; comments due by 3-20-03; published 2-18-03 [FR 03-03782]

AGRICULTURE DEPARTMENT

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Loan and purchase programs:
- Conservation Security Program; comments due by 3-20-03; published 2-18-03 [FR 03-03782]

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- Civil rights discrimination complaints; adjudication; comments due by 3-17-03; published 2-14-03 [FR 03-03565]

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Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Pacific cod; comments due by 3-20-03; published 2-18-03 [FR 03-03589]
- Atlantic highly migratory species—
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  - Atlantic tunas, swordfish, and sharks, and Atlantic billfish; exempted fishing activities; comments due by 3-17-03; published 1-10-03 [FR 03-00520]
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  - Domestic fisheries; exempted fishing permit applications; comments due by 3-17-03; published 2-28-03 [FR 03-04681]
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  - National standard guidelines; revision; comments due by 3-17-03; published 2-14-03 [FR 03-03758]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills; comments due by 3-20-03; published 2-18-03 [FR 03-03701]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills; comments due by 3-20-03; published 2-18-03 [FR 03-03702]

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  - Dedicated short-range communication services in 5.850-5.925 GHz band; comments due by 3-17-03; published 1-15-03 [FR 03-00812]

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  - Eight surgical suture devices; special control designation; comments due by 3-19-03; published 12-19-02 [FR 02-31991]

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H.J. Res. 19/P.L. 108–9

Recognizing the 92d birthday of Ronald Reagan. (Mar. 6, 2003; 117 Stat. 556)

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25	(869–048–00076–3)	68.00	Apr. 1, 2002
26 Parts:			
§§ 1.0-1–1.60	(869–048–00077–1)	45.00	Apr. 1, 2002
§§ 1.61–1.169	(869–048–00078–0)	58.00	Apr. 1, 2002
§§ 1.170–1.300	(869–048–00079–8)	55.00	Apr. 1, 2002
§§ 1.301–1.400	(869–048–00080–1)	44.00	Apr. 1, 2002
§§ 1.401–1.440	(869–048–00081–0)	60.00	Apr. 1, 2002
§§ 1.441-1.500	(869-048-00082-8)	47.00	Apr. 1, 2002
§§ 1.501–1.640	(869–048–00083–6)	44.00	[6] Apr. 1, 2002
§§ 1.641–1.850	(869–048–00084–4)	57.00	Apr. 1, 2002
§§ 1.851–1.907	(869–048–00085–2)	57.00	Apr. 1, 2002
§§ 1.908–1.1000	(869–048–00086–1)	56.00	Apr. 1, 2002
§§ 1.1001–1.1400	(869–048–00087–9)	58.00	Apr. 1, 2002
§§ 1.1401–End	(869–048–00088–7)	61.00	Apr. 1, 2002
2–29	(869–048–00089–5)	57.00	Apr. 1, 2002
30–39	(869–048–00090–9)	39.00	Apr. 1, 2002
40–49	(869–048–00091–7)	26.00	Apr. 1, 2002
50–299	(869–048–00092–5)	38.00	Apr. 1, 2002
300–499	(869–048–00093–3)	57.00	Apr. 1, 2002
500–599	(869–048–00094–1)	12.00	[5] Apr. 1, 2002
600–End	(869–048–00095–0)	16.00	Apr. 1, 2002
27 Parts:			
1–199	(869–048–00096–8)	61.00	Apr. 1, 2002

Title	Stock Number	Price	Revision Date
200–End	(869–048–00097–6)	13.00	Apr. 1, 2002
28 Parts:			
0-42	(869–048–00098–4)	58.00	July 1, 2002
43-end	(869-048-00099-2)	55.00	July 1, 2002
29 Parts:			
0–99	(869–048–00100–0)	45.00	[8]July 1, 2002
100–499	(869–048–00101–8)	21.00	July 1, 2002
500–899	(869–048–00102–6)	58.00	July 1, 2002
900–1899	(869–048–00103–4)	35.00	July 1, 2002
1900–1910 (§§ 1900 to 1910.999)	(869–048–00104–2)	58.00	July 1, 2002
1910 (§§ 1910.1000 to end)	(869–048–00105–1)	42.00	[8]July 1, 2002
1911–1925	(869–048–00106–9)	29.00	July 1, 2002
1926	(869–048–00107–7)	47.00	July 1, 2002
1927–End	(869–048–00108–5)	59.00	July 1, 2002
30 Parts:			
1–199	(869–048–00109–3)	56.00	July 1, 2002
200–699	(869–048–00110–7)	47.00	July 1, 2002
700–End	(869–048–00111–5)	56.00	July 1, 2002
31 Parts:			
0–199	(869–048–00112–3)	35.00	July 1, 2002
200–End	(869–048–00113–1)	60.00	July 1, 2002
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–048–00114–0)	56.00	July 1, 2002
191–399	(869–048–00115–8)	60.00	July 1, 2002
400–629	(869–048–00116–6)	47.00	July 1, 2002
630–699	(869–048–00117–4)	37.00	July 1, 2002
700–799	(869–048–00118–2)	44.00	July 1, 2002
800–End	(869–048–00119–1)	46.00	July 1, 2002
33 Parts:			
1–124	(869–048–00120–4)	47.00	July 1, 2002
125–199	(869–048–00121–2)	60.00	July 1, 2002
200–End	(869–048–00122–1)	47.00	July 1, 2002
34 Parts:			
1–299	(869–048–00123–9)	45.00	July 1, 2002
300–399	(869–048–00124–7)	43.00	July 1, 2002
400–End	(869–048–00125–5)	59.00	July 1, 2002
35	(869–048–00126–3)	10.00	[7]July 1, 2002
36 Parts			
1–199	(869–048–00127–1)	36.00	July 1, 2002
200–299	(869–048–00128–0)	35.00	July 1, 2002
300–End	(869–048–00129–8)	58.00	July 1, 2002
37	(869–048–00130–1)	47.00	July 1, 2002
38 Parts:			
0–17	(869–048–00131–0)	57.00	July 1, 2002
18–End	(869–048–00132–8)	58.00	July 1, 2002
39	(869–048–00133–6)	40.00	July 1, 2002
40 Parts:			
1–49	(869–048–00134–4)	57.00	July 1, 2002
50–51	(869–048–00135–2)	40.00	July 1, 2002
52 (52.01–52.1018)	(869–048–00136–1)	55.00	July 1, 2002
52 (52.1019–End)	(869–048–00137–9)	58.00	July 1, 2002
53–59	(869–048–00138–7)	29.00	July 1, 2002
60 (60.1–End)	(869–048–00139–5)	56.00	July 1, 2002
60 (Apps)	(869–048–00140–9)	51.00	[8]July 1, 2002
61–62	(869–048–00141–7)	38.00	July 1, 2002
63 (63.1–63.599)	(869–048–00142–5)	56.00	July 1, 2002
63 (63.600–63.1199)	(869–048–00143–3)	46.00	July 1, 2002
63 (63.1200-End)	(869–048–00144–1)	61.00	July 1, 2002
64–71	(869–048–00145–0)	29.00	July 1, 2002
72–80	(869–048–00146–8)	59.00	July 1, 2002
81–85	(869–048–00147–6)	47.00	July 1, 2002
86 (86.1–86.599–99)	(869–048–00148–4)	52.00	[8]July 1, 2002
86 (86.600–1–End)	(869–048–00149–2)	47.00	July 1, 2002
87–99	(869–048–00150–6)	57.00	July 1, 2002
100–135	(869–048–00151–4)	42.00	July 1, 2002
136–149	(869–048–00152–2)	58.00	July 1, 2002
150–189	(869–048–00153–1)	47.00	July 1, 2002
190–259	(869–048–00154–9)	37.00	July 1, 2002
260–265	(869–048–00155–7)	47.00	July 1, 2002
266–299	(869–048–00156–5)	47.00	July 1, 2002
300–399	(869–048–00157–3)	43.00	July 1, 2002
400–424	(869–048–00158–1)	54.00	July 1, 2002
425–699	(869–048–00159–0)	59.00	July 1, 2002
700–789	(869–048–00160–3)	58.00	July 1, 2002
790–End	(869–048–00161–1)	45.00	July 1, 2002
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–048–00162–0)	23.00	July 1, 2002
101	(869–048–00163–8)	43.00	July 1, 2002
102–200	(869–048–00164–6)	41.00	July 1, 2002
201–End	(869–048–00165–4)	24.00	July 1, 2002
42 Parts:			
1–399	(869–048–00166–2)	56.00	Oct. 1, 2002
400–429	(869–048–00167–1)	59.00	Oct. 1, 2002
430–End	(869–048–00168–9)	61.00	Oct. 1, 2002
43 Parts:			
1–999	(869–048–00169–7)	47.00	Oct. 1, 2002
1000–end	(869–048–00170–1)	59.00	Oct. 1, 2002
44	(869–048–00171–9)	47.00	Oct. 1, 2002
45 Parts:			
1–199	(869–048–00172–7)	57.00	Oct. 1, 2002
200–499	(869–048–00173–5)	31.00	[9]Oct. 1, 2002
500–1199	(869–048–00174–3)	47.00	Oct. 1, 2002
1200–End	(869–048–00175–1)	57.00	Oct. 1, 2002
46 Parts:			
1–40	(869–048–00176–0)	44.00	Oct. 1, 2002
41–69	(869–048–00177–8)	37.00	Oct. 1, 2002
70–89	(869–048–00178–6)	14.00	Oct. 1, 2002
90–139	(869–048–00179–4)	42.00	Oct. 1, 2002
140–155	(869–048–00180–8)	24.00	[9]Oct. 1, 2002
156–165	(869–048–00181–6)	31.00	[9]Oct. 1, 2002
166–199	(869–048–00182–4)	44.00	Oct. 1, 2002
200–499	(869–048–00183–2)	37.00	Oct. 1, 2002
500–End	(869–048–00184–1)	24.00	Oct. 1, 2002
47 Parts:			
0–19	(869–048–00185–9)	57.00	Oct. 1, 2002
20–39	(869–048–00186–7)	45.00	Oct. 1, 2002
40–69	(869–048–00187–5)	36.00	Oct. 1, 2002
70–79	(869–048–00188–3)	58.00	Oct. 1, 2002
80–End	(869–048–00189–1)	57.00	Oct. 1, 2002
48 Chapters:			
1 (Parts 1–51)	(869–048–00190–5)	59.00	Oct. 1, 2002
1 (Parts 52–99)	(869–048–00191–3)	47.00	Oct. 1, 2002
2 (Parts 201–299)	(869–048–00192–1)	53.00	Oct. 1, 2002
3–6	(869–048–00193–0)	30.00	Oct. 1, 2002
7–14	(869–048–00194–8)	47.00	Oct. 1, 2002
15–28	(869–048–00195–6)	55.00	Oct. 1, 2002
29–End	(869–048–00196–4)	38.00	[9]Oct. 1, 2002
49 Parts:			
1–99	(869–048–00197–2)	56.00	Oct. 1, 2002
100–185	(869–048–00198–1)	60.00	Oct. 1, 2002
186–199	(869–048–00199–9)	18.00	Oct. 1, 2002
200–399	(869–048–00200–6)	61.00	Oct. 1, 2002
400–999	(869–048–00201–4)	61.00	Oct. 1, 2002
1000–1199	(869–048–00202–2)	25.00	Oct. 1, 2002

Title	Stock Number	Price	Revision Date
1200–End	(869–048–00203–1)	30.00	Oct. 1, 2002
50 Parts:			
1–17	(869–048–00204–9)	60.00	Oct. 1, 2002
18–199	(869–048–00205–7)	40.00	Oct. 1, 2002
200–599	(869–048–00206–5)	38.00	Oct. 1, 2002
600–End	(869–048–00207–3)	58.00	Oct. 1, 2002
CFR Index and Findings Aids	(869–048–00047–0)	59.00	Jan. 1, 2002
Complete 2001 CFR set		1,195.00	2001
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		290.00	2000
Complete set (one-time mailing)		247.00	1999

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2001, through April 1, 2002. The CFR volume issued as of April 1, 2001 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2002. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2002. The CFR volume issued as of October 1, 2001 should be retained.